



THE LONDON BOROUGH  
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DATE: 20 January 2021

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 on **THURSDAY**  
**28 JANUARY 2021 AT 6.30 PM**

**PLEASE NOTE: This is a 'virtual meeting' and members of the press and public can see and hear the Committee by visiting the following page on the Council's website:-**

<https://www.bromley.gov.uk/councilmeetingslive>

**Live streaming will commence shortly before the meeting starts.**

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.

To register to speak please e-mail [lisa.thornley@bromley.gov.uk](mailto:lisa.thornley@bromley.gov.uk)  
(telephone: 020 8461 7566) or [committee.services@bromley.gov.uk](mailto:committee.services@bromley.gov.uk)

## 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 Friday 22 January 2021**. Written replies will be provided.

### **4 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 19 NOVEMBER 2020 (Pages 1 - 12)**

### **5 MATTERS OUTSTANDING FROM PREVIOUS MINUTES (Pages 13 - 16)**

### **6 PLANNING APPLICATION (19/04839/FULL1) - BRITISH GAS SITE, HOMESDALE ROAD, BROMLEY BR1 2UE (Pages 17 - 54)**

### **7 PLANNING APPLICATION (20/01130/FULL1) - 146 CHARTERHOUSE ROAD, ORPINGTON BR6 9EU (Pages 55 - 100)**

### **8 CONSULTATION ON PLANNING APPLICATIONS (Pages 101 - 104)**

### **9 PLANNING LEGISLATION UPDATE - SUPPORTING HOUSING DELIVERY AND PUBLIC SERVICE INFRASTRUCTURE (Pages 105 - 116)**

### **10 LONDON PLAN UPDATE (Pages 117 - 122)**

### **PRE-DECISION SCRUTINY OF RENEWAL, RECREATION AND HOUSING PORTFOLIO HOLDER REPORTS**

### **11 PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION TO REMOVE PART 1, CLASS B AND C PERMITTED DEVELOPMENT RIGHTS IN PETTS WOOD ASRC (Pages 123 - 134)**

### **12 CONFIRMATION OF NON-IMMEDIATE ARTICLE 4 DIRECTIONS TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR OFFICE TO RESIDENTIAL CONVERSIONS IN BROMLEY'S OFFICE CLUSTERS (Pages 135 - 154)**

### **13 PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR UPWARDS EXTENSIONS IN AN AREA WITHIN THE RAVENSBORNE VALLEY LOCAL VIEW (Pages 155 - 168)**

The Council's [Local Planning Protocol and Code of Conduct](#) sets out how planning applications are dealt with in Bromley.

## DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held at 6.30 pm on 19 November 2020

### Present:

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

### Also Present:

Councillors Kieran Terry and Pauline Tunncliffe

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

An apology for absence was received from Councillor William Huntington-Thresher.

#### **43 DECLARATIONS OF INTEREST**

Councillor Stevens declared a non-pecuniary interest in Item 6 as she was acquainted with one of the residents. Councillor Stevens did not take part in the discussion or vote.

Councillors Dean, Harris, Boughey and Joel declared a non-pecuniary interest in Item 6 as they were acquainted with both the applicant and agent. They remained in the meeting and took part in the discussion and vote.

Visiting Member Councillor Tunncliffe declared a non-pecuniary interest in Item 6 as she was acquainted with the applicant and agent.

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

No questions were received.

#### **45 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 24 SEPTEMBER 2020 AND MINUTES OF THE SPECIAL MEETING HELD ON 20 OCTOBER 2020**

Minutes of 24 September 2020, page 6, second bullet point – the first sentence was amended to read:- ‘An application earlier in the year for a part three and part four storey block of 34 *standard C3 flats* was refused by Members solely on the grounds of loss of specialist accommodation.’.

**RESOLVED** that subject to the amendment above, the Minutes of the meeting held on 24 September 2020 and the Minutes of the special meeting held on 20 October 2020 be confirmed and signed as a correct record.

#### **46 MATTERS OUTSTANDING FROM PREVIOUS MINUTES**

**Members noted that all matters outstanding from previous meetings had been completed.**

#### **47 PLANNING APPLICATION (20/02697/FULL1) - 18 HOMEFIELD RISE, ORPINGTON BR6 0RU (Orpington Ward)**

Description of application – Demolition of 4 pairs of semi-detached two storey houses and one detached bungalow and erection of one part 3/part 4 storey building at 18-28 Homefield Rise comprising 37 x 1 and 2 bedroom apartments with 22 parking spaces (Block A/Phase 1). Erection of one part 3/part 4 storey building at 38-44 Homefield Rise comprising 31 x 1 and 2 bedroom apartments with 20 parking spaces (Block B/Phase 2). Erection of cycle and refuse stores. Associated landscaping and tree planting (Amended Description).

Oral representations on behalf of Lancing Residents' Association in objection to the application were received.

Oral representations from the applicant's agent in support of the application were received. In response to questions from Members, the agent reported that:-

- the Section 106 obligation would apply to Phase 3. In regard to Phase 3, an agreement had already been reached with three of the owners and discussions were taking place with the owner of the fourth property. He was confident that Phase 3 would come to fruition; and
- the applicant was willing to provide 100% car parking spaces with electric charging points.

Oral representations in support of the application were received from visiting Ward Member Councillor Tunnicliffe who considered that the scheme provided adequate privacy and minimised overlooking. The development also included the correct percentage of affordable housing. The proposed 1 and 2 bedroom units would enable young people to step onto the property ladder, were suitable for small families and ideal for older residents wishing to downsize. The development would regenerate the area and improve the environment. The scheme offered a solution to provide much needed appropriate housing at affordable prices in Orpington.

The Development Management Team Leader – Major Developments, gave the following updates:-

- The applicant had secured an option agreement with one of the landowners living in Phase 3, as opposed to 3 options agreements as stated in the committee report.
- The other 2 option agreements (referred to in the report) were completed with a third party (an agent) and one of the agreements was expiring on the 27 Dec 2020.
- There were 17 bus routes within 5 mins walk; page 35 and paragraph 6.5.6 references 13 in error.
- The 2 year car club members' head of terms on page 76 should say 20 free hours per dwelling.

Opening the debate, the Chairman considered this scheme was an improvement on the previous application. The buildings would be set further back and would provide much-needed housing. The scheme included an attractive landscaping plan and overall the development would regenerate the local area. The Chairman moved that the application be permitted.

The Development Management Team Leader – Major Developments confirmed that the provision of bat boxes, bird boxes and swiftbricks would be conditioned and include a requirement that they be replaced at end of life.

Councillor Harris seconded the motion for permission, stating that there was a desperate need for this type of housing and that all issues had been addressed.

Councillor Mellor raised concerns as to whether the S106 Agreement was sound. He objected to the application on the grounds of overdevelopment stating that housing should not be provided at the cost of everything else.

Councillor Boughey noted that the area was designated in the Local Plan as a development site for housing. Privacy screening was adequate and overlooking minimised.

Councillor Fawthrop was concerned that the entire scheme would not be completed which would impact on the street scene if Phase 3 were to fail. He moved that the application be refused on the grounds of building height and insufficient information to prove that the entire scheme would be delivered. Councillor Mellor seconded the motion.

**Having considered the report, objections and representations, Members RESOLVED that PERMISSION BE GRANTED SUBJECT TO THE PRIOR COMPLETION OF A SECTION 106 AGREEMENT as recommended and subject to the conditions and informatives set out in the report of the Assistant Director, Planning and Building Control. A further two conditions requiring the provision and replacement of bat boxes, bird boxes and swiftbricks and the provision of 100% electric car charging points were added.**

**48 PLANNING APPLICATION (20/02903/FULL1) - BANBURY HOUSE,  
BUSHELL WAY, CHISLEHURST BR7 6SF (Chislehurst Ward)**

Description of application – Erection of part two storey/part three storey building providing 25 residential units comprising 8 x 1-bedroom units and 17 x 2-bedroom units with 18 car parking spaces (including 3 disabled spaces), refuse/recycling store and cycle parking.

Oral representations from the Operations Director for Module-AR in support of the application were received. In response to questions from Members, the Operations Director explained how the proposed photo-voltaic panels would provide the development with a constant and renewable source of electricity that would off-set both carbon and tenant fuel bills. The number of car parking spaces would increase over time and improvements made with the provision of electric car charging points. Areas had been identified for the installation of bird boxes and bug hotels which would be replaced at end of life. He anticipated that work would start at the beginning of February and complete by the first week in September.

The Development Management Team Leader – Major Developments, gave the following update:-

- The recommendation on the front page should read 'approval'. The planning application was recommended to be granted subject to the transfer of funds and conditions.
- The GIA set out on the first table was confirmed as approximately 975spm. The GEA mentioned in the report had been inserted in error.
- The site area was 0.29 ha.
- A revised cycle store drawing had been submitted which showed the space could accommodate double stacked cycle parking for a total of 42 spaces.
- A site notice was referenced in paragraph 7.1 of the report. A site notice was not a statutory requirement for this type of application and was not put up. 61 neighbours were written to directly, a newspaper advert was also published and the neighbours were reconsulted on updated plans.
- 20 late objections had been received. These were largely covered in the report. However, Members were emailed the points and responses that were not fully addressed in the scheme earlier in the day.
- The financial payments had all been agreed.
- It was suggested that a condition for biodiversity enhancements be added to the recommendation.

In opening the debate, Committee Member and Ward Member Councillor Boughey considered this was an ideal site for housing. However, she was concerned with the design aspect and parking provision. It was disappointing to learn that contrary to Ward Councillors' views, the units were of modern architectural design with square flat roofs and were completely out of character with the surrounding area (photographs of the local surroundings

had been circulated to Members prior to the meeting). The site was located in a low PTAL area with poor access to transport, so the proposed provision of just 18 car parking spaces was at the low end of Parking Standards. Councillor Boughey moved that the application be deferred to seek redesign of the units. Councillor Fawthrop seconded the motion for deferral.

Councillor Allen moved that permission be granted; this was seconded by Councillor Harris who stated that the scheme would make a significant contribution to the provision of much-needed social housing.

The Development Management Team Leader – Major Developments advised Members that putting pitched roofs on the scheme would require it to be redesigned which would result in further work and the project would be delayed due to the requirement to reconsult before coming back for consideration by Members. The Head of Regeneration added that she was aware of the design constraints and this was a matter of balancing massing with costs. Re-designing the scheme could result in the provision of units being reduced by half.

**Having considered the report, objections and representations, Members RESOLVED that PERMISSION BE GRANTED SUBJECT TO THE TRANSFER OF FUNDS as recommended and subject to the conditions and informatives set out in the report of the Assistant Director, Planning and Building Control with the Environmental condition to include the replacement of bird boxes and bug hotels at the end of life.**

**49 PLANNING APPLICATION (20/02944/FULL1) - LAND ADJACENT ANERLEY TOWN HALL ANERLEY ROAD, WILLIAM BOOTH ROAD, PENGE, LONDON (Crystal Palace Ward)**

Description of application – Redevelopment of Anerley Town Hall overflow car park for the erection of a part three storey to provide 10 residential flats comprising 4 x 1 bed and 6 x 2 bed flats. Creation of a new access onto George Groves Road and provision of 7 off-street parking spaces, cycle spaces and associated amenity spaces.

Oral representations from the applicant's architect in support of the application were received at the meeting. In response to questions from Members, the architect reported that the proposal for 4 x 1 bedroom and 6 x 2 bedroom was decided as part of the development briefing given for the site. Being regulated by a general-wide policy, there was a need for the right mix of accommodation in that particular neighbourhood. One unit would be wheelchair accessible. Six off street parking bays would be provided and it was anticipated that further infrastructure would be built to include electric car charging bays. He agreed that at least two of the current proposed bays would include active electric charging points.

The Development Management Team Leader – Major Developments, confirmed that all financial agreements had been agreed. She also suggested

that a condition for biodiversity enhancements be added to the recommendation.

Councillor Allen reported that Ward Member Councillor Wilkins strongly supported the application. Councillor Allen moved that the application be permitted and if approved, would like to see construction begin without delay. Councillor Brooks seconded the motion for approval stating that parking was not a big issue with buses and trains being easily accessible.

**Having considered the report, objections and representations, Members RESOLVED that PERMISSION BE GRANTED SUBJECT TO THE TRANSFER OF FUNDS as recommended and subject to the conditions and informatives set out in the report of the Assistant Director, Planning and Building Control. A further condition for at least two of the proposed parking spaces to include electrical car charging points was added.**

**50 PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTIONS TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR UPWARDS EXTENSIONS IN SPECIFIED AREAS**

**REPORT HPR2020/040**

Members considered whether 15 non-immediate Article 4 Directions should be made to withdraw permitted development rights (PDRs) which allowed blocks of flats to be extended upwards by up to two storeys to provide new residential units. The Directions would apply to the 13 Areas of Special Residential Character shown in the Bromley Local Plan (January 2019) and to two discrete areas which fell within local views. The Directions would come into force 12 months from the date the Directions were made, subject to confirmation by the Renewal, Recreation and Housing Portfolio Holder.

Councillor Fawthrop suggested that as there was only one block of flats in the Petts Wood Area of Special Residential Character (ASRC) which was located on the ASRC boundary, the Petts Wood Article 4 Direction could be made immediately. The Head of Planning Policy and Strategy explained that the proposed Article 4 Direction also applied to dwelling houses that were two or more storeys high. While the Article 4 Direction could be made immediately, he was concerned that this would raise the risk of the Council having to pay costly compensation. He confirmed that properties built prior to 1948 were exempt. As the majority of properties were built prior to that date, Councillor Fawthrop proposed that the Article 4 Direction for Petts Wood be made immediately. Councillor Mellor agreed that there was a valid case for making immediate Directions and seconded the motion

The Head of Planning Policy and Strategy agreed to consult with the legal team in regard to the risk of compensation.



**Members RESOLVED:-**

- 1) to endorse the making of 14 non-immediate Article 4 Directions (covering the areas shown in the plan attached at Appendix 1 except for the Petts Wood ASRC) to withdraw the following permitted development rights granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”), Schedule 2:**
  - Part 1, Class AA
  - Part 20, Class A
  - Part 20, Class AA
  - Part 20, Class AB
  - Part 20, Class AC
  - Part 20, Class AD
  
- 2) to note that the Portfolio Holder for Renewal, Recreation and Housing would be asked to authorise the making of 14 non-immediate Directions and subsequent public consultation for a period of 6 weeks. The Directions would come into force 12 months from the day on which they were made if they were subsequently confirmed following public consultation. Any confirmation of the Directions would be subject to a future decision.**
  
- 3) to endorse the making of one immediate Article 4 Direction (covering the Petts Wood ASRC) to withdraw the following permitted development rights granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”), Schedule 2:**
  - Part 1, Class AA
  - Part 20, Class A
  - Part 20, Class AA
  - Part 20, Class AB
  - Part 20, Class AC
  - Part 20, Class AD
  
- 4) to note that the Portfolio Holder for Renewal, Recreation and Housing would be asked to authorise the making of one immediate Direction for the Petts Wood ASRC.**

Following the meeting, the Head of Planning Policy and Strategy checked the regulations and noted that they did not allow an immediate Direction to be put in place for the new Part 20 PD rights. They did however, allow for immediate Directions relating to Part 1 PD rights, so an immediate Direction to remove Part 1, Class AA PD rights in the Petts Wood ASRC could be made.

As the making of the Directions was a Portfolio Holder decision, it was recommended that an addendum be added to the report submitted to the Portfolio Holder explaining the situation and recommending that a non-immediate Direction for Petts Wood ASRC be put in place to remove Part 20 PD rights and an immediate Direction to remove Part 1 PD rights in the Petts Wood ASRC. Non-immediate Directions would be made to cover the remaining ASRCs and views proposed in the report and agreed by the Committee.

**51 PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTIONS TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR OFFICE TO RESIDENTIAL DEMOLITION IN BROMLEY'S DESIGNATED OFFICE AND INDUSTRIAL AREAS**

**REPORT HPR2020/041**

Members considered the making of 20 non-immediate Article 4 Directions to withdraw the permitted development (PD) right for demolition of purpose-built detached buildings used for offices (B1a office, B1b research and B1c light industrial) together with their replacement with a single detached block of flats or a single dwelling house. The Directions would apply to the three Business Improvement Areas (BIA) in Bromley Town Centre; the majority of Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites (LSIS); and all three Office Clusters, all as shown in the Bromley Local Plan (January 2019). The Directions would come into force at least 12 months after being made, subject to confirmation by the Renewal, Recreation and Housing Portfolio Holder after taking account of representations received.

The Chairman emphasised the need for office and industrial spaces to be protected.

Councillor Mellor was opposed to the conversion of office/industrial use to residential use. Buildings were initially constructed for specific purposes and conversion of office to residential use often resulted in accommodation that was not fit for purpose.

Members were informed that the 12 month delay on making the Article 4 Directions was required to remove the risk of the Council having to make compensation payments.

Councillor Joel stated that the majority of planning applications for conversion would contain details of the unsuccessful attempts to market office/industrial space. Councillor Joel supported the recommendations.

**RESOLVED that:-**

- 1) Members endorse the making of 20 non-immediate Article 4 Directions to withdraw the permitted development right granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"), Schedule 2, Part**

**20, Class ZA, which permits a single detached building comprising uses falling within Class B1(a) (office), Class B1b (research) or Class B1c (light industrial) to be demolished and replaced with a residential (Use Class C3) use. The areas in which the Article 4 Directions would apply were shown in the plan attached at Appendix 1; and**

- 2) Members note that the Portfolio Holder for Renewal, Recreation and Housing would be asked to authorise the making of 20 non-immediate Directions and subsequent public consultation for a period of 6 weeks. The Directions would come into force 12 months from the day on which they were made, if they were subsequently confirmed following public consultation. Any confirmation of the Directions would be subject to a future decision.**

## **52 PLANNING APPEALS - COSTS 2019-2020**

### **Report HPR2020/34**

The report provided an update on the award of costs from planning appeals made in the financial year 2019/2020. 13 applications claiming for costs were made in the period April 2019 to March 2020 of which 5 had been allowed and 8 refused. The report also provided an update on cost claims that were paid in 2019/2020. The total of planning appeal cost claims paid in 2019/2020 was £36,236.15. The Council had actively been applying for an award of costs against the appellant where the Council believe they had acted unreasonably. Three cases had been applied for within this financial year, two had been refused and one was awaiting a decision.

Councillor Mellor stated that the cost of appeals reported in the past were thought to be considerable. The total cost of £36,236.15 was in fact minimal compared to the costs won by the Council where appeals had been disallowed. On this basis, he considered that a broader view should be taken by Members when considering applications.

Councillor Allen noted that a number of claims had not yet been decided so the actual cost could rise significantly. She considered that these costs were avoidable and should not be incurred in the first place.

The Assistant Director, Planning confirmed that the costs set out in the report were made against the Council for unreasonable behaviour. It was difficult to predict cost claims for appeals allowed so where those were not yet known, they were marked as 'awaiting claim' in the appendices to the report. He agreed to check on the costs awarded to the appellant on the two appeals for Land at South Eden Park Road which were not included in the report.

Councillor Bear noted that the costs allowed were only part of the overall financial status; there were also costs for independent consultants and the

Council's appeals team. She requested that these be included in future reports.

The Assistant Director, Planning confirmed that further details would be included in the next report to the Committee in relation to the three cases where the Council had actively been applying for an award of costs against the appellant where the Council believed they had acted unreasonably.

**RESOLVED that the report be noted.**

**53 PLANNING APPEALS MONITORING REPORT - FINANCIAL YEAR  
2019-2020 (INCLUDING YEAR TO DATE 2020/2021)**

**Report HPR2020/33**

This report provided an update on the planning appeals received and decided in the financial year 2019/2020 and included the first six months of 2020/2021 to capture the decisions of the majority of appeals made in the financial year 2019/2020. Some charts showed a comparison of Bromley's statistics with those nationally, however the national figures for the last quarter would not be available until November 2020.

Due to the Covid19 pandemic, rules for conducting site visits, hearings and inquiries had changed.<sup>1</sup> Physical events were not being undertaken for the foreseeable future. Wherever reasonable to do so, site visits were being arranged rather than events. Some virtual hearings were taking place and it was hoped that the vast majority of all postponed hearings would take place as soon as possible in the following months. In relation to planning inquiries, the Planning Inspectorate had been holding numerous case conferences with a view to turning a few into virtually held inquiries; the remaining ones would be re-arranged at the earliest opportunity. Therefore, as a result of the difficulties in conducting site visits, hearings and inquiries there had been a delay in appeal decisions being made.

<sup>1</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/889299/COVID-19\\_Guidance\\_for\\_site\\_visits\\_hearings\\_and\\_inquiries\\_28\\_May\\_2020v2.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/889299/COVID-19_Guidance_for_site_visits_hearings_and_inquiries_28_May_2020v2.odt)

The Assistant Director, Planning reported that appeals could take up to one year for a decision to be made. Therefore, this report related to cases prior to the introduction of the Planning Advisory Service report. It was likely that a number of decisions which had been delayed due to the Covid-19 pandemic would be delayed into 2021.

Councillor Allen considered that this report showed there was an urgent need for more Member training. The number of applications overturned, together with the number of call-in applications refused by Members showed that Members continually ignored the advice given by planning officers in the reports. As a result, Councillors' actions were the cause of many lost appeals. The Chairman responded that the most contentious applications were

submitted for consideration by Members and the outcome could go either way. Councillor Owen believed that officer recommendations prejudiced Inspectors' decisions.

**RESOLVED that the report be noted.**

#### **54 INFRASTRUCTURE FUNDING STATEMENT 2020**

##### **Report HPR2020/044**

Member agreement was sought publish an annual 'Infrastructure Funding Statement' as required under the Community Infrastructure Levy Regulations 2010 (as amended) by 31 December 2020. Under the regulations the Council was designated as a 'contribution receiving authority' and was required to publish certain information in respect of S106 amounts collected.

**RESOLVED that the Infrastructure Funding Statement at Appendix 1 be approved, noting that it will be published on the Council's website by 31 December 2020 to comply with the requirements of the Community Infrastructure Levy Regulations 2010 (as amended).**

#### **55 SELF-BUILD AND CUSTOM HOUSEBUILDING REGISTER – LOCAL CONNECTION TEST**

##### **REPORT HPR2020/043**

Following the introduction of the Self Build and Custom Housebuilding Act 2015, it was the Council's duty to hold a register of people seeking to acquire serviced plots of land in their area in order to build homes for their occupation.

Bromley's register first came into effect in April 2016, reflecting the regulations at the time. Regulations introduced subsequently allowed local authorities to introduce additional criteria for entry onto the register – including a local connection test. This report sought Members' agreement to introduce a local connection test requiring entrants onto the register to live in the Borough for a certain period of time in order to be eligible for acceptance onto the register.

Regarding existing entrants on the register, officers would write to those individuals or associations of individuals in early 2021 to note the introduction of the local connection test and invite them to provide further information to address the local connection test in order to remain on the register. This was consistent with the Regulations, which allowed for the removal of an entry from the register if the authority considered that the individual (or in the case of an association, any member of the association) was no longer eligible for entry in the register.

Councillor Fawthrop considered the proposals to be a sensible way forward and moved that the recommendations be agreed.

Councillor Allen was opposed to the introduction of a local connection test. People moved from place to place as a matter of course so there was no point in having the test. The Council had never been inundated with requests for self-build accommodation.

Councillor Harris seconded the motion to agree the recommendations.

**RESOLVED that:-**

- 1) the introduction of a local connection test which would be used to assess future applications for entry onto the Bromley self-build and custom housebuilding register be agreed; and**
- 2) the local connection test be applied retrospectively by writing to existing entrants on the register and inviting them to provide information to demonstrate that they meet the local connection test, in order to remain on the register.**

**56 AUTHORITY MONITORING REPORT 2018/19**

**Report HPR2020/042**

Members considered the Council's Authority Monitoring Report (AMR) for the period 1 April 2018 to 31 March 2019 (2018/19). The AMR was a statutory requirement and set out key information about the planning system in the London Borough of Bromley for 2018/19 and the extent to which the policies set out in the adopted Local Plan (2019) were being implemented.

**RESOLVED that the Council's Authority Monitoring Report for 2018/19 be agreed and Members noted that the document would be published on the Council's website.**

The meeting ended at 8.40 pm

Chairman

Report No.  
CSD21016

London Borough of Bromley

PART ONE - PUBLIC

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

**Date:**                      **Thursday 28 January 2021**

**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**

**That Members note the report.**

## 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: £359k
  5. Source of funding: 2020/21 revenue budget
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## Personnel

1. Number of staff (current and additional): There are 7 posts (6.67 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

Annex A provides updates 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.

As outlined in Appendix A, the matter outstanding from the meeting held on 19 November has 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)	

PROGRESS ON MATTERS OUTSTANDING FROM PREVIOUS MEETINGS

<u>Minute Number/Title</u>	<u>Updates/Feedback Requested</u>	<u>Action By</u>	<u>Current Status</u>
<p><b>Meeting held on 19 November 2020</b></p> <p><b>Minute 52 – Planning Appeals - Costs 2019-2020</b></p>	<p>The Assistant Director, Planning agreed to check on the costs awarded to the appellant on the two appeals for Land at South Eden Park Road which were not included in the report.</p> <p>Following the response sent on 7 December 2020, Councillor Harris requested information on the total amount of costs claimed for the two appeals which had not as yet been settled and the amount LBB expected to pay.</p>	<p>Head of Planning and Development Support</p>	<p>Response circulated to DCC Members via e-mail on 7 December 2020.</p> <p>Further response circulated to DCC Members via e-mail on 18 January 2021</p> <p>Action complete.</p>
<p><b>Response (7 December 2020)</b></p> <p>These costs relate to appeals which fell within data from earlier years so were not in the data provided.</p> <p><b>Further Response (18 January 2021)</b></p> <p>To date the matter of settlement costs is ongoing and remains unresolved.</p>			

# Agenda Item 6

<b>Committee Date</b>	28 <sup>th</sup> January 2021		<b>Agenda Item:</b>
<b>Address</b>	British Gas Site Homesdale Road Bromley BR1 2UE		
<b>Application number</b>	19/04839/FULL1	<b>Officer</b> Agnieszka Nowak-John	
<b>Ward</b>	Bickley		
<b>Proposal (Summary)</b>	Construction of a builders' merchants building (Sui Generis use) and associated storage and loading areas, creation of a new vehicular access to Homesdale Road, a new substation, 6no. residential dwellings, with associated car and cycle parking, landscaping and associated highways works.		
<b>Applicant</b>		<b>Agent</b>	
Travis Perkins (Properties) Limited		Mr Jonathan Best Montagu Evans LLP 5 Bolton Street London W1J 8BA	
<b>Reason for referral to committee</b>	Appeal against non-determination	<b>Councillor call in</b> No	

<b>RECOMMENDATION</b>	Resolve to contest appeal
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<p><b>KEY DESIGNATIONS</b>          Biggin Hill Safeguarding Area          London City Airport Safeguarding          River Centre Line          Smoke Control          Smoke Control          Urban Open Space          Areas of Deficiency in Access to Nature</p>
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<b>Land use Details</b>		
	Use Class or Use description	Floor space (GIA SQM)

Existing	Former Gas Holder site	Vacant
Proposed	Builder's merchant (Sui Generis)	4931sqm
	Residential	446.5sqm

Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	0	44 (Builder's merchant)	+54
		10 (Residential)	
Disabled car spaces	0	2 (Builder's merchant)	+3
		1 (Residential)	
Cycle	0	14 (Builder's merchant)	+14

<b>Electric car charging points</b>	8 no. (20%) (Builder's merchant)
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<b>Representation summary</b>	Neighbour letters were sent on the 2 <sup>nd</sup> January 2020.  A site notice was displayed at the site on the 20th January 2020. The application was also advertised in the News Shopper on the 15th January 2020.
Total number of responses	16
Number in support	0
Number of objections	13

Section 106 Heads of Terms	Amount	Agreed in Principle
Highways	£25000	YES

## SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The application is being reported to Development Control Committee as the applicant has exercised their right of appeal to the Planning Inspectorate on the grounds of non-determination. Members are advised to consider the suggested grounds to contest the appeal as set out in this report.

- The site is an allocated housing site in the Bromley Local Plan anticipated to deliver around 60 residential units. The principle to redevelop the site with an employment-led scheme and a significant under-provision of housing measured against the prescribed quantum is not supported.
- The Noise Impact Assessment submitted in support of the proposal fails to fully consider amenity impacts arising from the servicing and operational aspects of the builders' merchant. Insufficient information was provided regarding the noise impacts arising from vehicles/traffic entering/departing the site at the main entrance adjacent to Nos 153-163 Homesdale Road (No. 153 in particular) as well as the rationale for excluding some site noise characteristics from a rating penalty in accordance with BS4142:2014 + A1:2019.
- The site is primarily located within Flood Zone 1 and partially within Flood Zone 2 identified as an area at high risk of flooding. However, the applicant failed to provide satisfactory assessment of the condition of the culverted River Ravensbourne (East Branch) and remedial works to be undertaken as requested by the Environmental Agency.

## **1. LOCATION**

- 1.1 The application site measures approximately 1.4ha in area and lies between Liddon Road and Homesdale Road. To the West the site abuts the playing fields of La Fontaine School and to the South it adjoins a Tesco supermarket with its associated car park. A residential development of approximately 28 flats is currently being constructed through the conversion of a previous office / commercial units on land adjacent to the proposed residential development (Nos 53 and 55 Liddon Road).
- 1.2 The application site was formerly used for gas storage and currently comprises two gas governors. The gas storage tanks have been recently cleared above ground level, however large sub-terrarium structures associated with its former gasworks use remain. The site is known to be heavily contaminated.
- 1.3 Vehicle and pedestrian access to the site is via Liddon Road. There is a site frontage to Homesdale Road but no existing pedestrian or vehicle access at this point.
- 1.4 The western two thirds of the site (1ha) are identified as Site 4 in the Local Plan which is allocated for mixed use redevelopment including 60 residential units and employment floorspace, following appropriate remediation of contamination and subject to suitable flood risk mitigation.
- 1.5 The site is primarily located within Flood Zone 1 (to the south) and partially within Flood Zone 2 (north) identified as an area at high risk of flooding. The site is situated above an aquifer and a culverted main river (Ravensbourne (East Branch)) runs along its northern boundary.
- 1.6 Apart from the culvert the ground levels of the site are generally flat.

- 1.7 Homesdale Road is a London Distributor Road (LDR). The proposed builder's merchant (Travis Perkins) located off Homesdale Road has a PTAL rating of 1a (Poor), whilst the residential component on Liddon Road, straddles the border of a PTAL rating of 1a / 2.
- 1.8 The site is not in or close to a designated wildlife area. It contains limited vegetation, however there are a number of trees towards the northern boundary, as well as beyond the western boundary within the adjoining playing fields.
- 1.9 No designated heritage assets are located in the vicinity of the site.



Fig. 1. Aerial photo of the site.

## 2. PROPOSAL

- 2.1 The application proposes to redevelop the site for a mixed-use scheme comprising six dwelling houses and a Travis Perkins builder's merchant along with associated infrastructure and a creation of a new vehicular access off Homesdale Road.
- 2.2 The site proposal effectively divides the application site into two areas, as shown below (Fig.2). There would be no access between each of the areas.
- 2.3 Area 1 (builder's merchant):
- 13,382sqm (92.5% of the total site area);
  - the proposed trading unit would have a footprint of 4,116sqm with external dimensions of approximately 44.7m x 92.2m, eaves at 7.9m from ground level and a maximum height of 10.35m from ground level;

- the main part of the site is to be utilised for Trade with indicative areas of external storage and a large warehouse with capacity for vehicles to drive through including internal double height spaces with some mezzanine areas;
- accessed from a new access on Homesdale Road;
- 40 parking spaces of which 8 spaces of the parking spaces (20%) would provide for electrical vehicle charging and 2 would be Blue Badge parking spaces;
- 8 cycle parking spaces;
- store operating times are proposed to be 07:30 – 17:00 Mondays to Fridays, 08:00 – 12:30 Saturdays, with no trading on Sundays;
- expected employment generation of 35-40 FTE, equating to 40-50 jobs in total (inclusive of 5 members of staff who would transfer with Benchmarx from Wardo Estate).



Fig.2. Development areas within the application site.



Fig. 3. Proposed elevations Travis Perkins unit.

2.4 Area 2 (Residential):

- 1,080sqm (7.5% of the total site area)
- six 2 storey, 2 bed terrace dwellings;
- the entire terrace would measure approximately 12.3m x 23.5m with eaves at 4.7m from ground level and a maximum height of 8.4m from ground level;
- accessed from Liddon Road;
- 10 parking spaces (including one space to replace the on the street displaced space);
- sheds for each unit to accommodate cycle and a bin storage.





Fig. 4. Proposed elevations residential dwellings.

- 2.5 Landscape buffers, as well as an acoustic fence extending to 2.4m would be included to the north of the site between the proposed trade site and the residential element.

### 3. RELEVANT PLANNING HISTORY

- 3.1 99/01016/FULL2 - Change of use from British Gas Depot to warehouse use (Class B8). Approved 27.10.1999.
- 3.2 14/03864/DEMCON - Demolition of two gas holders and associated plant (Consultation Under Part 31 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)). Approved 07.01.2015
- 3.3 16/03538/PLUD - Ground remediation works comprising excavation of soils and replacement with suitable backfill material (under Class A of Part 15 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015). Approved 03.10.2016
- 3.4 17/02051/FULL1 - The erection of a prefabricated GRP kiosk to house a pressure controller (Governor) adjacent to Homesdale Road. Approved 23.08.2017
- 3.5 17/02053/FULL1 - The erection of a prefabricated GRP kiosk to house a pressure controller (Governor) adjacent to Liddon Road, Bromley. Approved 23.8.2017
- 3.6 The application site has been subject to three pre-application submissions:
- In 2017 the submission was for a multi-level scheme of 120 flats above a large builder's merchants;

- In 2018 the submission was for a large builder's merchant and 7 houses; and
- In 2019 the submission was for a small builder's merchants and 30 flats and 23 houses. Following the pre-application meeting, a revised plan was submitted for a scheme proposing a medium sized builder's merchant with 6 houses and 54 flats.

### 53 and 55 Liddon Road

3.9 Various applications for prior approval and planning permission approved, and/or allowed on appeal for the change of use from Class B1(a) office and Class B8 (storage and distribution) to Class C3 (dwellinghouses) under Class O and P, Part 3 of the General Permitted Development Order.

## **4. CONSULTATION SUMMARY**

### **4.1 Statutory**

- **Environment Agency – OBJECTION**

28 January 2020

In the absence of an acceptable Flood Risk Assessment (FRA) we **object** to the grant of planning permission.

The site is situated within Flood Zone 2 which is considered to be 'medium risk'. Under the National Planning Policy Framework (NPPF) the site is classified as 'more vulnerable'.

Reviewing the submitted drawings we would have concerns relating to the proximity of the development to the River Ravensbourne (East Branch) culvert and maintenance access. The offset between any building and the culvert should be 8 metres to allow suitable access for heavy machinery and to allow essential maintenance and if necessary repair to the culvert structure. Section 4.2.4.2 of the FRA refers to an above-ground, unobtrusive survey which was carried out in order to determine the route of the culvert. However, due to the ground makeup the exact path of the culvert remains unknown. The FRA then states that the culvert will be located once development is on site. This is unsatisfactory as the supplied plans cannot be measured against the edge of the culvert to determine if an 8 metre offset can be achieved.

We would request that the applicant carries out a culvert survey to establish the exact location of the culvert and resubmits plans to show the offset between any built structure and the culvert edge. It is important to stress that any survey of the culvert identifies the outer edge of the structure itself and its proximity to any proposed development below and above surface. A culvert can vary in size considerably and its dimensions should not be assumed. The Design & Access Statement states 'A 9m easement has been maintained between the new proposed buildings and the existing culvert. Considering no survey of the culvert has been carried out we are not sure how it can be concluded that this amount of easement has been provided.'

In addition, we would also require details relating to any additional loading over the culvert, such as the compaction of ground, laying of tarmac and use of heavy machinery could lead to an unsafe loading on the culvert.

We would also raise concern over the proximity of any new trees adjacent to the culvert, this is because tree roots may affect the structural integrity of the culvert and could create additional maintenance requirements due to less access. In addition, the proposed acoustic fence within area 2 identified on the proposed site layout plan may be unacceptable if it is confirmed that their location is directly above or within close proximity to the culvert for similar reasons to proximity of new trees.

Overcoming our objection: We request the above information is submitted to establish the offset of the proposed development to the culverted Ravensbourne (East Branch) main river.

Only after the proposed offset has been confirmed would we be in a position to deem if the proposed development is acceptable with regards to proximity to the culvert. If the proposed development is shown to be within the 8m byelaw distance then we would request that the proposed development is re-designed so that there is no further encroachment towards the culverted river.

Note to applicant: Please be aware that the River Ravensbourne (East Branch) is a designated 'main river' and under the Environmental Permitting Regulations (England and Wales) 2016, any activity in, over, under or within 8 metres of the river would require a flood risk activity permit (<https://www.gov.uk/guidance/flood-risk-activities-environmentalpermits>).

It is important to note that any requirement for an environmental permit is separate to any planning application should it be approved. Therefore, if our objection is not overcome under this planning application, we will most likely not approve any subsequent Flood Risk Activity Permit application and therefore the proposed development will be in breach of Environmental Permitting Regulations (England and Wales) 2016. The required information detailed above is unsuitable to be submitted and addressed via condition.

Note to Local Planning Authority: If you are minded to grant permission for this application we recommend the following conditions are imposed with regard to the protection of controlled waters.

18 September 2020

Having reviewed the proposal as submitted, including the revised drawings we **maintain our objection** to the planned development.

Culvert Condition: The applicant has submitted drawings of a proposed concrete cover slab which is intended to prevent the proposed development from damaging the culvert through: additional loading, the installation of fence uprights and due to the root growth of proposed planting. Although we do not object to this concept in principal, the submitted drawings and Flood Risk Assessment do not include sufficient detail

regarding how the culvert condition will be assessed and what increase in design life remedial work will aim to provide.

The application fails to define what standard any proposed remedial works on the culvert must meet before the concrete slab is installed. The proposed development would restrict essential maintenance and emergency access to the culverted watercourse. As access to the culvert is to be restricted by the proposed development, the applicant must carry out works to improve the culverts condition to a level where the structure will not pose a flood risk to the neighbouring area due to structural failure. Without such information we do not consider the proposal to have passed the Exception Test (paragraph 160 of the NPPF): '(b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.'

Before remedial works can be planned, the culvert's condition and remaining design life must be ascertained. This will require an engineering assessment of the structure. This would ideally include recommendations as to the likely residual life of the asset, details of any defects, the possible mechanism of failure and an assessment of the impact of any failure. The assessment should also recommend any required interventions and what the likely design life that these interventions would achieve, Finally, it should also recommend a maintenance and inspection plan to maintain the culverts condition after intervention.

The proposed concrete slab's foundation must be independent of the culvert to relieve loading on the existing structure. The current submitted drawings do not show the culvert's depth therefore, the outer face of the culvert may need to be exposed to provide accurate design drawings.

Fence and Planting Location: The document 'Proposed Culvert Protection Works Structural Arrangement Plan' shows the proposed concrete slab over the culvert. Directly West of section C-C the Jakoustic Fence crosses the culvert path. The drawing shows that the concrete slab does not extend to this point and so any fence uprights would be installed either very close or directly over the culvert. We require that the concrete slab and foundation is extended to this location in order to provide protection to the culvert.

Drawing 'B02' shows that the fence uprights will be kept at a 1 metre offset from the edge of the culvert as previously agreed. However, drawing 'Planting Proposals - Sheet 1 of 2' (dated: 13/07/2020) shows that the proposed fence line deviates towards the culvert close to the Western edge of the site. The applicant must show that the fence uprights will be offset from the culvert edge by 1m or be installed into a concrete foundation as shown in drawing: 'Culvert Structural Details'. Additionally, the current planting proposal does not indicate if there will be any root containment for proposed planting outside of the area to be protected by the concrete slab.

Informative: Please be aware that the River Ravensbourne (East Branch) is a designated 'main river' and under the Environmental Permitting Regulations (England and Wales) 2016, any activity in, over, under or within 8 metres of the river would require a flood risk activity permit (<https://www.gov.uk/guidance/flood-risk-activities->

environmental permits). It should be noted that any excavations of the culvert to assess condition or dimensions will also require a separate permit.

24 September 2020

In answer to this formal response, the applicant responded on 24<sup>th</sup> September suggesting part of the EA's objection can be addressed via condition and that the responsibility for the maintenance of the culvert is within EA's jurisdiction.

#### EA final position

EA officer confirmed in the email dated 22/10/2020 that to his understanding the applicant is the riparian owner of the culvert and so is responsible for the maintenance and therefore any inspection plan. EA would only be happy with the concrete cap plan if EA could be assured that the culvert was to be repaired to a condition where the reduced access would not cause issues through the life of the property or at least a suitable period of time. The applicant will need to demonstrate that the proposed development would not have a detrimental impact on the culvert. The further information EA requires will provide further assurance and evidence of this issue.

The remedial works could be part of a condition after the applicant has included details of any engineering assessment. However, conditioning without this assessment wouldn't allow EA to be specific over what works would be required before the concrete cap was put in place. Before the applicant can consider the scope of engineering report and before EA could consider a suitable condition to cover any remedial works, the applicant must understand their responsibilities concerning the culvert.

- **The Health and Safety Executive (HSE) – ADVICE AGAINST**

The assessment indicates that the risk of harm to people at the proposed development site is such that HSE's advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case. Major hazard sites/pipelines are subject to the requirements of the Health and Safety at Work etc. Act 1974, which specifically includes provisions for the protection of the public. However, the possibility remains that a major accident could occur at an installation and that this could have serious consequences for people in the vicinity. Although the likelihood of a major accident occurring is small, it is felt prudent for planning purposes to consider the risks to people in the vicinity of the hazardous installation. Where hazardous substances consent has been granted (by the Hazardous Substances Authority), then the maximum quantity of hazardous substance that is permitted to be on site is used as the basis of HSE's assessment.

If, nevertheless, you are minded to grant permission, your attention is drawn to Section 9, paragraph 072 of the online Planning Practice Guidance on Hazardous Substances - Handling development proposals around hazardous installations, published by the Department for Communities and Local Government, or paragraph A5 of the National Assembly for Wales Circular 20/01. These require a local planning authority to give HSE advance notice when it is minded to grant planning permission against HSE's advice, and allow 21 days from that notice for HSE to consider whether to request that

the Secretary of State for Communities and Local Government, or Welsh Ministers, call-in the application for their own determination.

- **Thames Water – NO OBJECTION**

A Groundwater Risk Management Permit will be required from Thames Water to discharge groundwater into a public sewer, typically result from construction site dewatering, deep excavation, basement infiltration, borehole installation, testing and site remediation and an informative should be attached. Should there be any discharge of surface water into the public sewer, a prior approval from Thames water would be required.

No objection regarding the waste water network, sewage treatment work and water network infrastructure capacity. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9litre/minute at the point where it leaves Thames Waters pipes. The development should take account of this minimum pressure in the design of the proposed development.

#### **4.2 Adjoining Occupiers**

##### General (Addressed in para 6.1.25 – 6.1.29)

- The proposal does not accord with the Local Plan.
- Question whether the submitted viability report would be independently checked.

##### Overdevelopment (Addressed in section 6.1 and 6.2)

- Closure of Euro car wash shows that additional development in the area is inappropriate.
- 25 new housing units going in to Liddon Rd and any more in this area is unnecessary and unsustainable.

##### Highways (Addressed in section 6.5)

- Tesco/Waldo Depot/local shops/pub/ Route 336 bus stop/4 schools (within 0.25 mile of each other) are all close together and result in regular traffic congestion and long hold ups.
- This is made worse by road narrowing from the railway bridge across Homesdale Road.
- Road network in this area is not ideal for large vehicles
- Proposed Travis Perkins will make this worse with risks to pedestrian and car drivers.
- Level of traffic from previous gas holder use minimal and Travis Perkins will greatly increase traffic volume.
- Loss of amenity due to additional traffic, unsafe traffic flow, delays from additional traffic generated.

- Traffic data does not take account of incremental increase in growth of La Fontaine and is an underestimation of true volume of traffic that will impact the area.
- Pedestrian link from Tesco car park to end of Liddon Road for Park and Stride for La Fontaine to help relieve congestion on Homesdale Rd.
- 10% increase in volume compared to existing flows – report does not look at the impact of this but provides a generalised conclusion.
- Not clear if the extreme events in the areas such a queuing for the Waldo Refuse site or the car wash at weekends is taken into account but they result in long queues on Homesdale Rd creating delays and air pollution.
- TA does not consider impact on new mini roundabout planned at Homesdale/Tylney/Page Heath junction.
- New roundabout proposed for Canon Rd/Homesdale Rd/Page Heath Villas/Tylney Rd designed to deal with existing congestion and this development will just add more traffic.
- Juxtaposition of Tesco and Travis Perkins site entrances without a right hand filter lane could impede traffic flow along Homesdale Road. It is dangerous to turn out of Tesco.
- Pedestrians are not safe in the area with narrow pavements and cars driving too fast. Need traffic calming measures and safe crossing areas.
- Resident parking permits should be withheld for new residents.

#### Design (Addressed in section 6.2)

- Appearance and design of the new houses is not in keeping with the existing buildings.
- Building is out of scale with the area.
- Whole area is becoming very industrial in uses of sites and appearance of buildings.
- Not appealing design wise.
- Really poor landscape design and not enough green spaces.

#### Other (Officer's response below)

- Structural damage to existing houses will get worse.
- Officer's response: Matters such as foundations and land stability are not material planning considerations although they may be relevant to the Building Regulations and/or the Party Wall Act.

4.3 3 letters have been received supporting the general principle of development but with reservations, mainly highways, and these have been incorporated into the comments above.

## **5. POLICIES AND GUIDANCE**

### **5.1 National Policy Framework 2019**

### **5.2 NPPG**

### **5.3 The London Plan (2016)**

- 2.6 Outer London: vision and strategy
- 2.14 Areas for regeneration
- 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
- 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
- 7.1 Lifetime neighbourhoods
- 7.2 An inclusive environment
- 7.3 Designing out crime
- 7.4 Local character
- 7.5 Public realm
- 7.6 Architecture
- 7.14 Improving air quality
- 7.15 Reducing and manage noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
- 7.19 Biodiversity and access to nature
- 8.2 Planning obligations
- 8.3 Community Infrastructure Levy

#### **5.4 Publication London Plan (2020)**

- 5.4.1 An updated 'Intend to Publish' version of draft London Plan – entitled Publication London Plan December 2020 - was published on 21 December 2020. This version of the draft plan includes changes made by the Mayor in response to a number of Directed Changes made by the SoS in March and December 2020. The relevant documents are available on the Mayor's website - <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/publication-london-plan>
- 5.4.2 The draft new London Plan (December 2020) is a material consideration in the determination of this planning application. Paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging



plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.

5.4.3 The draft New London Plan is at a very advanced stage; in a Written Ministerial Statement dated 15/12/2020, the SoS indicated that he expects to agree the London Plan with the Mayor early in the new year (early 2021).

5.4.4 The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.

5.4.5 Prior to issuing further Directed Changes in December 2020, the SoS (in two SoS call-in appeals in the Royal Borough of Kensington and Chelsea, appeal ref: APP/C5690/W/18/3205926; and the London Borough of Hounslow, appeal ref: APP/G6100/V/19/3226914) had established that the draft London Plan policies are capable of having significant weight where they weren't subject to Directed Changes.

5.4.6 Considering this information against paragraph 48 of the NPPF, the draft new London Plan (December 2020 'Intend to Publish' version) is considered to have very significant weight where there are no Directed Changes to policies; and significant weight where there are Directed Changes to policies. Taking this into account, the draft new London Plan policies should be used to determine this planning application, alongside policies in the adopted Local Plan and adopted London Plan. Where there is conflict between the policies in the draft new London Plan and the policies in the adopted Development Plan, the draft new London Plan should generally be given primacy although this may vary from case to case.

5.4.7 Upon adoption of the new London Plan, it will become the most up-to-date Development Plan Document for the London Borough of Bromley, and therefore, in accordance with section 38(5) of the Planning and Compulsory Purchase Act 2004, "if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan."

5.4.8 The following policies of the Publication London Plan are relevant:

- GG2 Making the best use of land
- GG3 Creating a healthy city
- GG4 Delivering the homes Londoners need
- GG5 Growing a good economy
- GG6 Increasing efficiency and resilience
- SD6 Town Centres and high streets
- SD10 Strategic and local regeneration
- D1 London's form
- D3 Optimising site capacity through the design-led approach
- D4 Delivering good design
- D5 Inclusive design
- D6 Housing quality and standards

D7	Accessible housing
D11	Safety, securing and resilience to emergency
D12	Fire safety
D13	Agent of change
D14	Noise
E7	Industrial intensification, co-location and substitution
H1	Increasing housing supply
H4	Delivery affordable housing
H5	Threshold approach to applications
H6	Affordable housing tenure
H7	Monitoring of affordable housing
H10	Housing size mix
S4	Play and informal recreation
G5	Urban greening
G6	Biodiversity and access to nature
G7	Trees and woodlands
G9	Geodiversity
SI 1	Improving air quality
SI 2	Minimising greenhouse gas emissions
SI 3	Energy infrastructure
SI 8	Waste capacity and net waste self-sufficiency
SI 12	Flood risk management
SI 13	Sustainable drainage
T2	Healthy streets
T3	Transport capacity, connectivity and safeguarding
T4	Accessing and mitigating transport impacts
T5	Cycling
T6	Car parking
T6.1	Residential parking
T7	Deliveries, servicing and construction
DF1	Delivery of the plan and planning obligations
M1	Monitoring

## **5.5 Mayor Supplementary Guidance**

- Housing (March 2016)
- Energy Assessment Guidance (Oct 2018)
- Accessible London: Achieving an Inclusive Environment (2014)
- Sustainable Design and Construction (2014)
- Shaping Neighbourhoods: Character and Context (2014)

## **5.6 Bromley Local Plan (2019)**

1	Housing Supply
2	Affordable Housing
4	Housing Design
8	Side Space
30	Parking
31	Relieving congestion
32	Road Safety
33	Access to services for all

34	Highway infrastructure provision
35	Transport Investment Priorities
37	General design of development
70	Wildlife Features
72	Protected Species
73	Development and trees
83	Non-Designated Employment Land
113	Waste Management in New Development
115	Reducing Flood Risk
116	Sustainable Urban Drainage Systems
117	Water and Wastewater Infrastructure
118	Contaminated Land
119	Noise Pollution
120	Air Quality
123	Sustainable design and construction
124	Carbon reduction, decentralised energy networks and renewable energy
125	Delivery and implementation of the Local Plan

Appendix 10.2 Housing Site Allocations: Site 4, Gas Holder Site, Homesdale Road, Bickley.

## 5.7 Bromley Supplementary Guidance

Planning Obligations (2010) and subsequent addendums

### 6. Assessment

#### 6.1 Principle of development – Unacceptable

- 6.1.1 The application site comprises Bromley Local Plan (2019) Housing Allocation Site 4 – Gas holder site, Homesdale Road, Bickley and an additional adjoining parcel of land with no land use planning designation. It is one of 14 Housing Site Allocations set out in Policy H1 of the Local Plan which form a large part of the Council’s planned housing supply over the life of the Local Plan.
- 6.1.2 The site policy expects redevelopment of the 1ha site for mixed use to include 60 residential units and employment floorspace, of an unspecified quantum. Proposals are expected to ensure appropriate remediation of the contaminated land and address flood risk problems.
- 6.1.3 The proposal includes 6 residential units and a Travis Perkins builder’s merchant, on an overall site of 1.4ha. Whilst these *uses* are not in conflict with the site allocation in principle, the *quantum of housing* falls significantly short. Also, in terms of the mix of uses proposed, the balance between employment and housing is clearly geared towards an employment-led development instead of the mixed-use development required by the allocation.

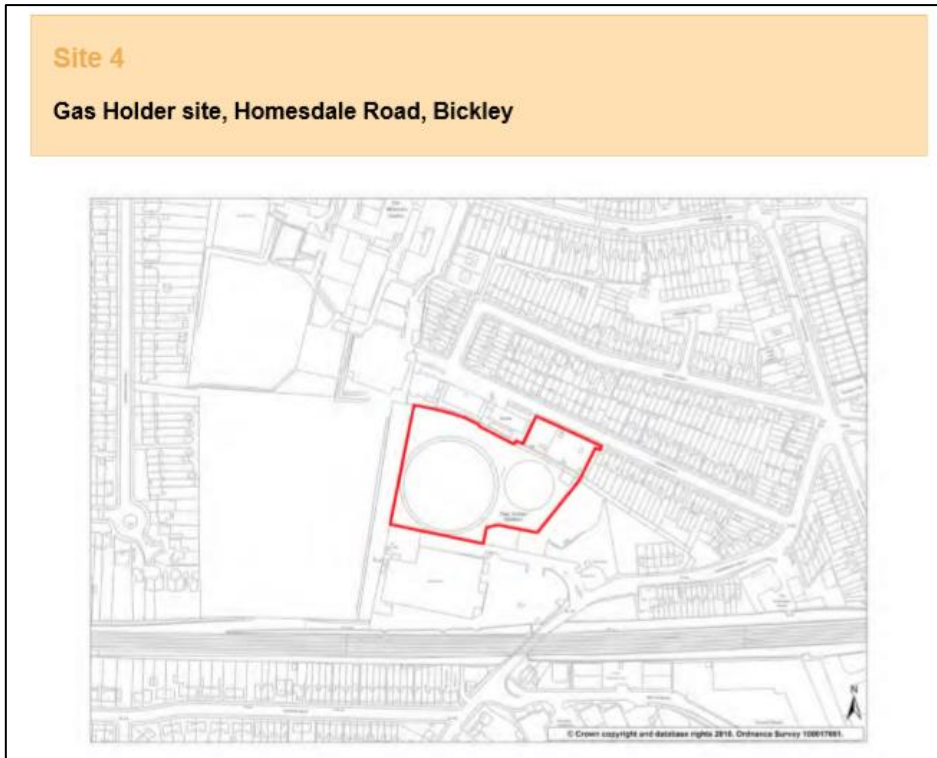


Fig. 5. Bromley Local Plan – Site 4 – Gas Holder Site.

#### Contribution to housing supply

6.1.4 Policy 1 of the Local Plan sets out a strategy for meeting and exceeding the borough's housing supply target as required by the London Plan (641 units per annum as adopted in 2016). The site allocations are intended to provide greater certainty to land owners and developers coming forward with proposals by setting out the principles to be addressed by any planning applications. They were put forward by land owners during the development of the Local Plan and there were opportunities for stakeholders to comment on their inclusion. The Local Plan Inspector found the Plan sound (consistent with the NPPF) including these allocations; as discussed below, it is not appropriate to re-open the soundness assessment of a policy on an ad hoc basis as part of a proposal, although as per the provisions of S38(6), material considerations may, in principle, justify a decision contrary to Development Plan policy.

#### *Five Year Housing Land Supply position*

6.1.5 The current position in respect of Bromley's Housing Trajectory, including the Five Year Housing Land Supply (FYHLS), was agreed at Development Control Committee on 24th September 2020. The current position is that the FYHLS (covering the period 2020/21 to 2024/25) is 2,690 units, or 3.31 years supply. This is acknowledged as a significant undersupply and for the purposes of assessing relevant planning applications means that the presumption in favour of sustainable development will apply. The implications of this are set out in the Housing Trajectory report.

## Publication London Plan

6.1.6 The emerging new London Plan establishes higher housing targets – in Bromley’s case it increases from 641 units per year to 774 units. The Mayor has formally approved a new London Plan, the ‘Publication London Plan’. It has been prepared to address the Secretary of State’s directions of the 13 March 2020 and 10 December 2020 to the Intend to Publish plan. The SoS stated in his letter that he was disappointed with housing delivery in London and highlighted the gap between the proposed housing targets and housing need. Given this context, it is more reasonable to assume sites (especially allocated sites) should come forward with increased housing delivery (pending consistency with other Development Plan policies) rather than significantly decreased quanta which would only serve to further constrain delivery against housing targets and meeting housing need on a local and London-wide basis. Therefore, the importance of optimising residential development sites is even more crucial.

### *Optimising sites*

6.1.7 Policy H1 Increasing Housing Supply (clause B 2) of the Publication London Plan states that to ensure housing targets are achieved boroughs should optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions. Policy 1 of the Local Plan and Policy H1 of the Publication London Plan set the context in the use of brownfield sustainable sites for new housing delivery.

6.1.8 Policy D3 Optimising site capacity through the design-led approach (Publication London Plan) sets out in Clause A that:

*“All development must make the best use of land by following a design led approach that optimises the capacity of sites, including site allocations. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site’s context and capacity for growth, and existing and planned supporting infrastructure capacity (as set out in Policy D2 Infrastructure requirements for sustainable densities), and that best delivers the requirements set out in Part D.”*

6.1.9 Clause D sets out guidance in relation to form, layout, quality and character.

6.1.10 Higher density developments should generally be promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling, in accordance with Policy D2 Infrastructure requirements for sustainable densities (Clause B).

## Affordable Housing

6.1.11 Policy 2 of the Local Plan sets out the policy requirements for affordable housing for sites capable of delivering 11 units or more. The new London Plan has a threshold of 10 units; while it is not yet adopted, it does have significant weight as noted above.

6.1.12 Policy 2 makes reference to the level of need for affordable housing (from all sources – not just units progressed through the planning system) in the supporting text as follows:

*2.1.29 The South-East London sub region commissioned a Strategic Housing Market Assessment (SHMA) that was carried out in 2014. The study demonstrates a high level of need across the sub-region and highlights a number of key challenges and issues, including a total housing requirement of 7188 units per annum across the sub region and an estimate of net annual affordable housing need of 5,000 units per annum in South East London. In Bromley there is a net annual need for affordable housing of about 1400 units per annum.*

6.1.13 The latest Authority Monitoring Report (2018/19) published in November 2020 sets out affordable housing delivery figures. The total number of affordable dwellings completed in Bromley during the 5 year time period is 623 units highlighting still that there is a significant need for affordable housing in the borough, both from unmet need established in the 2014 SHMA and from whatever need has (and continues to) materialise since the SHMA was produced.

6.1.14 The affordable units (intermediate tenure) proposed are likely to meet a need within the borough. Importantly though, the overall housing element of the proposal should reflect the objectives of the Local Plan site allocation to deliver a suitable mixed-use scheme that includes significantly more housing (including a proportion of affordable housing in accordance with policy).

6.1.15 The site is capable of delivering 10/11 homes or more, therefore it would trigger the requirement for affordable housing as set out in Policy 2. A proposal which significantly under-delivers on the overall quantum of housing expected on a site also means that the level of affordable housing is not being optimised. While actual affordable housing levels would most likely be determined by financial viability, the proposal is considered to undermine a key local and London-wide policy objective (Policy H4 of the Publication London Plan and the extant Affordable Housing and Viability SPG).

### Density

6.1.16 The site allocation policy does recognise the opportunities and challenging positions of this allocated site in delivering around 60 new dwellings, as part of the Council's 5 Year Housing Land Supply. The resulting housing density for the entire site would be 4.1 units per hectare or 12.5 habitable rooms per hectare. This residential density would be significantly below the recommended residential density range.

6.1.17 The Mayors Housing SPG advises on a method for calculation of residential density on mix used schemes. In this instance, density calculation based on 8.5% of the net site area (the net site area reduced by the proportion of

proposed non-residential floorspace - 91.5%), giving a site area for density purposes of 0.12ha.

6.1.18 The residential density of the proposed development would equate to 50 units per hectare and 150 habitable rooms per hectare which would reflect the lower end of the recommended threshold range of 50-75u/ha (150-250hr/ha) set out in London Plan Policy 3.4 (Table 3.2).

6.1.19 The Publication London Plan does not include a prescriptive density matrix (as set out in the adopted London Plan) and instead promotes a design led approach to optimise the capacity of sites. Policy D3 sets out in Clause A that:

*'All development must make the best use of land by following a design led approach that optimises the capacity of sites, including site allocations. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity (as set out in Policy D2 Infrastructure requirements for sustainable densities), and that best delivers the requirements set out in Part D.'*

6.1.20 Clause D sets out guidance in relation to form, layout, quality and character.

6.1.21 In the opinion of officers the resulting residential density is indicative of under-development of this housing allocation site that fails to optimise the capacity for growth.

#### Contribution to employment land

6.1.22 The site was formerly designated in the UDP 2006 as a Business Area. The owner, SGN, put forward the site for alternative uses during the development of the Local Plan as it had begun to decommission the gas holders. Retaining the business area protection (which could have been rolled forward to a Locally Significant Industrial Site) was ruled out due to its potential for residential development and to reflect that the area immediately to the south of the proposal site had been in retail use for some time (currently a Tesco supermarket).

6.1.23 Including an employment use as part of the allocation was suggested by the land owner and accepted by the Council to allow some flexibility for redevelopment. Travis Perkins purchased the site in March 2019, i.e. post adoption of the Local Plan, so should have had full knowledge of allocation and the associated risks and restrictions.

6.1.24 The current proposal includes 4,799sqm of employment floorspace (footprint 4,117sqm) and whilst the use would be Sui Generis rather than Class B, it is considered akin to a Class B use and the proposal would generate 40-50 part and full time jobs. The proposal may be considered to improve the quality and quantity of employment floorspace and the change of use away from Class B to another employment-generating use is supported by Policy 83 subject to impacts on neighbouring residential areas. It is understood that the provision of

a builders' merchant at the site has not previously been objected to on the basis that this aligns with the site allocation – i.e. it is an employment use.

6.1.25 While the increase in employment would attract weight in the determination of this application, it is a minimal increase and it is not considered that this would come close to outweighing the negative aspects of the scheme noted above, namely the inconsistency with an adopted site allocation, the associated impact on the borough's projected housing supply, and the lost opportunity to provide much needed affordable housing.

6.1.26 Publication London Plan Policy E7 Part C supports mixed use redevelopment of non-designated industrial sites where a site is allocated for such purposes. Given that the policy explicitly defers to allocations, this gives further weight to the provisions of the allocation, namely the need to provide a greater quantum of residential to deliver a genuinely mixed-use rather than an employment-led proposal.

#### Other matters

6.1.27 The applicant has submitted a financial viability statement for a single theoretical proposal which closer aligns with the site allocation expectation. The statement concludes that this single theoretical scheme would not be viable and ipso facto that the site allocation policy is not viable.

6.1.28 Officers do not consider that this is a valid argument for the purposes of determining this application, as it attempts to reopen the assessment of soundness of a policy in an adopted Local Plan. If, following the adoption of an allocation, site circumstances change, then this can be considered as a material consideration. The weight given to such a consideration would depend on the quality of the evidence underpinning it, which in this case is considered to be limited. It needs to be stressed that the Local Plan is a long-term strategy over 15 years; even if a site can be proven unviable at a certain point in time, it might be that no development is preferable to the development proposed, when considering the overarching plan objectives.

6.1.29 It is acknowledged that on a case-by-case basis there may be issues such as financial viability and abnormal costs which could mean that certain policy requirements are reduced. However, for the applicant's argument to demonstrate that, due to changing circumstances, the site is not suitable for housing as envisaged by the allocation, there would need to be evidence that a range of different proposals were not deliverable; this would include proposals at greater and fewer quanta of homes, perhaps at certain intervals that could be agreed (for example 15, 30, 45, 75, 90, 105, 120, etc) with different mixes of unit sizes, levels of affordable housing and other contributions.

6.1.30 Members attention is also drawn to the fact that both schemes – submitted and theoretical – include a Travis Perkins. The site allocation does not specify what type of employment floorspace should accompany the residential element, nor the quantum. Again, unavailability of one theoretical scheme does not rule out other potential employment combinations – spatially and of employment types and quanta.



6.1.31 In light of the above considerations, the proposal for an employment-led redevelopment of the site with a significantly decreased quantum of housing provision measured against the quantum in the Local Plan, would further constrain delivery against housing targets and meeting housing need on a local and London-wide basis. As such, the proposed development fails to comply with the strategic policy context and Members are advised to contest the appeal on this ground.

## 6.2 Design: Layout, Scale, Massing and Appearance - Acceptable

### Residential element

6.2.1 The application site is surrounded to the north side by existing residential properties on Liddon Road. The nearby buildings represent a mixture of styles and designs but on the whole, they are two storeys in height, and form strong repetitive terraces. It appears that residential conversions at Nos 53 and 55 Liddon Road are currently under construction.

6.2.2 The proposed residential properties would be constructed as a continuation of the adjacent terrace with a set back from the road following the established building line along Liddon Road. Front gardens, however, would be omitted to allow for a ramped and stepped access in order to achieve the 660mm GF level proposed against flooding. The height of the proposed terrace would relate favourably to the surrounding massing although it is noted that the eaves would be positioned at a slightly lower level. Overall, officers consider that the scale, massing and layout of the residential element would adequately respond to the existing built context.



Fig.6. 3D model render of the proposed residential element.

6.2.3 The units have been designed in brickwork with rendered panels in a style that has been influenced by surrounding buildings by having two first floor windows above the front door and ground floor window. The detailed design and appearance of the proposed terrace would maintain the strong elevational rhythm and are considered to integrate well with the existing character of the street.



Fig.7. Proposed streetscene.

### Builder's merchant

- 6.2.4 With regard to the proposed Travis Perkins unit, it would have a basic portal frame but with cantilevered canopies on the north and south elevation to protect external merchandising. Vehicular circulation would be through the centre of the building to reduce congestion and increase potential storage areas. The primary elevations would consist of made up clad walls in Hollybush Green in the form of profiled sheet with detailing to flashings and doors in yellow. The roof would be finished in profile sheet cladding with a light grey finish.
- 6.2.5 A large section of glazing would be included to the southern corner of the building to highlight the public pedestrian entrance and increase natural light inside this section of the unit. To increase natural light in the rest of the trade unit roof lights are proposed to illuminate the double height spaces where needed. Where the internal floor area incorporates mezzanine areas the rooflights have been omitted and the space on the roof utilised for photovoltaics.
- 6.2.6 In officers view, the scale, massing and design of the proposed commercial unit are considered as acceptable.

### **6.3 Residential Standards – Acceptable**

- 6.3.1 The proposed units with a GIA of either 77sqm or 78.5sqm (dependant on the first floor bay windows) would meet or exceed the 'Technical housing standards - nationally described space standard' minimum thresholds and adequate internal living space would be provided. Each dwelling would have access to private rear garden of acceptable size (51-53sqm), depth (min.10.5m) and proportion.
- 6.3.2 The floor plans show that all houses would be dual aspect. The quality of the outlook offered to habitable rooms appears to be adequate.
- 6.3.3 To improve daylight within the units, the main habitable rooms have been designed to the immediate front and back of the units with services and circulation routes in the centre where light is limited.
- 6.3.4 An element of the current proposal raising some concerns is privacy. The presence of a 1200mm wide communal access platform would effectively screen off the habitable rooms from the street, however officers consider that a degree of overlooking from the platform would result. Officers acknowledge however that the rooms affected would be living rooms and that planters are proposed to aid with privacy. On balance and taking into consideration the need

to mitigate potential effects of surface flood water whilst providing a step free access to the proposed dwellings, no formal objections are raised in this regard.

- 6.3.5 All of the proposed units will meet Building Regulation requirement M4 (2) 'accessible and adaptable dwellings'. Accessibility, Adaptability and Wheelchair Accessibility is further considered in section 6.6 of this report.

## **6.4 Impact on Residential Amenities - Acceptable**

### Residential Dwellings

- 6.4.1 Whilst the proposal would infill the currently undeveloped stretch of land with the new buildings, the proposed residential terrace would continue the established building line and maintain the spatial relationship between the existing properties of Liddon Road. This spatial relationship is typical to many urban locations and as such is considered sufficient to ensure that the privacy, outlook and daylight/sunlight currently enjoyed by the properties in question would not be unduly compromised.
- 6.4.2 It is considered that by virtue of the proposed use, the residential element of the scheme would not generate a noise disturbance or light pollution to other residential dwellings in the area.

### Builder's merchant

- 6.4.3 The nearest residential properties affected by the builder's merchant would be existing houses on Liddon Road (including nos. 53 and 55), nos. 153-163 Homesdale Road, as well as the new dwellings which are part of the proposed development.
- 6.4.4 The proposed commercial unit would have a maximum height of 10.5m and would be positioned at least 22m away from the rear elevations of the proposed new residential properties. Given the siting, scale and design of the commercial building, and the resulting separation distances between the unit and the adjoining residential properties, it is considered that the proposal would not lead to unacceptable adverse impacts upon the residential amenities in terms of daylight/sunlight, sense of enclosure, and privacy.
- 6.4.5 Some concerns are raised with regard to the impact on residential amenity of the future occupiers of the ground floor of nos. 53 and 55 Liddon Road, particularly with regard to outlook and sense of enclosure. Officers note that these buildings are positioned approximately 7.5-10m away from the proposed 2.4m high Jakoustic fence. Whilst the submission provides little detail on the resulting spatial relationship, on balance, it is not considered that the potential adverse impacts would be to such a harmful degree that would warrant refusal of a planning consent.
- 6.4.6 Likely noise and disturbance as well as light pollution impacts arising from the servicing and operational aspects of the builder's merchant are considered within Environmental Health section of this report (paras 6.6.5 – 6.6.11).

## 6.5 Transport and Highways - Acceptable

- 6.5.1 The proposed builder's merchant (Travis Perkins) located off Homesdale Road has a PTAL rating of 1a, whilst the residential component on Liddon Road, straddles the border of a PTAL rating of 1a / 2.
- 6.5.2 The proposed Travis Perkins unit would be accessed off a new priority junction located on Homesdale Road, with the residential element of the development accessed from Liddon Road. The proposal would not allow for any access between the development areas (Area 1 and Area 2).

### Parking

- 6.5.3 One existing on-street parking bay on Liddon Road would be lost as a result of the proposals, however a total of 10 off-street car parking spaces (including 1 Blue Badge parking space) would also be provided for the residential units, which is acceptable. Proposed parking provision for the builder's merchant would include the provision of 44 car parking spaces, of which 2 would be disabled bays (5%) and 8 (20%) would have active electric vehicle charging points. 14 no. individual lockers for cycle parking would be provided.

### Trip generation

- 6.5.4 Trip generation for the proposed development is based on TRICS data for the morning and evening peak periods. Additionally, the assessment of the trip rate and generation for the proposed commercial unit have been supported with the operational data (arrivals / departures) from Travis Perkins St Pancras site. The St Pancras site is fully operational, directly comparative in terms of layout, location, scale and operations to that proposed on Holmesdale Road. A traffic survey (arrivals / departures) was undertaken over the course of a full-working day, and during a neutral month to quantify the typical daily traffic movements and therefore used a substitution for vehicle movements for the proposed development.
- 6.5.5 The total vehicle trips generated by the commercial and residential elements for the proposed development during the morning and evening peak periods are summarised in Table 2 below.

Use	AM Peak (0800-0900)			PM Peak (1600-1700)		
	Arrivals	Departures	Total	Arrivals	Departures	Total
Residential	1	2	3	2	1	3
Travis Perkins	33	33	66	13	13	26
<b>TOTAL</b>	<b>34</b>	<b>35</b>	<b>69</b>	<b>15</b>	<b>14</b>	<b>39</b>

Table 1: Total Vehicle Trips (source: TA).

## Vehicle trip distribution

6.5.6 Given the small amount of vehicle trip generated by the residential development these have been excluded from assignment onto the local highway network. The trip distribution of the commercial vehicle flows on to the local highway network has been derived by calculating the distribution percentage of existing traffic along Homesdale Road. In terms of percentage distribution, analysis of the baseline traffic flow along Homesdale Road indicates a 50:50 split in traffic movements along each of its axis.

## New Access

6.5.7 The geometric design of the access junction includes the following design components:

- Visibility splays of 33m along Homesdale Road – based on the 85<sup>th</sup> %ile vehicle speed of 25mph (each direction) recorded over a seven-day monitoring period;
- Kerb radius equalling 10m to allow the safe movement of vehicles into and from the site (swept-path analysis confirms this design objective);
- Full inter-visibility between the site access and the adjoining Tesco access point; and
- Informal pedestrian crossing facility across the site access.

6.5.8 It is noted that due to the location of the site access, the existing (northbound) bus stop would need to be relocated to a new position on Homesdale Road. In this regard, the site appraisal noted that a more appropriate and convenient location of the bus stop could be adjacent to the pedestrian access into the Tesco's supermarket forecourt. At this location, a new flag and pole bus stop would be provided and rehouse bus timetabling information which is not provided on the current facility.

6.5.9 Stage 1 Road Safety Audit undertaken in September 2018 covered the Site Access / Tesco Access / Homesdale Road / Car Wash linked junction and the residential frontages on to Liddon Road. The applicant has accepted all of the recommendations and agreed with providing pedestrian facilities across all likely pedestrian desire lines as part of the detailed design. A vehicle tracking analysis (HGV movements) has also been submitted for the proposed site access.

6.5.10 A junction capacity assessment has been completed for the Site Access / Tesco Access / Homesdale Road / Car Wash linked junction. The results show that the junction operates within capacity in 2024 during both peak periods for both scenarios. The impact of the proposed development on the Site Access / Tesco Access / Homesdale Road / Car Wash linked junction is shown to be minimal.

6.5.11 LBB Highways Officer reviewed the proposal and confirmed that whilst there is no in principle objection to the proposed development from a transport perspective, there are highway safety concerns in relation to large articulated vehicles turning out from the site onto Homesdale Road. The swept path analysis provided shows that articulated vehicle(s) need to swing into the path

of oncoming vehicles in order to clear the junction. This would be dangerous and should be addressed.

6.5.12 In order to overcome this problem, the applicant should consider entering the site via A21 (from Bromley) and egress towards A21 reducing the risk of conflict and unsafe manoeuvres. This would be acceptable, as there would be minimal conflict between the articulated vehicles and general traffic. The application should be conditioned that no HGVs can enter or exit the site from east and all traffic must be from /to A21.

6.5.13 The Officer also confirmed that it is necessary that appropriate measures are secured through the s106 legal agreement to mitigate the impact the proposed development would have on Homesdale Road and Liddon Road. These measures are listed in paragraph 7.2 of this report.

### Waste management

6.5.14 The proposed residential units have been provided with an external bin store to the northwest of the properties alongside Liddon Road at the front of the site. The bin store would be adequate to store the required waste and recycling receptacles for six 2-bed/3 person residential dwellings. The bin store location close to Liddon Road is considered to be convenient and accessible for collection purposes and also visually acceptable, with the bins stored away behind the close boarded enclosure adjacent to the car park.

6.5.15 Travis Perkins have an aspirational goal of 'Zero Waste to Landfill'. All recyclable materials would be collected and stored either internally within the unit or within the secure storage / servicing area externally. Travis Perkins have scheduled waste collections from Biffa/ Veolia twice a week to empty the bins. Pallets/timber/ recycling bags are picked up every time they have a delivery from the main distribution centre which reduces the number of vehicles travelling to and from the site. No objections are raised in this respect.

## **6.6 Accessibility, Adaptability and Wheelchair Accessibility - Acceptable**

6.6.1 As this development is for only 6 residential units no wheelchair user dwellings are proposed, but 100% of the units would be wheelchair adaptable. Due to the flood risk the proposed residential development has had to be designed with a 600mm high ground floor level in order to mitigate the potential effects of surface flood water. In order to make the units accessible the scheme has been designed with a raised platform alongside Liddon Road accessed at one end via steps and the other via a wheelchair accessible ramp and steps located to the side of the end unit close to allocated parking spaces in order to minimise travel distance from car to the entrance of each house.

6.6.2 Within each residential unit all rooms on the ground floor would be wheelchair accessible, toilets and hallways would be wide enough to accommodate a wheelchair user and all internal doors would have an opening sufficient for a wheelchair to pass through. Whilst the first floor is not wheelchair accessible at this time the floor structure would be designed with an easily removable section

of floor to ensure that a lift could be accommodated allowing users to traverse between floors freely in a wheelchair.

- 6.6.3 With regard to the trading unit, the service yard is proposed to be entirely whitelined with no raised kerbs on site to give vehicle operators freedom of movement around the entire site. The exceptions to this rule would be within pedestrian zones, the external line of the site and important vehicular circulation points which would be raised where possible in order to create safe spaces for the circulation of pedestrians away from heavy machinery, to prevent vehicles from cutting corners and to avoid collisions with the external storage around the perimeter of the yard. To allow easy access and loading on site, loading bays would be provided alongside vehicular routes allowing customers to bring their vehicles out of the line of traffic when collecting items of stock. The layout of the unit has been planned to keep customer circulation to a minimum by grouping together the sales areas, cafes and first floor showroom areas to reduce the number of people walking where vehicle movements are. This would help to segregate the retail and trade areas for safe access and use of the site.

## **6.7 Drainage and Flood Risk - Unacceptable**

- 6.7.1 The site is situated within Flood Zone 2 which is considered to be 'medium risk'. Under the National Planning Policy Framework (NPPF) the site is classified as 'more vulnerable'. The site is situated above an aquifer and a culverted Ravensbourne (East Branch) main river runs along its northern boundary.
- 6.7.2 The proposed development would be designed so that the Finished Floor Levels of the proposed residential and employment floorspace would be 600mm above existing ground levels. The applicant is committed to incorporate an attenuation tank to provide attenuation for the commercial part of the development, tanked permeable paving to provide attenuation for residential development and tanked permeable paving (Car parking bays within Travis Perkins commercial development site) to provide a level of surface water treatment. The proposed drainage strategy comprise two separate piped networks; one for the residential and the other for the builder's merchants. The discharge rate would be restricted 2.5l/s for each pipe network and that for all events including the 1 in 100 year plus climate change storm event.
- 6.7.3 The proposed development would restrict essential maintenance and emergency access to the culverted watercourse. The Environment Agency (EA) have been consulted and confirmed that as access to the culvert is to be restricted by the proposed development, the applicant must carry out works to improve the culverts condition to a level where the structure will not pose a flood risk to the neighbouring area due to structural failure. However, before remedial works can be planned, the culvert's condition and remaining design life must be ascertained. This would require an engineering assessment of the structure. This would ideally include recommendations as to the likely residual life of the asset, details of any defects, the possible mechanism of failure and an assessment of the impact of any failure. The assessment should also recommend any required interventions and what the likely design life that these

interventions would achieve, Finally, it should also recommend a maintenance and inspection plan to maintain the culverts condition after intervention.

- 6.7.4 The EA would only be happy with the concrete cap plan if it could be assured that the culvert was to be repaired to a condition where the reduced access would not cause issues through the life of the property or at least a suitable period of time. Without such information the application fails to define what standard any proposed remedial works on the culvert must meet before the concrete slab is installed. Their full comments are reported in the Consultation Summary section of this report (para 4.1).
- 6.7.5 In the light of the above, it is considered that the proposal does not satisfy the Exception Test as set out in paragraph 160 of the NPPF: '(b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.' As such, Members are advised to contest the appeal on this ground.

## **6.8 Environmental Health Considerations – Unacceptable**

### Noise

- 6.8.1 In terms of the impacts of the servicing and operational aspects of the builders' merchant, the store operating hours would be 0700 to 1700 Monday to Friday and 0800 to 1200 on Saturday, with no trading on Sunday.
- 6.8.2 Environmental Noise Assessment (NIA) submitted argues that the proposal is acceptable in amenity terms subject to the installation of an acoustic fence extending to 2.4m along the boundary separating the development site and the residential properties along Liddon Road.
- 6.8.3 Although this is considered as an appropriate protection measure in terms of the assumed locations of noise sensitive receivers along the northern boundary of the site (including residential properties not yet constructed), no assessment has been undertaken in relation to the impact on Nos 153-163 Homesdale Road. These properties, No. 153 in particular, adjoin the main access point to the commercial element of the site. While they are sufficiently further away that general site activity noise is less likely to be an issue, they are closer to vehicle/traffic noise impacts associated with visits/deliveries to/from site – vehicle noise would be greater where vehicles are accelerating to pull away from the junction or turn into the site and for which there would be limited opportunity for attenuation due to distance.
- 6.8.4 The Environmental Health officer also objected to the exclusion of some site noise characteristics from a rating penalty in accordance with BS4142:2014 + A1:2019 when the characteristic of some noises suggest that a penalty should be applied.
- 6.8.5 Contrary to the assertion that there would be no site related activities that give rise to tonal, impulsive, or intermittent noise for which a rating penalty should be added, fork lift trucks would be the source of a range of noises likely to fall



within these descriptors, including the operation of hydraulic masts, the operation of horns, and the use of reversing alarms. Further, fork lift trucks may not be the only source of noises with these characteristics (e.g. waste compactor, powered wood saw or dust extractor if these are to be installed on site). It is therefore possible that further rating adjustment of site noise needs to be made and that consequently the predicted rated noise level is incorrect and that the overall site noise impact would be greater than that predicted. As these matters could affect the acceptability of the overall impact of the proposal on local residential amenity, it is recommended that Members contest the appeal on the grounds of insufficient information being provided on the likely noise impacts of the proposal on local residential amenity.

### Light Pollution

- 6.8.6 Whilst the lighting would be configured to operate to suit the branch operating hours, the external lighting would normally be switched on at 0630 Monday to Friday to allow for staff access. The External Lighting Strategy has been reviewed by the Environmental Health officer who confirmed that given the statutory duties that exist in relation to lighting and workplace safety, this amount of limited light operation during the curfew/night hours is considered acceptable.
- 6.8.7 EH officers have raised some concerns with regard to the car park area for the new residential units, which would appear to exceed the pre-curfew 2 lux level in close proximity to the dwelling on Plot 6. It is not known whether or to what extent the External Lux Levels (ELL) drawing submitted takes into account boundary fencing, or whether a partial shroud or hood could be fitted to the rear of the luminaire to reduce light spill to the rear of the light nearest to the residential units. Given the limited degree of light spillage this element of the application is not, in itself, considered as sustainable ground for refusal and should be capable of being conditioned to allow concerns in respect of external lighting to be resolved.

### Contaminated Land

- 6.8.8 The site has a well-known historical contaminative land use (gas production, gas holding, and associated activities) which has been the subject of a number of previous site investigations and some partial remediation. As the report submitted is a preliminary Phase I desk study further monitoring, sampling and analysis, and modelling is required before it can be revised and updated. The site risk assessment would need to be kept under review during site works and remediation in order react to any issues identified while works are in progress. While some observations are offered on some remediation options, option analysis and recommendation of the remediation strategy for the site is outside the scope of this report. It is therefore recommended that in an event of granting planning permission a land contamination assessment condition would need to be attached to prevent harm to human health and pollution of the environment.

## Construction Management Plan

6.8.9 The Construction Management Plan (CMP) submitted in support of the application confirms that it is *indicative only* as details of site working methods and requirements are not yet known, and would in any case be subject to review throughout the duration of the development (2 monthly intervals are suggested). The CMP has also been prepared in isolation from the Phase I Desk Study/site history. despite the need to manage and control the potentially contaminated dusts, vapours, and gases, and to ensure that local surface and groundwater are protected from water wastes arising from the site.

6.8.10 Despite the site being in close proximity to the borough's Air Quality Management Area (AQMA), the CMP contains no specific details regarding air quality controls. Non-road mobile machinery (NRMM) do not appear specifically mentioned, neither is there specific commentary on NOx. As such, submission of further details would need to be requested prior to commencement of development 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.

## Air Quality

6.8.11 No Air Quality Assessment has been submitted in support of the proposal. Officers note that whilst at the time of the submission of the application the site was located in close proximity to the borough's Air Quality Management Area, following the adoption of the new Air Quality Action Plan (summer 2020) with a substantial expansion of the AQMA, the application site has been absorbed into the borough's AQMA, making an evaluation and confirmation of the likely air quality impacts of this proposal all the more important.

6.8.12 To this end, prior to the commencement of the development, the applicant would be required to demonstrate how the proposed development would not adversely impact on the borough's Air Quality Management Area. Where adverse impacts are identified, the report would need to detail the mitigation measures to be taken to ensure that the development has a neutral impact on air quality.

## **6.9 Designing Out Crime - Acceptable**

6.9.1 The Metropolitan Police Crime Prevention officer raised a number of concerns regarding the proposal and recommended which aspects of the scheme need to be addressed to comply with the principles of Secured by Design. These include the incorporation of 3<sup>rd</sup> party tested and accredited doors and windows in all required locations, both on the commercial and residential buildings, the removal or mitigation with regard to the rear alleyway behind the residential properties, the standards expected for the design of the bin store, and cycle storage security arrangements.

6.9.2 In response to the above points the applicant confirmed that due to level requirements the rear footpath is necessary, however an additional gate could

be incorporated restricting access from Liddon Road and that both gates would be sufficiently illuminated. The external residential communal bin store would be within a secure shed located in a prominent and overlooked location. In relation to the commercial part of the site, a 2.4m acoustic fencing is proposed to the boundaries and the site would be gated to restrict vehicular entry during non-operational hours. The site and building would also be monitored using CCTV and that the higher value goods areas would be alarmed. To this end officers consider that the proposal is acceptable, subject to a condition to secure compliance with the principles of Secured by Design.

## **6.10 Ecology – Acceptable**

6.10.1 The planning application is supported by an Arboricultural Impact Assessment and Ecology Note. The proposed development would require the removal of 6 of the 12 existing self-set trees located on the site. The existing trees to be removed are of limited value, categorised as Class C1 trees. Appropriate root protection measures would be installed for the trees to be retained during construction. The proposals include new planting by way of new shrubs and hedges predominantly along the boundary of the site, as well as the planting of 3 trees. Climbers are also proposed on the perimeter fence to soften the appearance of the site.

6.10.2 The application site is of limited value from a biodiversity perspective. The proposed development would represent an opportunity to enhance the ecological value of the site by incorporating a number of habitats, including bat roof tiles, sparrow terraces, bird boxes and hedgehog houses.

6.10.3 Officers consider that the proposed development is acceptable from the ecology and biodiversity perspective. The landscape proposals would sufficiently address the tree loss, whilst the net gain would be a significant improvement to what is currently a derelict gasworks site. This is particularly beneficial as the site falls within the Areas of Deficiency in Access to Nature, i.e. areas that are more than 1km walking distance from an accessible Metropolitan or Borough Site of Importance for Nature Conservation (SINC).

## **6.11 Energy – Acceptable**

6.11.1 The Energy Statement submitted outlines a variety of measures that would be employed in order to ensure the proposed development would meet the requirements of the London Plan for a lean, clean and green scheme in terms of energy and sustainability. The builder's merchant would provide a 35% reduction in CO2 emissions over building regulations, whilst the housing would not exceed the maximum CO2 emissions requirements of the GLA regulations.

6.11.2 At present, no Carbon Offsetting payment-in-lieu would be required for either the residential or commercial element of the proposal. However, the adoption of the London Plan will bring a different policy scenario into play – non-residential element would need to be zero carbon, with a minimum 15% from efficiency measures and the carbon offsetting payment for the commercial unit would be £145,920.

## 7. Other Issues

### CIL

7.1 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

7.2 The following planning obligations will need to be secured as part of an S106 legal agreement should permission be granted:

- Contribution of £25000 towards providing pedestrian facilities within locality of the site, inclusive of relocation of Bus stop
- Reimbursement of the Councils legal costs
- Restriction of Residential Parking Permits

7.3 These obligations meet the statutory tests set out in Government guidance, i.e. they are necessary, directly related to the development and are fairly and reasonably related in scale and kind to the development.

## 8. Conclusion

8.1 The proposal for an employment-led redevelopment of the site would be inconsistent with an adopted site allocation, resulting in significant under-delivery of housing and the lost opportunity to provide much needed affordable housing.

8.2 The Noise Impact Assessment submitted in support of the proposal fails to fully consider the likely noise impacts arising from the servicing and operational aspects of the builders' merchant.

8.3 The applicant failed to provide satisfactory assessment of the condition of the culverted River Ravensbourne (East Branch) and agreed remedial works to be undertaken as requested by the Environmental Agency. Consequently, it has not been demonstrated that the potential flood risk to the neighbouring area due to structural failure of the culvert has been addressed.

8.4 To this end, it is recommended that the appeal be contested for the reasons set out below.

## 9. Recommendation

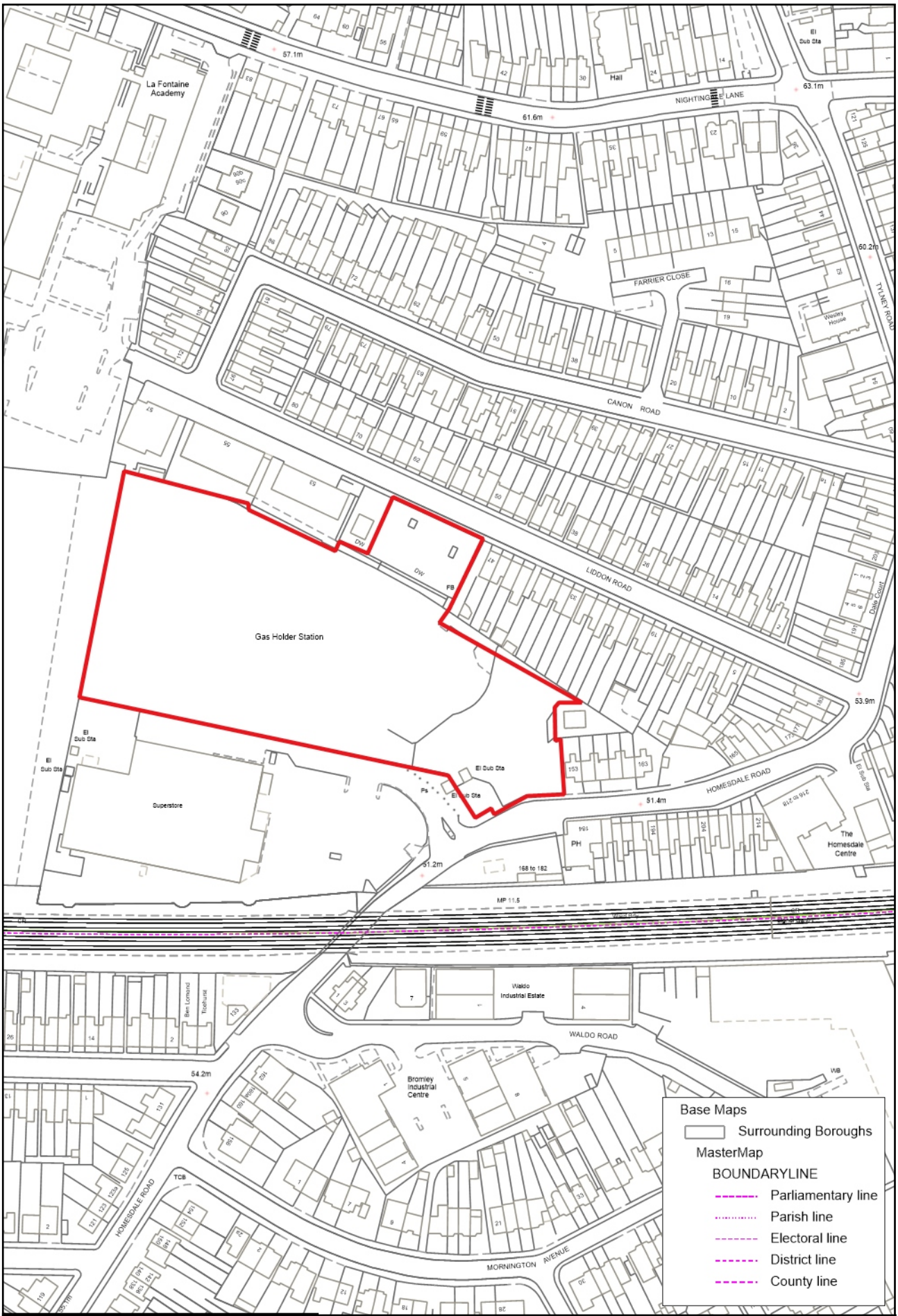
9.1 **RESOLVE TO CONTEST APPEAL** Grounds for contesting the Appeal are as follows:

1. **The proposed employment-led redevelopment of the site would provide a significantly decreased quantum of housing provision compared to the quantum sought by the Housing Allocation Site: Site 4. The proposal would further constrain delivery against the borough's projected housing supply and meeting housing need on a local and London-wide basis,**

including in relation to affordable housing. As such, the proposal is contrary to the aims and objectives of the NPPF (2019), Policy 3.3, 3.4, 3.11 of the London Plan (2016), Policy 1, Policy 2 and Site Allocation 4 of the Bromley Local Plan (2019) and Policies D3, H1 and H4 of the Publication London Plan.

2. Insufficient information was provided regarding the likely noise impacts arising from vehicles/traffic entering/departing the site at the main entrance adjacent to Nos 153-163 Homesdale Road (No. 153 in particular) as well as the rationale for excluding some site noise characteristics from a rating penalty in accordance with BS4142:2014 + A1:2019 when the characteristic of some noises suggest that a penalty should be applied. As such, it has not been demonstrated that the servicing and operational aspects of the builder's merchant would comply with the requirements of Policy 7.15 of the London Plan (2016), Policy 119 of the Bromley Local Plan (2019) and Policies D13 and D14 of the Publication London Plan.
3. In the absence of an engineering assessment of the condition of the culverted River Ravensbourne (East Branch) and agreed remedial works to be undertaken, the application fails to demonstrate that the proposed development would not pose a flood risk to the neighbouring area due to structural failure of the culvert. As such, the proposal does not satisfy the Exception Test as set out in paragraph 160 of the NPPF (2019): '(b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.'

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**Base Maps**

- ▭ Surrounding Boroughs

**MasterMap**

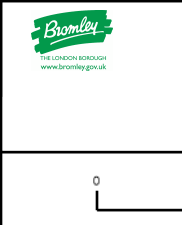
**BOUNDARYLINE**

- Parliamentary line
- ⋯ Parish line
- - - Electoral line
- ⋯ District line
- ⋯ County line

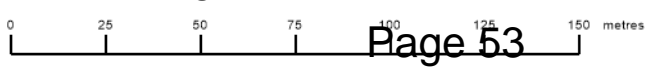
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Ordnance Survey 100017661.

19 January 2021

1:2000



**19/04839/FULL1- British Gas Site**  
**Homesdale Road**  
**Bromley**  
**BR1 2UE**



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# Agenda Item 7

<b>Committee Date</b>	28 <sup>th</sup> January 2021		<b>Agenda Item</b>
<b>Address</b>	146 Charterhouse Road Orpington BR6 9EU		
<b>Application number</b>	<b>20/01130/FULL1</b>	<b>Officer</b> Agnieszka Nowak-John	
<b>Ward</b>	Orpington		
<b>Proposal (Summary)</b>	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 8x3 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.		
<b>Applicant</b>	<b>Agent</b>		
RAA Ventures Ltd	Mr Seth Williams WYG Midsummer Court 314 Midsummer Boulevard Milton Keynes MK9 2UB		
<b>Reason for referral to committee</b>	Outside Delegated Authority	<b>Councillor call in</b> YES (previously refused and of significant local concern for the reasons the last application was refused)	
<b>RECOMMENDATION</b>	<b>PERMISSION SUBJECT TO CONDITIONS AND LEGAL AGREEMENT</b>		

### KEY DESIGNATIONS

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

<b>Vehicle parking</b>	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)

Standard car spaces	9	33	+24
Disabled car spaces	N/A	3	+3
Cycle	N/A	36 (flats)	+36

<b>Electric car charging points</b>	8no. (20%) spaces with active provision, remaining 80% passive provision
-------------------------------------	--

<b>Representation summary</b>	Neighbour letters were sent on the 8 <sup>th</sup> April 2020. A site notice was displayed from 21st April 2020. A press advert was published in the News Shopper on the 22 <sup>nd</sup> April 2020.
Total number of responses	79
Number in support	0
Number of objections	79

<b>Section 106 Heads of Term</b>	<b>Amount</b>	<b>Agreed in Principle</b>
Carbon offset	£38,148	Yes
Health	£32,078	Yes
Education	£127,469.91	Yes
Highways/Transport	£10,000	Yes
Affordable Housing	£99,000	Yes
Review Mechanisms	N/A	Yes
<b>Total</b>	<b>£306,695.91</b>	<b>Yes</b>

## **SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- The proposal would provide an acceptable mix and dwelling density.
- The proposed development would create good quality residential accommodation that would make a positive contribution to the borough's housing stock.
- The proposed design would not detract from the character and appearance of the area.
- The proposed development would not cause unacceptable harm to the amenities of neighbouring residential occupiers.
- No unacceptable Highways impacts would arise.

### **1. LOCATION**

- 1.1 The application site is an approximately 0.23h parcel of land located at the junction of Charterhouse Road, Winchester Road and Saltwood Close. The site consists of 2 x two storey semi-detached dwellings (146 Charterhouse Road and 1 Winchester Road), 1 x two storey detached house (1A Winchester Road)

and 2 x single storey semidetached bungalows (3 Winchester Road and 5 Winchester Road).

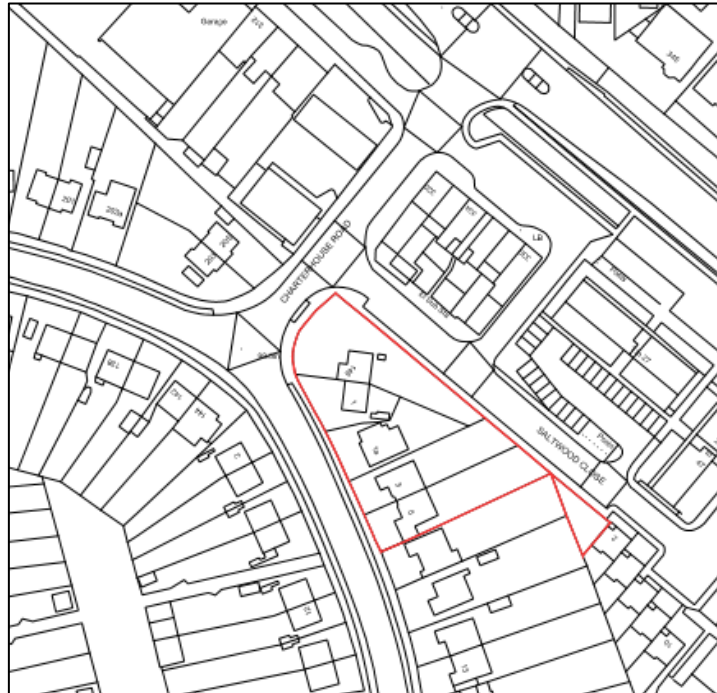


Fig.1. Site Location Plan.

- 1.2 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 semidetached 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.
- 1.3 The site is located with the Cray Valley Renewal Area identified in Policy 17 of the Local Plan, and within an Area of Archaeological Interest. The site has a Public Transport Accessibility Level (PTAL) of 1b. The site is located above a Principal Aquifer and within Source Protection Zone 2.



Fig.2. Bird's eye view of the site.

- 1.4 There are no protected trees on the site and there are no nature conservation constraints.

## 2. 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.
- 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 adjacent to 2 Saltwood Close.
- 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 within the block of flats using a two-tier stacking system of storage.
- Refuse store adjacent to the entrance along Saltwood Close for the apartment block, together with individual refuse stores for each house located in the front gardens.



Fig.3. Computer generated image (CGI) - view of the proposal from the junction of Charterhouse Road with Winchester Road.

### 3. RELEVANT PLANNING HISTORY

- 3.1 A planning application (ref: 19/01345/FULL1) for the demolition of 5 existing houses and erection of 28 residential units comprising an apartment block with 9 x 1 bed and 11 x 2 bed units and 8 x 3 bed houses with basement car parking was submitted on 9th April 2019.
- 3.2 The application was refused by Members at Development Control Committee held on 28<sup>th</sup> January 2020. Decision notice was issued on 2nd March 2020 listing the following reason for refusal:

*The proposed development by reason of its density and design would be out of character with the area and impact detrimentally on residential amenity, contrary to Policies 3 and 4 of the Bromley Local Plan (2019).*

- 3.3 The above refusal has been subsequently appealed and dismissed on 11<sup>th</sup> January 2021 (APP/G5180/W/20/3251271). The Inspector concluded that a slight harm identified to the character and appearance of the local area and to the living conditions of the occupiers of No 7, would not on their own significantly and demonstrably outweigh the benefits of the proposal. However, due to the lack of a completed Unilateral Undertaking concerning the provision for affordable housing and other provisions, the proposal conflicts significantly with policies 2 and 125 of the local plan.



Fig. 4. Computer generated images (CGIs) of the refused scheme.

#### **4. CONSULTATION SUMMARY**

##### **a) Statutory**

- **Environmental Agency – No Objection**

We have reviewed the document 'Phase 2: Site Investigation Report' by Constructive Evaluation' (reference 18.1077 dated 22/11/2018). No elevated concentrations of ground contaminants were reported that would represent a significant risk to Controlled Waters.

We consider that planning permission should only be granted to the proposed development as submitted if the following planning conditions are imposed as set out below.

Condition 1 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 There is always the potential for unexpected contamination to be identified during development groundworks. We should be consulted should any contamination be identified that could present an unacceptable risk to Controlled Waters (the site is located above a Principal Aquifer and within Source Protection Zone 2).

Condition 2 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. Infiltrating water has the potential to cause remobilisation of contaminants present in shallow soil/made ground which could ultimately cause pollution of groundwater.

Condition 3 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. The development shall be carried out in accordance with the approved details.

Reason Piling or other penetrative methods of foundation design on contaminated sites can potentially result in unacceptable risks to underlying groundwaters. We recommend that where soil contamination is present, a risk assessment is carried out in accordance with our guidance 'Piling into Contaminated Sites'. We will not permit piling activities on parts of a site where an unacceptable risk is posed to Controlled Waters.

- **Thames Water – No Objection**

Waste Comments: There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't limit repair or maintenance activities or inhibit the services we provide in any other way.

We would expect the developer to demonstrate what measures will be undertaken 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. Should the Local Planning Authority be minded to approve the planning application, Thames Water would like the following informative attached to the planning permission: "A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under

the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer.

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. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

Thames Water would advise that with regard to WASTE WATER NETWORK and SEWAGE TREATMENT WORKS infrastructure capacity, we would not have any objection to the above planning application, based on the information provided. Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

As required by Building regulations part H paragraph 2.36, Thames Water requests that the Applicant should incorporate within their proposal, protection to the property to prevent sewage flooding, by installing a positive pumped device (or equivalent reflecting technological advances), on the assumption that the sewerage network may surcharge to ground level during storm conditions. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer.

The proposed development is located within 15 metres of our underground waste water assets and as such we would like the following informative attached to any approval granted. "The proposed development is located within 15 metres of Thames Waters underground assets and as such, the development could cause the assets to fail if appropriate measures are not taken. Please read our guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures.

Water Comments: There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage.

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. Thames Water recommends the following informative be attached to this planning permission. 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 where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development. The proposed development is located within 15m of our underground water assets and as such we would like the following informative attached to any approval granted. The proposed development is located within 15m of Thames Waters underground assets, as such the development could cause the assets to fail if appropriate measures are not taken.

- **Historic England (Archaeology) – No Objection**

The planning application lies in an area of archaeological interest. As part of a similar planning application last year for this site, desk-based assessment report dated March 2019 by CgMS Consulting Ltd had been submitted. The report identified that the site held archaeological potential even though it was 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.

This pre-commencement condition is necessary to safeguard the archaeological interest on this site. Approval of the WSI before works begin on site provides clarity on what investigations are required, and their timing in relation to the development programme. Without this pre-commencement condition being imposed the application should be refused as it would not comply with NPPF paragraph 199. The archaeological work should include:

Evaluation: An archaeological field evaluation involves exploratory fieldwork to determine if significant remains are present on a site and if so to define their character, extent, quality and preservation. Field evaluation may involve one or more techniques depending on the nature of the site and its archaeological potential. It will normally include excavation of trial trenches. A field evaluation report will usually be used to inform a planning decision (pre-determination evaluation) but can also be required by condition to refine a mitigation strategy after permission has been granted.

- **Secured by Design Officer – No Objection**

Should Planning permission be granted for this development, I would advise that Pre-Commencement and Pre-Occupation conditions are considered to ensure end-to-end compliance with Secured by Design and are worded;

1. SBD Measures. The development hereby permitted shall incorporate security measures to minimise the risk of crime and to meet the specific Security needs of the development in accordance with the principles and objectives of Secured by Design. Details of these measures shall be submitted to and approved in writing by the local planning authority prior to commencement of the development and shall be implemented in accordance with the approved details prior to occupation.

2. Secured by Design Certification. Prior to occupation, a satisfactory Secured by Design inspection must take place. The resulting Secured by Design certificate shall be submitted to and approved by the local planning authority.

Where planning conditions to achieve SBD certification exist, we will be on hand to assist all parties involved from concept to completion. Planning Conditions to achieve Secured by Design certification will invariably afford you comfort in the knowledge that all aspects of physical Security within any particular development have been considered and approved. Where Secured by design Certification is required to discharge Pre-Occupation Planning Conditions, a physical site inspection will always be carried out by a qualified Designing out Crime Officer (DOCO) upon completion.

Sometimes local crime trends and geographical location insist that heightened security measures are necessary to achieve SBD, and this is decided upon development, by development.

## **b) Local groups**

### **Green Street Green Village Society – Objection**

1. It is very similar to the previously rejected application on grounds of overdevelopment of the site.

2. It is contrary to Local Plan Policy:

Policy 2 on page 33 relates to affordable housing and explains that exceptionally a monetary payment may be accepted in lieu of affordable housing. This is on the grounds that the development would not be financially viable if affordable housing is required to be provided. However, as the development consists of tiny dwellings they should be sold or let at an affordable price and if they are not this demonstrates the greed of the developer. I note that the land will have been expensive to acquire as the owners of the houses have no particular wish or need to sell their pleasant reasonably spacious homes. It would be wise therefore for the developer to consider buying land from someone who does wish to sell it, so that it could be acquired at an affordable price. This is not an adequate reason for failing to provide affordable housing.

Policy 3 on page 38 of the Local Plan is also infringed. This refers to building on garden land. Most of the development is proposed to be built on garden land and it is important to respect the Council's local plan policy of only allowing building on garden land if certain criteria are met, e.g. there is no adverse impact on character of the area, there is adequate amenity space etc. This is not complied with as this is a massive overdevelopment of the site with very little amenity space remaining.

3. The increased traffic and parking pressure would not be acceptable in this busy already overdeveloped location where there is an accident black spot nearby.

4. The developer has described the area as predominantly residential but this ignores the fact that within a short distance of the property there is agricultural land, a park and sports ground so that most of the surrounding land is in fact open space or green belt land.

5. The development would be destructive, involve the loss of good quality family housing, be detrimental to the character of the area and out of keeping with the street scene.

6. The lack of adequate amenity land and play space means that this development falls short of the decent homes standard and amounts to nothing better than slum housing.

**c) Adjoining Occupiers – Objection**

**Procedural matters (addressed in officer's response below)**

- 1 Drawings submitted are deliberately misleading and do not represent the local neighbourhood accurately and therefore cannot be relied upon
- 2 Lack of transparency and uncertainty regarding the Developer, who seems to be an offshore company in the Seychelles. The Council should carry out due diligence checks on the applicant
- 3 The plans submitted are not the full extent of the intentions by the Developer which is seeking to develop further adjacent bungalows and this proposal does not truly reflect the size or structure of the plans
- 4 For each new dwelling this proposed build would bring substantial extra Council Tax into the Bromley Council purse, but it will be at existing owners' and residents' quality of life which will be irrevocable. It is not clear whether this is a deciding factor and there is a concern about this point as a motive if permission were to be granted
- 5 This planned development is extraordinarily similar (almost identical) to the one previously submitted. For all the reasons cited previously this plan should be rejected. Unsure why this application has been accepted
- 6 Timing of the submission is taking unfair advantage of the COVID situation. Much harder to discuss and galvanise as a community, and much more difficult to get a petition together in lockdown
- 7 Consultation letter arrived just days before the deadline for comments
- 8 No public notice displayed on the boundary
- 9 The semi-detached houses in Winchester Road have concrete ceilings which could be damaged by the constant vibration during digging out the proposed underground car park. Potential destabilising of the upper part of the hill on Charterhouse Road, resulting in expensive land slippage.

**Officer's response:**

- 1 Sufficient information has been submitted in support of the application to consider/assess the development and for interested parties to comment.
- 2 Private companies' jurisdictions and their tax affairs are not material planning consideration.
- 3 Each planning application is considered on its own merits. Any hypothetical future proposals for redevelopment of the adjacent properties/plots cannot form part of the assessment of the current application.
- 4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless

material considerations indicate otherwise. Council Tax covers many services the council provides such as schools, roads, libraries and rubbish collections but does not form a material planning consideration in assessment of planning applications.

- 5 Planning application can be made for a development which has already been refused. Local planning authorities have the power to decline an application for planning permission which is similar to an application that, within the last 2 years, has been dismissed by the Secretary of State on appeal or refused following call-in. A local planning authority may also decline to determine an application for planning permission if it has refused more than one similar application within the last 2 years and there has been no appeal to the Secretary of State. In declining to determine an application, a local planning authority must be of the view that there has been no significant change in the development plan (so far as relevant to the application) and any other material considerations since the similar application was refused, or dismissed on appeal. In this case none of the above circumstances are applicable, as at the time of the submission of the current application there was no appeal decision.
- 6 The Government has not opted out to change the determination timescales for planning applications. To ensure planning decisions continue to be made, residents were encouraged to submit their comments on line to enable the remote processing of planning applications in order to support the social distancing guidelines. Whilst it is accepted that public meetings were restricted during lockdown, no individual was prevented from making representations.
- 7 The Council has publicised the application in accordance with the Planning Regulations and its adopted practice including placing it on the planning register (viewable on the Council's website), writing directly to neighbouring properties and publicising in a local newspaper.
- 8 A written confirmation together with a photographic evidence of a site notice being displayed on 21st April 2020 was submitted to the Council and is available for public viewing on the Public Access Database.
- 9 Matters such as foundations and land stability are not material planning considerations although they may be relevant to the Building Regulations and/or the Party Wall Act.

#### **General (addressed in paras 6.2.6-6.2.13, 7.1 and 7.2)**

- Development of back gardens should not be the way to increase property portfolios. There are plenty of opportunities for developers to build on brownfield sites
- Removal of much needed family homes with 28 over developed flats
- Wasteful to lose the houses
- No benefit to the local area
- Increased pressure on local health services and school places
- Problems with local shopping
- Overdevelopment and overpopulation
- Not materially different from the previous application
- Doesn't address the density or the issues on which it was refused first time round

#### **Affordable Housing (addressed in paras 6.2.16 – 6.2.18)**

- Distinct lack of affordable housing options

- Developers are putting their profit above compliance with the relevant policies required
- Set a very dangerous precedent for similar developments
- Even the £99,000 payment in lieu is not high enough

#### **Residential Amenity (addressed in paras 6.4.1 – 6.4.7, 6.7.1 – 6.7.5)**

- Dust, noise and disturbance during construction
- Noise and pollution/fumes from traffic
- It will destroy the sense of community as blocks of flats are not conducive to creating a sense of community
- Flats are not aimed at families and will further negatively impact the community on Winchester Road
- Overshadowing of the existing bungalow gardens
- Overlooking
- Adverse effect on water pressure

#### **Design (addressed in paras 6.3.1 – 6.3.9)**

- Ignores the building line
- Not in keeping with the area
- Proposed footprint too large
- Overbearing and foreboding to the entrance of Winchester Road
- Bulky and ugly building
- Extremely obtrusive and invasive to the surrounding area, dominating the view
- Height out of keeping
- Appearance and materials "blocky", unappealing and out of keeping
- Introduction of flats to this road will change the street scene of the neighbourhood, not in keeping with the rest of the road
- Compromises the spacious contribution the corner plot makes to the character of the area

#### **Highways and Transport (addressed in paras 6.6.1 – 6.6.4 and 6.6.7)**

- The traffic survey was carried out at 1am, which is therefore inaccurate. Survey should be carried out during normal daylight hours
- Site lines crossing the road will be severely hampered
- Further increase in traffic and parking stress
- Highway safety: The junction with Charterhouse Road and Court Road is an accident black spot and will only be made worse with more traffic
- Road safety during construction
- Underground parking is seldom used by those who have it, and they just become storage spaces for households
- The heating system will be fed by biomass boilers and a weekly delivery by articulated lorry will be required to fuel the boilers

#### **Crime (addressed in para 6.5.7)**

- This sort of dense housing on top of the Salt Close social housing will no doubt lead to antisocial behaviour and increased levels of crime

- Potential for anti-social behaviour in the communal amenity space, which would become another area for people to congregate, consume alcohol from the off licences and then litter the area
- Underground car parks can be turned into gang hideouts where they can strip down vehicles and steal

#### **Ecology (addressed in paras 6.8.3 – 6.8.5)**

- Loss of space and natural habitat

#### **Drainage (addressed in paras 6.9.1 – 6.9.3)**

- Where will the additional water run off go as in the consultants' documents it states that 75% of the land will be either building or hard standing
- Adverse effect on water pressure

## **5. POLICIES AND GUIDANCE**

### **5.1 National Policy Framework 2019**

### **5.2 NPPG**

### **5.3 The London Plan (2016)**

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

3.10 Definition of affordable housing

3.11 Affordable housing targets

3.12 Negotiating affordable housing on individual private residential and mixed use schemes

3.13 Affordable housing thresholds

3.14 Existing housing

5.2 Minimising carbon dioxide emissions

5.3 Sustainable design and construction

5.6 Decentralised energy in development proposals

5.7 Renewable energy

5.9 Overheating and cooling

5.10 Urban greening

5.11 Green roofs and development site environs

5.13 Sustainable drainage

5.14 Water quality and wastewater infrastructure

5.15 Water use and supplies

5.18 Construction, excavation and demolition waste

6.3 Assessing effects of development on transport capacity

6.9 Cycling

6.13 Parking

7.2 An inclusive environment

7.3 Designing out crime

- 7.4 Local character
- 7.5 Public Realm
- 7.6 Architecture
- 7.8 Heritage and archaeology
- 7.13 Safety, security and resilience to emergency
- 7.14 Improving air quality
- 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
- 7.19 Biodiversity and access to nature
- 7.21 Trees and woodlands
- 8.2 Planning obligations
- 8.3 Community infrastructure levy
- 8.4 Monitoring and review

#### **5.4 Publication London Plan 2020**

- 5.4.1 An updated 'Intend to Publish' version of draft London Plan – entitled Publication London Plan December 2020 - was published on 21 December 2020. This version of the draft plan includes changes made by the Mayor in response to a number of Directed Changes made by the SoS in March and December 2020. The relevant documents are available on the Mayor's website - <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/publication-london-plan>
- 5.4.2 The draft new London Plan (December 2020) is a material consideration in the determination of this planning application. Paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
- 5.4.3 The draft New London Plan is at a very advanced stage; in a Written Ministerial Statement dated 15/12/2020, the SoS indicated that he expects to agree the London Plan with the Mayor early in the new year (early 2021).
- 5.4.4 The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.
- 5.4.5 Prior to issuing further Directed Changes in December 2020, the SoS (in two SoS call-in appeals in the Royal Borough of Kensington and Chelsea, appeal ref: APP/C5690/W/18/3205926; and the London Borough of Hounslow, appeal ref: APP/G6100/V/19/3226914) had established that the draft London Plan policies are capable of having significant weight where they weren't subject to Directed Changes.
- 5.4.6 Considering this information against paragraph 48 of the NPPF, the draft new London Plan (December 2020 'Intend to Publish' version) is considered to have very significant weight where there are no Directed Changes to policies; and significant weight where there are Directed Changes to policies. Taking this into

account, the draft new London Plan policies should be used to determine this planning application, alongside policies in the adopted Local Plan and adopted London Plan. Where there is conflict between the policies in the draft new London Plan and the policies in the adopted Development Plan, the draft new London Plan should generally be given primacy although this may vary from case to case.

5.4.7 Upon adoption of the new London Plan, it will become the most up-to-date Development Plan Document for the London Borough of Bromley, and therefore, in accordance with section 38(5) of the Planning and Compulsory Purchase Act 2004, “if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”

5.4.8 The following policies of the Publication London Plan are relevant:

GG2 Making the best use of land  
GG3 Creating a healthy city  
GG4 Delivering the homes Londoners need  
GG5 Growing a good economy  
GG6 Increasing efficiency and resilience  
SD10 Strategic and local regeneration  
D1 London’s form  
D3 Optimising site capacity through the design-led approach  
D4 Delivering good design  
D5 Inclusive design  
D6 Housing quality and standards  
D7 Accessible housing  
D11 Safety, securing and resilience to emergency  
D12 Fire safety  
D14 Noise  
H1 Increasing housing supply  
H4 Delivery affordable housing  
H5 Threshold approach to applications  
H6 Affordable housing tenure  
H7 Monitoring of affordable housing  
H10 Housing size mix  
S4 Play and informal recreation  
G5 Urban greening  
G6 Biodiversity and access to nature  
G7 Trees and woodlands  
G9 Geodiversity  
SI-1 Improving air quality  
SI-2 Minimising greenhouse gas emissions  
SI-3 Energy infrastructure  
SI-8 Waste capacity and net waste self-sufficiency  
SI 13 Sustainable drainage  
T2 Healthy streets  
T3 Transport capacity, connectivity and safeguarding



T4 Accessing and mitigating transport impacts  
T5 Cycling  
T6 Car parking  
T6.1 Residential parking  
T7 Deliveries, servicing and construction  
DF1 Delivery of the plan and planning obligations  
M1 Monitoring

## **5.5 Mayor Supplementary Guidance**

Affordable Housing and Viability Supplementary Planning Guidance (2017)  
Housing (2016)  
Accessible London: Achieving an Inclusive Environment (2014)  
Sustainable Design and Construction (2014)  
Character and Context (2014)  
Play and Informal Recreation (September 2012)

## **5.6 Bromley Local Plan 2019**

1 Housing Supply  
2 Affordable Housing  
4 Housing Design  
8 Side Space  
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  
79 Biodiversity and Access to Nature  
113 Waste Management in New Development  
116 Sustainable Urban Drainage Systems  
123 Sustainable Design and Construction  
124 Carbon reduction, decentralised energy networks and renewable energy  
125 Delivery and Implementation of the Local Plan

## **5.7 Bromley Supplementary Guidance**

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

## **6 Assessment**

### **6.1 Principle of development – Acceptable**

6.1.1 The application 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.

## **6.2 Housing – Acceptable**

### Current Housing Land Supply Position

6.2.1 The current position in respect of Bromley's Housing Trajectory, including the Five Year Housing Land Supply (FYHLS), was agreed at Development Control Committee on 24th September 2020. The current position is that the FYHLS (covering the period 2020/21 to 2024/25) is 2,690 units, or 3.31 years supply. This is acknowledged as a significant undersupply and for the purposes of assessing relevant planning applications means that the presumption in favour of sustainable development will apply. The implications of this are set out in the Housing Trajectory report.

6.2.2 Policy H1 Increasing Housing Supply (clause B 2) of the Publication London Plan states that to ensure housing targets are achieved boroughs should optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions. Policy 1 of the Local Plan and Policy H1 of the Publication London Plan set the context in the use of brownfield sustainable sites for new housing delivery.

6.2.3 London Plan Policy 3.14 and Bromley Local Plan Policy H1 resist the loss of housing unless the housing is replaced at existing or higher densities with at least equivalent floor space. The proposal would replace 5 dwellings with 28 new residential units, representing an uplift of 23 units. As such, the proposed redevelopment of the application site is making more efficient use of the land and would positively contribute to the housing supply in the Borough.

### Density

6.2.4 The application site is located within PTAL zone 1b (where the 1 is the lowest and 6a is the highest) and has a site area of 0.23ha. The density threshold in the London Plan density matrix indicates a range of 35-75 units per hectare and 150-200 habitable rooms per hectare.

6.2.5 The previously refused application failed on the grounds of density and design. The previously refused development proposed a density of 121 units per hectare and 360 habitable rooms per hectare, thus exceeding the policy guidelines.

6.2.6 The Applicant states in this current submission that despite further consideration, no reduction in density has been possible due to the marginal viability of the scheme. It is noted that revisions to the design of the proposal resulted in a small reduction in the amount of bed spaces provided, however

this would slightly decrease the intended occupancy levels of the development, rather than lower its overall density.

6.2.7 The financial considerations evidenced in the Applicant's viability appraisal have been scrutinised by the independent consultants on behalf of the Council and their findings are reported in the subsequent section of this report. In summary, the appraisal of the financial viability of the scheme demonstrates that there is a deficit in the value of the proposal, leaving little room to further reduce the quantum of the proposed development.

6.2.8 Notwithstanding the above, Members are advised that that the Policy D3 'Optimising site capacity through the design-led approach' (Publication London Plan) sets out in Clause A that:

*'All development must make the best use of land by following a design led approach that optimises the capacity of sites, including site allocations. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity (as set out in Policy D2 Infrastructure requirements for sustainable densities), and that best delivers the requirements set out in Part B.'*

6.2.9 The Publication London Plan does not include a prescriptive density matrix (as set out in the adopted London Plan) and instead promotes a design-led approach to optimise the capacity of sites. Policy D3B sets out the specific design considerations that should be factored into any design assessment. Specific density measures such as the number of units per hectare are still relevant as part of the assessment of design but they are not determinative in and of themselves. Therefore, it is necessary to demonstrate that an appropriate development threshold can be achieved having regard to the context of the surroundings whilst taking other issues into account, such as quality of design and other planning benefits of the scheme.

6.2.10 This current proposal represents an attempt to address the previous reason for refusal and the design concerns raised by Members through changes to architectural approach and materiality. The rationale behind the revised design is for the proposed development to more closely reflect the traditional character and appearance of the existing development present along Charterhouse and Winchester Road, whilst maintaining a relative density to the adjacent development located along Saltwood Close. An analysis of the impact of the proposed development in terms of its revised design and the resulting impact on the street scene and the character of the area is provided in the 'Design' section of this report. Officers have concluded that the revised proposals demonstrate that the design of the development would appear more in keeping with the established character of the area.

6.2.11 With regards to planning benefits of the scheme, due to an uplift in housing provision, the proposal would make the best use of previously developed land representing an important increment to the Council's required Housing Land Supply. Also of relevance is the proposed residential accommodation in terms

of the quality and the internal space standards achieved by individual units. It is considered that the proposed layout and the internal space planning would help to mitigate the high density of the scheme and in this instance a high density of housing on this site is in principle acceptable.

6.2.12 Officers note that despite the low PTAL rating, the application site is sustainably located with regards to the cluster of shops and services at the corner of Charterhouse Road and Court Road. It is also well located in terms of accessibility via private vehicular transport with the Orpington Bypass in close proximity and public transport with bus stops on each carriageway of Charterhouse Road at the junction with Saltwood Close. Orpington railway station and the adjacent Orpington town centre are situated within 10 minute cycle journey or 30 minute walk, whilst Chelsfield station is approximately 1,150m distant on foot (less than a 15 minute walk).

6.2.13 Appropriate mitigation to address any possible adverse off-site impacts would be secured through planning conditions and the s.106 obligations.

6.2.14 The above views are reinforced by the Inspector's decision in which he regarded the density of the previously refused development to be acceptable, when considered in relation to local social, commercial, natural and transport infrastructure etc. and with regard to the variety of density demonstrated by development in its immediate surroundings.

6.2.15 For these reasons, it is considered that the proposal would result in density levels that would be consistent with the aspirations of London Plan Policy 3.4, Bromley Local Plan Policy 2 and 37, as well as Publication London Plan Policy D3.

#### Affordable housing

6.2.16 The latest Authority Monitoring Report (covering the time period 2017/18) sets out affordable housing delivery figures as published by the GLA for 2014/15 – 2018/19. The total number of affordable dwellings completed in Bromley during the 5 year time period is 623 units highlighting still that there is a significant need for affordable housing in the borough, both from unmet need established in the 2014 SHMA and from whatever need has (and continues to) materialise since the SHMA was produced.

6.2.17 In line with the Publication London Plan and the Mayor of London's Affordable Housing and Viability SPG (2017), if a scheme delivers 35 percent affordable housing and meets the tenure and mix requirements, it is able to proceed through the viability fast track route and does not need to provide viability information. The proposed development is entirely for private market housing, with no affordable housing provision. In accordance with the requirement of Policy 2, 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.

- 6.2.18 The report has been assessed by an independent consultant appointed by the Council who confirmed that the proposed scheme appraisal generates a residual land value of c. £3.12m and when benchmarked against a site value of c. £3.03m the scheme generates a surplus of c. £0.09m. However, the Applicant is still willing to offer the previously agreed (under planning application ref. 19/01345/FULL1) surplus of £0.099m as a financial contribution in lieu of on-site affordable housing.
- 6.2.19 In line with the Publication London Plan Policy H5 schemes that do not provide the threshold level of affordable housing or meet other relevant policy criteria, or that provide off-site or cash in lieu contributions, must follow the Viability Tested Route and are subject to viability scrutiny and late, as well as early, review mechanisms. Should planning permission be granted, a clause to manage and monitor the progress on implementation of the development would be secured in the S106 agreement.

### Housing mix

- 6.2.20 The Strategic Housing Market Assessment (SHMA) 2014 identified the highest level of need across all housing tenures within the Borough up to 2031 is for 1-bedroom units (53%) followed by 2-bedroom (21%) and 3-bedroom (20%) units.
- 6.2.21 The proposed block would comprise of 20 units with the following mix: 9 x 1 - bed (2 person) flats, 5 x 2 - bed (3 person) flats and 6 x 2 - bed (4 person) flats, while the proposed houses would provide 6 x 3 - bed (5 person) and 2 x 3 - bed (4 person) units. The proposed housing mix would be characteristic of the existing mix and unit types in this area and is considered to provide a valuable addition to the housing stock of the Borough. The Council's Housing Division was consulted, and no objection was raised in this respect.

## **6.3 Design – Acceptable**

- 6.3.1 As already noted in the preceding sections of this report, the current proposal seeks to address the shortcomings of the previously refused scheme in terms of the density and design which were considered by Members to be out of character with the area and to impact detrimentally on residential amenity.
- 6.3.2 The revised scheme would continue to propose a development that is mostly taller on the Saltwood Close elevation and less bulky and lower of the Winchester Road side. However, the proposal has undergone design changes to ensure that the architectural language draws closely from the local character and assumes more traditional traits and materials present along Charterhouse and Winchester Road.
- 6.3.3 The proposed buildings would feature pitched roofs similar to those that can be found on neighbouring properties. All mansard roofs have been removed and all dormers now also incorporate pitches. The changes to the roof profiles would not only reduce the massing of the development and further minimise the extent of the visual impact on the lower density side of Winchester Road, but they would also give the proposal a more traditional appearance that would fit in

better with the local surroundings. Other specific features that have been included in the design to ensure the development would reflect more closely the local character are: bay windows, front porches, window surrounds, soldier course lintels, arched entrance to the block of flats, eaves detailing and more traditional window proportions.



Fig. 5. Proposed elevations.

6.3.4 The materials are a key element in defining the appearance of the revised scheme and they have also been deeply influenced by the surrounding area. The primary finish proposed is brick. This approach has been influenced in the varied use of brick in the surrounding context. Two tones of brick would be used; a red brick as a predominant colour of all the buildings and a darker brown-red brick which would be used to emphasise specific architectural elements such as bay windows or the soldier coursing in window lintels. The window and door frames on the elevations would have a light grey finish which would harmonise with the white reveals and metal balustrading.



Fig.6. View of the proposed development from Saltwood Close.



Fig.7. View of the proposed scheme from Winchester Road.

6.3.5 Members are advised, that when considering the appeal scheme the Inspector reasoned that although the density of the proposed development does not fully reflect the very open grain of housing development in the local area away from the A224, the private garden spaces to the proposed houses, the side space nearest to No 7 and the shared amenity space at the centre of the proposed development would result in it appearing more open than the flatted development between the appeal site and the A224. Given the modest height of the proposal and the spaces between and around buildings on the site, the proposal would not appear as a cramped form of development. It would, however, provide a transition between the density and scale of the existing

flatted development and the apparent lower density and open grain of the houses and bungalows beyond. He went on to conclude as follows:

*'the proposal would present itself as taller and of greater density than the existing housing on the site, this would result in an apparent visual change to the area when viewed in the context of the detached and semidetached houses and bungalows that face onto it. However, the proposal does provide for a transition between these single dwellings and the density and scale of the flatted development on the A224, which currently sits in stark contrast to the lower level and scale of development in the wider local area. For these reasons, the proposal would not, therefore, appear as so visually intrusive and dominant as to be discordant in the street scene of the local area when viewed in the round.'*

- 6.3.6 Having considered all the above factors, officers take the view that the current proposal is of acceptable scale, design and appearance to integrate satisfactorily into the existing surrounding development and provide an appropriate response to the wider context of the site. To this end, officers are satisfied that subject to a condition requiring the submission of details of external materials for the building and soft and hard landscaping, the development would have no adverse impact on the character and appearance of the surrounding area and the streetscene.

## **6.4 Impact on Residential Amenity – Acceptable**

### Privacy and Outlook

- 6.4.1 The possible implications on amenity by way of overlooking and sense of enclosure have been addressed in the design of the proposals. The position of the buildings would ensure appropriate separation distances between the new building and neighbouring properties, while the orientation of balconies and the unit layouts would limit overlooking and avoid infringing on privacy.
- 6.4.2 The property most affected by the rear elevations of the new units would be 7 Winchester Road which is a bungalow with habitable rooms at ground floor level. The closest property would be the 2 storey house identified as BG5 and this has been designed so that there are no windows within the rear elevation at first floor level. The adjacent 3 storey houses would have habitable room windows facing No 7 but the viewing angle would be oblique and the separation distance between habitable room windows above ground level would be approximately 20m which is considered to be acceptable. The separation distances between the front elevations of the flatted element and the closest properties on Charterhouse Road, and Winchester Road would be at least 23m. This spatial relationship is typical to many urban locations in the borough and as such is considered sufficient to ensure that the privacy and outlook would not be unduly affected in the existing properties.
- 6.4.3 This view is validated by the Inspector's decision in which he confirms that the degree of overlooking resulting from the previously refused scheme would not



be greater than that to be expected in a residential area of this type (see paras 14-16 of the attached decision).

#### Daylight and Sunlight

- 6.4.4 The submitted Daylight and Sunlight Report assesses the impact of the development 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 would be fully compliant with BRE Guidelines in terms of daylight and sunlight.
- 6.4.5 Any loss of light would be within the permissible margin of reduction. The occupants of these dwellings would not experience any noticeable or material change on perceived daylight conditions and levels of daylight post development would remain very good.
- 6.4.6 In terms of impact on the existing sunlight provision, the report shows that all windows facing within 90 degrees of due south would satisfy the BRE criteria and would continue to receive good levels of annual and winter sunlight.

#### General noise and disturbance

- 6.4.7 Although the intensification of housing use on site would introduce a greater level of activity to the surrounding area, officers acknowledge that the points of residential and vehicle access 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 officers view, the additional activity and any potential disturbance and noise generated by the development would not be of such significance as to result in a harmful impact on the amenity of existing neighbours. This view is reinforced by the Inspector's findings (see paras 16-18 of the attached decision).
- 6.4.8 As such, the proposals are considered to satisfactorily respond to the constraints of the site without resulting in any material harm to the residential amenities currently enjoyed by the existing neighbouring occupiers.

#### **6.5 Standard of accommodation – Acceptable**

- 6.5.1 All of the proposed units would meet or exceed the 'Technical housing standards - nationally described space standard' minimum thresholds and adequate internal living space would be provided. Each of the proposed flats would have access to a private patio area or a balcony of acceptable size, depth and proportion. In addition, a central community amenity space of approximately 135 sqm would be provided to serve the apartments and provide for usable semi-private amenity area to these residents. Each of the houses also have their own private garden.
- 6.5.2 The floor plans show that all houses would be dual aspect, while the flats would comprise a mix of dual and single aspect units. There would be no north facing

single aspect units. In terms of outlook, the proposed layout of the buildings and individual dwellings means that windows serving habitable rooms would generally not be enclosed by adjacent parts of the proposed development.

- 6.5.3 Privacy within the proposed dwellings would also be achieved through the relationship between the buildings and the orientation of the units as well as buffer zones and landscaping.
- 6.5.4 An Addendum Daylight Report submitted demonstrates that all of the tested rooms would achieve numerical results in excess of the BRE guidelines, thereby ensuring that the future occupants of the dwellings would enjoy a reasonable level of daylight amenity.
- 6.5.5 The requirement for the provision of playspace in a development is set out in the Mayor's Shaping Neighbourhoods: Play and Informal Recreation SPG (2012). In this instance, approximately 7 children are predicted to live in the flatted element of the scheme, giving rise to a total child playspace requirement of 73.8sqm (children of the houses are excluded from this calculation, as they would have direct access to private rear gardens). As such, it is considered that adequate child play areas can be accommodated within the central community amenity space proposed and subject to a condition requiring the submission of further details of these spaces as well as children's play equipment, the proposal would be acceptable in this regard.

#### Wheelchair unit and inclusive living environment

- 6.5.6 The proposal would provide 3 wheelchair user units (10%) which would be located on the ground, first and second floor. The proposed floor plans demonstrate that a step free access would be provided for the upper floor units via an internal lift. As such, it is considered that the proposal would achieve an inclusive living environment and would comply with the policies above.

#### Secured by Design

- 6.5.7 The proposed layout ensures that a good degree of natural surveillance can be provided. An access control system would be applied to the vehicular entrance to prevent unauthorised access into the car park. The use of gates and boundary treatment means there would be limited scope for passers-by or others to wander around the site, thus limiting the potential for anti-social behaviour. CCTV cameras would be installed in all vulnerable locations such as entrances and the communal amenity area. The communal amenity space, entrances on Charterhouse Road and Saltwood Close and other external areas would be provided with appropriate surveillance lighting. The design out crime officer was consulted, and no objection was raised in respect to the proposed layout, subject to a planning condition requiring the proposed development to achieve Design Out Crime accreditation.

## 6.6 Transport and Highways – Acceptable

- 6.6.1 Members are advised that the transport and highway aspects of this application are the same as with the previous proposal which was found to be acceptable in this regard. Nonetheless, an up to date parking surveys were carried out in December 2020 to show the current parking stress. Despite this being a worst-case scenario of undertaking them during the COVID19 pandemic, when the overnight residential parking demand must be getting close to the maximum, the surveys demonstrate that overall parking stress is around 54/57%, i.e. well below the 85% threshold when issues may arise. As such, there appears to be still a significant availability of on-street car parking spaces should there be overspill parking from the proposed development.
- 6.6.2 For the proposed flats an underground car park with access from Saltwood Close would provide 23 car parking spaces for 20 flats. Three of these spaces (10% of the overall provision) would be dedicated disabled parking bays for Blue Badge holders. For the 8 proposed houses a total of 10 car parking spaces would be provided with frontage parking for 4 of the units and nearby remote spaces directly off Saltwood Close for 4 units (see Figs 7 and 8 below).

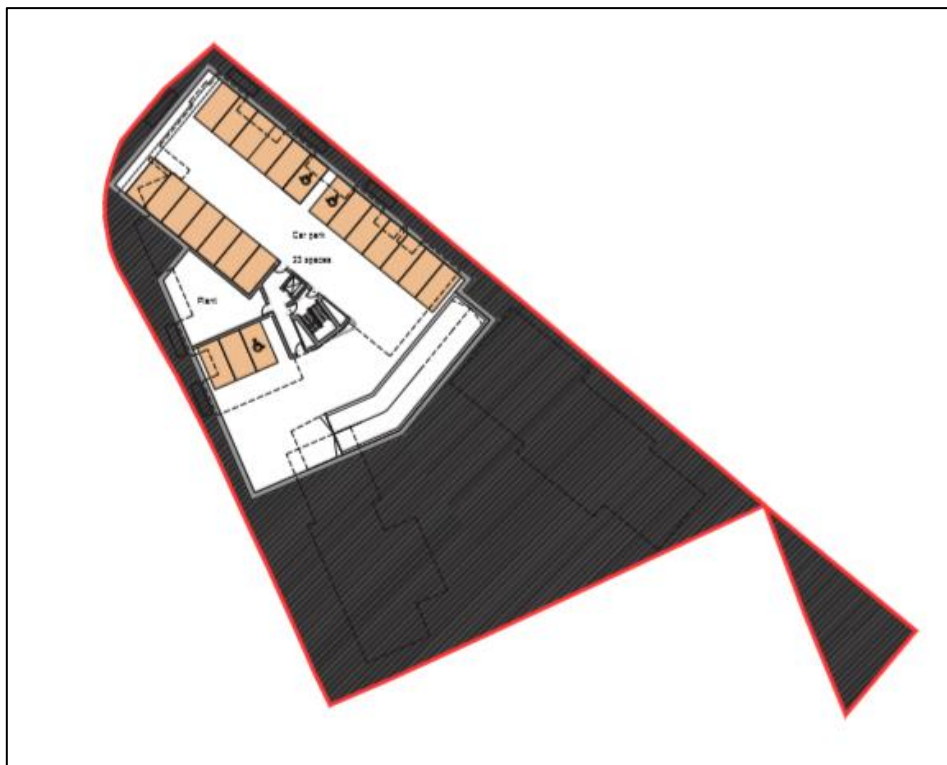


Fig. 8. Basement Car Parking Proposed.



Fig. 9. Ground Floor Car Parking Proposed (highlighted in orange).

6.6.3 The submitted plans show an inward opening gate at the top of the access ramp to ensure that the underground parking spaces are only used by residents. The gate would be set back from the highway to ensure that cars would only have to queue on Saltwood Close in exceptional circumstances. The applicant has advised that a CCTV for the car park would be provided as an additional level of security for residents. The Highways Officer raised concern about the width of the two-way access ramp. Whilst the ramp meets the minimum width required for 2 cars to pass, the separation distance between cars would be minimal. In order to avoid instances where cars have to reverse up or down the ramp to let approaching traffic pass, suggestions of a system that would warn incoming and outgoing drivers of likely movement on the ramp have been explored in order to alleviate most of the conflicts. A condition requiring details of measures to ensure safe access to the underground car park is recommended.

6.6.4 As with the previous scheme, regardless of significant concerns raised by the local residents in relation to the adverse impact of the development on the highway safety, the current application can only consider the impact from the additional vehicle movements generated by this particular development. In this instance, the TRICS database showed that the number of extra vehicular trips generated by the additional 23 units is likely to be around 74 trips per day, with 6 extra trips in the morning peak hour and 7 in the evening peak hour. This level of trip generation is unlikely to have an adverse impact on the local highways network or lead to unsafe highway conditions in the area.

## Electric Vehicle Charging Points (EVCP)

6.6.5 Publication London Plan requires all residential car parking spaces to provide infrastructure for electric or Ultra-Low Emission vehicles. In line with Policy T6.1 'Residential Parking', 20 per cent of spaces (8 no.) would have active charging facilities, with passive provision for all remaining spaces. A condition to secure this provision is recommended.

## Cycle parking

6.6.6 Secure long stay cycle parking spaces would be provided in a lockable internal cycle store on the ground floor close to the entrance onto Saltwood Close. A two-tier stacking system would be used providing 36 cycle parking spaces which, subject to their detailed design being acceptable, would meet the requirements of the London Plan. Cycle parking provision for the houses would be located within their back gardens and a condition requiring the submission of details of the individual cycle stores is recommended.

## Construction Logistics Plan

6.6.7 A CLP setting out details of the measures relating to the demolition and construction process for this site has been submitted for consideration, however a condition requiring submission of a Construction and Environmental Management Plan prior to commencement of development is recommended, given the need to address the environmental impacts arising during construction phase (see paras 6.7.1 – 6.7.2 below).

## Waste storage

6.6.8 Dedicated secure refuse storage for the apartment block would be located adjacent to the entrance on Saltwood Close. Each house has a separate dedicated bin store 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.

6.6.9 In line with Bromley Council guidance on "The Storage and Collection of Refuse from Residential and Commercial Buildings" the proposed scheme would provide 4 x 1,100 litre euro-bins for waste, 2 x 1,100 litre euro-bins for recycling and a 240 litre wheeled bin for food waste. Each house would have space for a 2 x 240 litre wheeled bin, one for waste and one for recycling. Each house would also have space for a food waste bin within their kitchen. Whilst the bin capacity for all units is considered as acceptable, details of the design of the household bin stores is not fully provided and a condition requiring submission of these details is recommended.

## **6.7 Environmental Health – Acceptable**

### Air Quality

6.7.1 Air Quality Assessment submitted in support of the application indicates the proposal would not have an adverse impact on air quality, however, mitigation

would be required during the construction phase of the development. The assessment has been reviewed by the Council's Environment Health and no objection has been raised, subject to a construction and environmental management plan in line with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990 as well as the Council's Control of Pollution and Noise from Demolition and Construction Site Code of Practice 2017 being submitted and agreed before works commence.

6.7.2 In accordance with the London Plan, all construction plant would need to adhere to the emissions standards for NO<sub>2</sub> and PM<sub>10</sub> (particles with a diameter up to 10µm) and PM<sub>2.5</sub> (particles with a diameter up to 2.5µm) set out for non-road mobile machinery (NRMM). Subject to the planning conditions, it is therefore considered the likely effect of construction plant on local air quality would not be significant. Overall, the development is considered acceptable from an air quality perspective.

#### Noise and light pollution

6.7.3 The site is located within an urban area and it is considered that the proposal to intensify the existing residential use of this site would not give rise to undue harm in terms of noise or light pollution (See more assessment on noise and disturbance in para 6.4.6.). With regard to the noise generated by the plant, it is recommended that at any time the measured or calculated absolute plant noise level shall not exceed 10dB below the typical background noise level (LA90 15 minute) at the closest residential window. This mitigation measure will be secured via appropriately worded condition.

#### Contamination

6.7.4 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 1 Environmental Risk Assessment and a Phase 2: Investigation Report. Potential sources of contamination have been identified as follows:

- 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; and
- Electricity substation located 10m northeast and potential PCBs.

6.7.5 The Site Investigation report submitted 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.

6.7.6 The Council's Environmental Health Officer advises that as risk associated with contaminants and pollutant linkages are negligible to low or low remedial measures are not required, however, 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.

## **6.8 Trees, Ecology and Landscaping – Acceptable**

### Trees

6.8.1 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 would 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 and the Category B beech tree is of moderate amenity value.

6.8.2 The report concludes that the loss of the trees would have a minor impact in the short term but high quality replacement tree planting is proposed and this would 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 would present an opportunity to plant feature trees and provide landscaping on the site.

### Ecology

6.8.3 A Preliminary Ecological Appraisal Report submitted 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 concludes that there is no evidence of badger activity or Great Crested Newts and concludes that reptile species would not be impacted by the development. No further surveys relating to these species is recommended by the report.

6.8.4 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.

6.8.5 The activity associated with the redevelopment of the site would combine to result in a minor impact on surrounding habitats. Clearance would need to be carried out outside the nesting season. It is considered that the conclusion of the report is acceptable, including a recommendation that a detailed endoscope survey is carried out and should no evidence be found then works can proceed

with precautionary measures in place. Should evidence be found, then further echolocation surveys must be carried out during the active bat survey season. A condition is recommended to ensure this commitment is secured.

## Landscaping

6.8.6 Detailed landscape proposals have not yet been fully 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 would 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.

## **6.9 Flooding and Drainage – Acceptable**

6.9.1 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 proposed include porous surfacing to external areas and provision of gardens and communal areas to allow some infiltration. This would 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.

6.9.2 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.

6.9.3 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. Subject to the appropriate measures being implemented, it is considered that there would be no adverse impacts resulting from the proposed development.

## **6.10 Energy and Sustainability – Acceptable**

6.10.1 The applicant has submitted an Energy Statement which 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.



6.10.2 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; and
- The provision of air source heat pumps to provide space heating and hot water.

6.10.3 The outcome of the analysis demonstrates that the development would have a carbon reduction of greater than 35% relative to the Building Regulations Part L (2013). However, as there is a shortfall to meet the zero carbon target, in line with the GLA Energy Assessment Guidance, a carbon off-setting payment of £38,148 is required to be secured by a S106 legal agreement towards off-site projects to reduce carbon emissions. The applicant has agreed this contribution.

6.10.4 The Councils' Policy Officer advised that the improvements in energy efficiency as set out in the Energy Statement submitted are acceptable and a condition requiring compliance with the carbon saving measures proposed is therefore recommended.

## **6.11 Archaeology – Acceptable**

6.11.1 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.

6.11.2 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.

## **7. Other Issues**

### Heads of Terms

7.1 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.

7.2 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.

7.3 The following planning obligations will need to be secured as part of an S106 legal agreement, which the applicant has agreed to, should permission be granted:

- Affordable Housing £99,000
- Health £32,078
- Education £127,469.91
- Carbon Offset £38,148
- Orpington to Green Street Green Cycle route £10,000
- Early stage affordable housing review
- Late stage affordable housing review

#### Community Infrastructure Levy

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

### **8. Conclusion**

8.1 This application forms a resubmission of a previously refused scheme (ref: DC/19/01345/FULL1) and seeks to address Members' objections to density and design of the proposed development and its potential impact on residential amenity.

8.2 Member's attention is drawn to the subsequent appeal decision dated 11<sup>th</sup> January 2021 made with regard to the previously refused scheme. This decision is a material consideration in the assessment of the current proposal.

8.2 In the above decision Planning Inspector concluded that the proposal would not result in significant harm to the character and appearance of the local area or to the living conditions of the occupiers of No 7 and other neighbouring properties, and would not be contrary to policies 3, 4 and 37 of the Local Plan.

8.3 Officers consider that a reduction in the massing of the current proposal at roof level would further minimise the extent of the visual impact of the scheme whilst the revised architectural treatment would give the development a more traditional appearance that would fit in better with the local surroundings.

8.4 The proposal would continue to appropriately respond to the constraints of the site without resulting in any material harm to the amenities of the neighbouring residential properties in terms of outlook, privacy, daylight/sunlight and general noise and disturbance.

- 8.5 The proposal would continue to provide adequate living environment for all future occupiers, ensuring that internal space requirements and amenity space provision accord with policy requirements. All of the proposed units would achieve appropriate levels of privacy, outlook and daylight, and sunlight.
- 8.6 The application continues to demonstrate that the traffic and parking provision would not have a significant impact on local highways infrastructure or road safety and the proposed parking, access and servicing arrangements are acceptable.
- 8.7 The development would continue to be acceptable in respect of Environmental Health, Ecological, Archaeological, drainage and flooding effects as well as Energy and Sustainability aspects.
- 8.8 Consequently, 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 the housing supply in the Borough. For these reasons the application is recommended for permission, subject to conditions and the prior completion of a s106 legal agreement.

**9. RECOMMENDATION: PERMISSION SUBJECT TO A LEGAL AGREEMENT**

**SUMMARY OF CONDITIONS AND INFORMATIVES**

**Standard Conditions**

1. Time limit of 3 years
2. Approved drawings

**Pre-commencement**

3. Construction and Environmental Management Plan
4. Water Drainage
5. Archaeological written scheme of investigation (WSI)

**Above Ground**

6. External Materials
7. Landscaping (hard and soft)
8. Secured by Design details and accreditation
9. Refuse/recycling enclosure
10. Glazing and ventilation (Acoustics Noise Assessment)
11. External lighting
12. Mechanical ventilation of the basement car park

**Pre-occupation**

13. Safe and convenient movement of vehicles in to and out of the basement car park
14. Stopping up of access
15. Energy statement
16. Travel Plan

17. Electric vehicle charging
18. Cycle parking (Houses)
19. Cycle parking (Flats)
20. disabled car parking spaces
21. Wildlife
22. CCTV
23. Parking

**Compliance conditions**

24. Site Investigation Report (Contamination)
25. Accessible and Adaptable Dwellings
26. Daylight and Sunlight Report
27. GPDO No building, structure, extension, enlargement or alteration
28. GPDO No windows or other openings in the southern elevation
29. No structure, plant, equipment or machinery on the roof
30. Plant noise levels
31. Hardstanding for wash-down facilities for construction vehicles
32. Preliminary Ecological Appraisal Report
33. EA Contamination
34. EA Drainage
35. EA Piling

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

**Informatives**

1. Mayoral CIL
2. Party Wall Act
3. Highways: Stopping up of highway rights
4. Thames Water: various
5. Written scheme of investigation (Archaeology)
6. Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2017.



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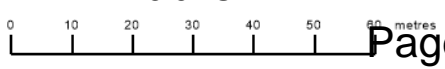


20/01130/FULL1- 146 Charterhouse  
Road  
Orpington  
BR6 9EU



19 January 2021

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## Appeal Decision

Site visit made on 1 December 2020

**by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 January 2021**

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**Appeal Ref: APP/G5180/W/20/3251271**

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by RAA Ventures Ltd against the decision of The London Borough of Bromley Council.
  - The application Ref DC/19/01345/FULL1, dated 5 April 2019, was refused by notice dated 2 March 2020.
  - The development proposed is demolition of five existing dwellings and associated structures and erection of 28 dwellings comprising of 20 flats and 8 terraced houses, with provision of new vehicular accesses from Saltwood Close and Winchester Road and associated Works.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issues of this appeal are:
  - the character and appearance of the local area;
  - the living conditions of the residential occupiers of neighbouring properties, with particular reference to privacy and noise disturbance; and
  - the lack of a signed and completed Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 (As Amended) (the TCPA)

### Reasons

#### *Character and Appearance*

3. The appeal site is a corner property defined by the junctions of Saltwood Close and Winchester Road with Charterhouse Road. Currently occupied by 5 dwellings comprising a pair of semi-detached houses at 146 Charterhouse Road and 1 Winchester Road, a detached chalet bungalow with roof extension at 1A Winchester Road and a semi-detached pair of bungalows at 3 and 5 Winchester Road. These existing dwellings reflect the grain and form of development found in this part of the residential area set away from the busy main road A224 Orpington Bypass (the A224). However, at this point the A224 is fronted by a

- flatted development, with some shops below, that backs onto Saltwood Close, across from the rear gardens of the existing dwellings on the appeal site.
4. The proposed development would provide an increase in the number of dwellings on the site from 5 to 28, with the majority of these being smaller units, which would be a useful addition to the housing stock of the borough. Whilst the appeal site consists of a significant proportion of existing garden space, which would be reduced by the development, this garden space is within the curtilage of the dwellings that would be required to be demolished to allow for the development as proposed. Therefore, I consider that the appeal site constitutes previously developed land and I have considered the proposal accordingly.
  5. The proposed development would be constructed in of brick in two tones, predominantly red but with grey for vertical pairing of windows. In combination with similar colours used for the architectural detailing, this choice of materials and colour of finishes reflects this aspect of local character and appearance.
  6. The proposal includes a block of 20 flats that would be located on that part of the appeal site that wraps around the corner half of the site defined by the junctions of Saltwood Close and Winchester Road with Charterhouse Road. On the Charterhouse Road frontage, the roof design of this proposed block alludes to a mansard roof, however, given the corner location, the proposal would read in the round as a 3 storey block of flats and not 2.5 storeys as indicated by the appellant. This proposed height does, however, respond, to the scale of the taller flatted development fronting the A224, thereby providing some transition to the lower scale of houses and bungalows that front Winchester and Charterhouse Roads and the general scale of the housing development in the wider area.
  7. The proposal for the rest of the appeal site is for 8 houses, with a terrace of 5 houses on the appeal site's frontage with Saltwood Close and 3 houses on its frontage with Winchester Road. The proposed houses would be separated from the proposed block of flats on Winchester Road by a communal amenity space and on Saltwood Close by the access route to the proposals underground parking and service area.
  8. On Saltwood Close, 4 of the proposed houses nearest to the proposed parking access would read as 3 storeys, despite their design allusion to a mansard type roof, with the remaining proposed house sited adjacent to the boundary fence with the existing house at 7 Winchester Road (No 7) appearing as 2 storeys. This proposed terrace of houses would provide an appropriately scaled transition between the taller flatted development fronting the A224 and lower forms of existing residential development that front Winchester and Charterhouse Roads.
  9. The proposed terrace of houses on Winchester Road would be set back behind small front gardens, with a side space between the end of the terrace and No 7. These would appear as 2 storeys and not the 1.5 indicated by the appellant, despite the roof detail alluding to a mansard type of roof. Although these houses are a storey less than those proposed for Saltwood Close, they are taller than their nearest bungalow neighbours, but do match the 2 storey houses in the local area. This lessening in height of the proposal across the appeal site does provide an appropriate visual transition between the taller and shorter



parts of the proposal and also between the taller flatted development fronting the A224 and lower housing in the rest of the local area.

10. The density of the proposed development is above the density range set out in the London Plan (2016) for development in an area with a public transport accessibility level (PTAL) of 1b, as set by Transport for London's PTAL model. Whilst this is a method sometimes used in transport planning to assess the access level of geographical areas to public transport, the appropriate density of a site should be arrived at through a design-led approach, taking account of the site context and infrastructure capacity. The appropriate density of a site is therefore an output of a process of assessment, rather than an input. With this in mind, I regard the density of the proposed development to be acceptable, when considered in relation to local social, commercial, natural and transport infrastructure etc. and with regard to the variety of density demonstrated by development in its immediate surroundings.
11. Although the density of the proposed development does not fully reflect the very open grain of housing development in the local area away from the A224, the private garden spaces to the proposed houses, the side space nearest to No 7 and the shared amenity space at the centre of the proposed development would result in it appearing more open than the flatted development between the appeal site and the A224. Given the modest height of the proposal and the spaces between and around buildings on the site, the proposal would not appear as a cramped form of development. It would, however, provide a transition between the density and scale of the existing flatted development and the apparent lower density and open grain of the houses and bungalows beyond.
12. As set out above, the proposal would present itself as taller and of greater density than the existing housing on the site, this would result in an apparent visual change to the area when viewed in the context of the detached and semi-detached houses and bungalows that face onto it. However, the proposal does provide for a transition between these single dwellings and the density and scale of the flatted development on the A224, which currently sits in stark contrast to the lower level and scale of development in the wider local area. For these reasons, the proposal would not, therefore, appear as so visually intrusive and dominant as to be discordant in the street scene of the local area when viewed in the round.
13. Based on the foregoing, I am satisfied that, as the proposed development would be on previously developed land, it would not conflict with Policy 3 of the Bromley Local Plan (2019) (the Local Plan), which seeks to protect Garden Land from inappropriate development. I further find that the proposal is in accordance with Policy 4 of the Local Plan, which seeks to ensure that all new housing development achieves a high standard of design and layout whilst enhancing the quality of local places.

#### *Living Conditions*

14. The boundary between the appeal site and No 7 is currently a garden boundary between No 7 and a similar sized dwelling and its garden at 5 Winchester Road. The proposal would alter this relationship by locating 2 houses near to this boundary, one on Winchester Road and one on Saltbox Close, with a rear garden space between the two. In terms of No 7 and its relationship with the proposal, the most significant change to overlooking would be the location of

- the proposed house on Saltbox Close, on what is currently the garden space of No 5. However, given the relatively modest scale of the proposed house and the distances involved, the degree of overlooking of the dwelling at No 7 or its garden would not be greater than that to be expected in a residential area of this type.
15. Although small balconies are included in the proposal for the upper floor flats fronting Winchester Road, this is a wide street and the houses on the opposite side of the road are set back behind good sized front gardens. Given the distances involved, I do not find that the degree of overlooking across the street would be greater from these balconies than from the upper floor windows of the proposal. I find, therefore, that this degree of overlooking would not be greater than that to be expected in a residential street of this type.
  16. For these reasons, I find that the degree of overlooking provided by the proposed development would not cause a substantial loss of privacy to the degree that it would result in significant harm to the living condition of neighbouring residential occupiers.
  17. Although the proposal would result in an increase in general activity, much of this would be associated with vehicle movements associated with the entrance to the proposed parking access on Saltbox Close, which is an area already used predominantly for garage and parking access associated with the neighbouring flatted development between saltbox Close and the A224. There would also be an increase in activity related to access to the proposed block of flats fronting Charterhouse Road, and the use of the proposed shared amenity space at the centre of the proposed development.
  18. The scale of additional activity resulting from the normal use of the proposed 28 dwellings instead of 5 on the site, and the proposed location of these points of additional activity would not, however, result in a material increase in noise and disturbance to a degree that would be significantly harmful to the living conditions of neighbouring residential occupiers.
  19. Consequently, I find that the proposal complies with policy 37 of the Local Plan which seeks to ensure that development respects the amenity of occupiers of neighbouring buildings, ensuring they are not harmed by noise and disturbance inadequate daylight, sunlight, privacy or by overshadowing.

#### *Planning Obligations*

20. The National Planning Policy Framework (2019) (the Framework) sets out that a local planning authority should use planning obligations only where it is not possible to address unacceptable impacts of a development through a planning condition and only where they are necessary to make it acceptable, directly related to it and fairly and reasonably related in scale and kind.
21. The appellant has provided a draft Unilateral Undertaking (UU) in accordance with Section 106 of the TCPA, indicating their agreement to the payment of a £99,000 contribution for affordable housing in accordance with policy 2 of the Local Plan, which makes provision for payments in lieu, for offsite works where a development is not able to provide on-site affordable housing. This sum was arrived at through the assessment of the appellant's Viability Assessment Report and was agreed with the Council. In accordance with policy 125 of the Local Plan, the draft UU also makes provision for payment of £32,078 for

Health, £127,469.91 for Education, £38,148 for Carbon Offset and £10,000 towards the Orpington to Green Street Green Cycle Route. The provisions of the draft UU, pursuant to Section 106 of the TCPA, meet the tests set out in Framework paragraph 56 and I attach significant weight to them in my considerations.

22. Although the appellant has provided me with a draft UU, they have confirmed that they are not in a position to provide a signed and completed UU. Accordingly, I conclude that, in its absence, the proposal fails to secure appropriate affordable housing provision as part of the development and other provisions required in accordance with the Council's adopted policies, which renders the proposal in significant conflict with the requirements of policies 2 and 125 of the Local Plan.

### **Other Matters**

23. I have received comments relating to the Council's approach to dealing with the planning application and national planning practice, however, these are not matters material to my determination of this appeal as other mechanisms exist to resolve such issues and I have considered the development on its own merits.
24. The Council have drawn my attention to a Planning Appeal in the borough relating to a proposal for new housing<sup>1</sup> that was dismissed. However, although this relates to a housing scheme with some similarities to the proposal, it is a significantly larger scheme than the proposal and would have been determined on the basis of the individual circumstances and considerations, and, likewise, I must determine the proposal before me on its own merits.

### **Planning Balance and Conclusion**

25. Paragraph 11d, footnote 7 of the Framework (2019) states that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the LPA cannot demonstrate a five year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
26. When this is the case, and as this appeal relates to the provision of housing, the need for the proposal to be considered against paragraph 11d is triggered. However, although the proposal must be determined within the context of paragraph 11d, I consider the Local Plan policies are a material consideration within this decision, which carry full weight in so far as they conform to the Framework. The Local Plan Policies 2, 3, 4, 37 and 125 of the Local Plan, which amongst other matters, seek to ensure the provision of affordable housing, protect garden land, ensure a high standard of housing design and layout, promote a high standard of amenity for existing and future users and require development to provide for the infrastructure, facilities, amenities and other planning benefits that are necessary to support and serve it, are consistent with the Framework.

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<sup>1</sup> Appeal Ref: APP/G5180/W/19/3234515

27. According to the most up to date statistical projections available to me<sup>2</sup> the Council has a projected housing shortfall on that required by the London Plan (2016) and can only demonstrate a 3.31 year housing land supply which represents a significant shortfall of that required.
28. I have also noted that the Council's projected housing shortfall is significantly below that identified in the Publication London Plan (2020). Given the consultation this has undergone, and the stage it has reached in the process of adoption, it can reasonably be expected that the policies in the Publication London Plan will ultimately be adopted. I have, therefore, given it moderate weight in the particular circumstances of this appeal in so far as it is relevant.
29. As I have identified above, the proposal would not result in significant harm to the character and appearance of the local area or to the living conditions of the occupiers of No 7 and other neighbouring properties, and would not be contrary to policies 3, 4 and 37 of the Local Plan. However, the proposal fails to secure appropriate affordable housing provision as part of the development and other provisions required, which renders the proposal in significant conflict with the requirements of policies 2 and 125 of the Local Plan.
30. In light of the Council's housing land supply position, paragraph 213 of the Framework makes it clear that weight should be given to existing development policies according to their degree of consistency with the Framework. The Framework recognises that developments should be of good design, create a high standard of amenity for existing and future users and that, where appropriate provide for affordable housing and infrastructure related to the development. Taking account of the objective of significantly boosting the supply of homes and the Council's supply position and, as there is conflict between the proposal and the relevant parts of Local Plan policies, I have given this significant weight in my consideration of this appeal.
31. Set against the harm identified, there would be social and economic benefits associated with the development. The appeal site is a 'windfall' site in terms of housing, in so far as it is a small site not previously identified in the Bromley Development Plan and presents an opportunity for 5 units to be replaced by 28 units in a mix of unit sizes that would meet family and smaller household needs. This is a relatively small but also welcome contribution to the overall housing target for the London Borough of Bromley. Smaller housing schemes do make an important contribution to the number of new residential units and I have given this significant weight in my considerations. The proposal would also generate employment opportunities during construction, and through the employment of local services for its upkeep and maintenance when occupied. Furthermore, the proposed housing would be designed so as to be energy efficient. In connection with the 28 dwellings proposed, these benefits attract modest weight in favour of the proposed development.
32. The slight harm identified to the character and appearance of the local area and to the living conditions of the occupiers of No 7, would not on their own significantly and demonstrably outweigh the benefits of the proposal. However, when set alongside the lack of a completed UU concerning the provision for affordable housing and other provisions, the proposal conflicts significantly with policies 2 and 125 of the local plan. The harmful impact of the development

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<sup>2</sup> London Borough of Bromley Housing Trajectory (September 2020)

would, therefore, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

33. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Victor Callister*

INSPECTOR

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Report No.  
DRR000000

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** Thursday 28 January 2021

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

**Title:** CONSULTATION ON PLANNING APPLICATIONS

**Contact Officer:** Tim Horsman, Assistant Director (Planning)  
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**Chief Officer:** Assistant Director (Planning)

**Ward:** (All Wards);

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1. Reason for report

Members have requested an information report setting out the Council's current approach to consultation on planning applications.

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2. **RECOMMENDATION(S)**

The committee note the Council's adopted consultation approach.

### Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
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### Corporate Policy

1. Policy Status: Existing Policy: Statement of Community Involvement
  2. BBB Priority: Not Applicable
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### Financial

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

1. Number of staff (current and additional): N/A
  2. If from existing staff resources, number of staff hours: N/A
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### Legal

1. Legal Requirement: Statutory Requirement
  2. Call-in: Not Applicable
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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): N/A
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### 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 Local Planning Authority is required to consult the public on planning applications it receives prior to making a decision, and to take any representations received into account in the determination of the application. This requirement is set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) (referred to as DMPO 2015) <https://www.legislation.gov.uk/uksi/2015/595/contents/made>. Additionally the Planning (Listed Buildings and Conservation Areas) Act 1990 (<https://www.legislation.gov.uk/ukpga/1990/9/contents>) sets out publicity requirements for Conservation Area and Listed Building applications.
- 3.2 The DMPO 2015 covers numerous aspects of the planning application procedure but with regard to normal full planning applications, the normal requirement to consult is via letter to adjoining owner/occupiers **or** via site notice. For some applications such as major applications and those in Conservation Areas, site notices are a requirement.
- 3.3 The Council's approach to publicity for planning applications is set out in the adopted and published Statement of Community Involvement (SCI) ([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)). The approach is built on the statutory requirements but also sets out that for some 'significant' applications, the approach to publicity will be wider than the minimum requirement.
- 3.4 Below is an extract from section 4.4 of the adopted Statement of Community Involvement:

#### ***"4.4 What we do when a planning application is received***

*The Council has a range of methods to ensure that submitted applications are brought to the attention of its residents, statutory consultees and other stakeholders. The details of each application, after validation, are published on Planning Public Access on the Council's website ([www.bromley.gov.uk/planningaccess](http://www.bromley.gov.uk/planningaccess)). The application form, location plan and full plans are available to view on Planning Public Access and each application is updated with the decision notice.*

**4.4.1.** *The website also provides the opportunity (and primary way) for anyone to comment on a submitted application.*

**4.4.2.** *A weekly list of all valid planning applications received is circulated to councillors and published on the Council's website via Planning Public Access. The website provides the opportunity to search for an application via the planning application number (supplied in all correspondence) or via the property address. Where possible, further publicity will be added via "My Bromley" accounts*

**4.4.3.** *Advertisements - legislation requires statutory publicity for different types of applications.*

**4.4.4.** *The Council produces at least one site notice and an advertisement in a local newspaper for the following types of application for development:*

- subject to an Environmental Assessment*
- development affecting a public right of way*
- affecting a statutorily listed building or conservation area*
- a departure from the Development Plan*
- discretionary advertisements*

- development by adjoining planning authorities

**4.4.5. Site Notice:** site notices are only used in the case of significant applications to provide information for people in the vicinity of a site. It includes information on:

- the nature of the application,
- how to contact the Council,
- how to view plans, and
- the deadline for making comments (usually 21 days from the date of the notice).

**4.4.6. Neighbour notification:** the occupiers of properties immediately adjoining an application site are notified individually by letter that an application has been received. In some cases, letters are sent on a discretionary basis to other nearby properties which may be affected. They are invited to inspect the application and make any written observation. If the occupier is disabled or elderly and unable to get to the Civic Centre, copies of the plans can be provided free of charge if they have no reasonable access to the Council’s website.

**4.4.7. Legislation does not specify which properties are to be notified and consequently the Council operates a flexible system of consultations, but it is based on a number of important principles:**

- significant applications which have a wide public interest will have a wide area of notification;
- all owners or occupiers of properties immediately abutting the site (disregarding any roads) are notified of applications;
- a minimum of 21 days is given for comment.”

3.5 It is possible to use site notices instead of sending letters for publicity for the majority of non-major applications, however the Council has chosen to send letters.

3.6 The Statement of Community Involvement is due to be reviewed this year.

#### 4. FINANCIAL IMPLICATIONS

The options available to the Council for publicity for planning applications can vary in cost, however this report is not proposing any changes to the existing arrangements.

<b>Non-Applicable Sections:</b>	<b>IMPACT ON VULNERABLE ADULTS AND CHILDREN POLICY IMPLICATIONS</b> <b>PERSONNEL IMPLICATIONS</b> <b>LEGAL IMPLICATIONS</b> <b>PROCUREMENT IMPLICATIONS</b>
Background Documents: (Access via Contact Officer)	The Town and Country Planning (Development Management Procedure) (England) Order 2015 <a href="https://www.legislation.gov.uk/uksi/2015/595/contents/made">https://www.legislation.gov.uk/uksi/2015/595/contents/made</a> Bromley Statement of Community Involvement (SCI) <a href="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</a> Planning (Listed Buildings and Conservation Areas) Act 1990 ( <a href="https://www.legislation.gov.uk/ukpga/1990/9/contents">https://www.legislation.gov.uk/ukpga/1990/9/contents</a> )

Report No.  
HPR2021/002

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** 28 January 2021

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

**Title:** PLANNING LEGISLATION UPDATE - SUPPORTING HOUSING DELIVERY AND PUBLIC SERVICE INFRASTRUCTURE

**Contact Officer:** Ben Johnson, Head of Planning Policy and Strategy  
E-mail: ben.johnson@bromley.gov.uk

**Chief Officer:** Tim Horsman, Assistant Director (Planning)

**Ward:** (All Wards);

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1. Reason for report

- 1.1 The Government have recently consulted on new Permitted Development (PD) rights to allow uses within Use Class E to change to residential use; changes to PD rights and the planning application process for hospitals, schools and prisons; and the proposed approach to simplifying and consolidating existing permitted development rights following recent changes to the Use Classes Order (UCO). The consultation ends on 28 January 2021. The Council's response will be prepared by the Head of Planning Policy and Strategy in consultation with the Chair and Vice-Chair of Development Control Committee. This report provides an update on the consultation proposals and the intended key headlines of the Council's response (which is still being prepared at the time of writing).

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2. **RECOMMENDATION(S)**

- 2.1 **That Development Control Committee note the details of the Government consultation 'Supporting housing delivery and public service infrastructure'; and the discussion of potential impacts as set out in this report, which will inform the Council's consultation response.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: No impact
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### Corporate Policy

1. Policy Status: Not Applicable
  2. BBB Priority: Vibrant, Thriving Town Centres, Regeneration
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### Financial

1. Cost of proposal: No upfront cost, but potential for loss of application fees. Depending on how the consolidated PD rights affect existing Article 4 Directions, there may be a requirement to re-make existing Directions, which would incur costs (staff resources, consultation costs)
  2. Ongoing costs: As above, there is potential for ongoing loss of planning application fees.
  3. Budget head/performance centre: N/A
  4. Total current budget for this head: N/A
  5. Source of funding: N/A
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### Personnel

1. Number of staff (current and additional): N/A
  2. If from existing staff resources, number of staff hours: N/A
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### Legal

1. Legal Requirement: The Town and Country Planning (General Permitted Development) Order 2015 (as amended).
  2. Call-in: Not Applicable
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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): N/A
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

#### Background

- 3.1. Changes to the UCO were introduced in September 2020. The Development Control Committee report of 24 September 2020<sup>1</sup> provides further details on these changes. The introduction of the new 'Class E' Use Class, which consolidated several previous Use Classes into one, was the most significant change to the UCO. Class E includes the following uses:

***Class E. Commercial, Business and Service***

*Use, or part use, for all or any of the following purpose:*

*(a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public;*

*(b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises;*

*(c) for the provision of the following kinds of services principally to visiting members of the public; (i) financial services, (ii) professional services (other than health or medical services), or (iii) any other services which it is appropriate to provide in a commercial, business or service locality;*

*(d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public;*

*(e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner;*

*(f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public;*

*(g) for (i) an office to carry out any operational or administrative functions, (ii) the research and development of products or processes, or (iii) any industrial process; being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.*

- 3.2. Paragraph 3.66 of the 24 September 2020 Development Control Committee report notes:

*“Transitional provisions have been put in place to retain the effect of PD rights based on the former Use Classes (prior to 1 September 2020). A building or use will continue to be subject to any PD rights that it was entitled to on or before 31 August 2020. These transitional provisions will remain in place until 31 July 2021 when new, revised PD rights will be introduced. These provisions also apply to relevant Article 4 Directions. It is unclear what the impact of any future amendments to the GPDO will mean for existing Article 4 Directions, specifically whether they will continue to apply or whether there will be a process of reconfirming them to align with the new UCO.”*

- 3.3. On 3 December 2020, the Ministry of Housing, Communities and Local Government (MHCLG) launched a consultation entitled 'Supporting housing delivery and public service infrastructure'<sup>2</sup>. This consultation includes details of the 'new, revised PD rights' referred to in the 24 September 2020 Development Control Committee.

- 3.4. The consultation is split into three components:

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<sup>1</sup> <http://cdslbb/documents/s50083418/PLANNING%20LEGISLATION%20UPDATE%20-%20PERMITTED%20DEVELOPMENT%20RIGHTS%20AND%20CHANGES%20TO%20THE%20USE%20CLASSES%20ORDERP.pdf>

<sup>2</sup> Available from: <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/supporting-housing-delivery-and-public-service-infrastructure>

- Supporting housing delivery through a new national permitted development right for the change of use from the Commercial, Business and Service use class to residential;
  - Supporting public service infrastructure through the planning system; and
  - Consolidation and simplification of existing permitted development rights.
- 3.5. The consultation introduction sets out the broad rationale for the consultation proposals. MHCLG consider that the proposed changes are necessary in order to immediate changes to provide greater planning certainty and flexibility to ensure that the planning system can effectively contribute to some of the immediate challenges facing the country, including supporting the economic future of our high streets and town centres, supporting jobs, and the faster delivery of schools and hospitals.
- 3.6. With regard to high streets and town centres, the consultation identifies that structural changes in consumer spending and retailing, such as the shift to online shopping over recent of years, has had a significant impact on high streets and town centres. The COVID-19 pandemic has magnified these problems. MHCLG state that the aim of the proposed new PD rights is to “*support our town centres and high streets in adapting to these changes to become thriving, vibrant hubs where people live, shop, use services, and spend their leisure time.*”
- 3.7. It is also stated that:

*“Where there is a surplus of retail floorspace, quality residential development will help diversify and support the high street. It will create new housing opportunities including for those who will benefit from close proximity to services, such as the elderly and those living with disabilities. It will also make effective use of existing commercial buildings, bring additional footfall from new residents, and assist in the wider regeneration of town centre and other locations.”*

Supporting housing delivery through a new national permitted development right for the change of use from the Commercial, Business and Service use class to residential

- 3.8. The consultation proposes a new national PD right for the change of use from the new Commercial, Business and Service use class to residential use. MHCLG consider that the new PD right would help support economic recovery, housing delivery and the regeneration of our high streets and town centres.
- 3.9. PD rights already exist for some of the uses within Class E to change to residential use; however, the proposed new PD right goes significantly beyond the majority of these existing PD rights as the consultation does not propose a size limit, unlike most existing PD that allows change to residential use which is capped at 150sqm. The consultation does not propose an exemption within conservation areas, unlike most existing PD which is exempt in such areas where some external alterations are permitted as part of the PD right. The consultation does propose an exemption for areas of outstanding natural beauty, the Broads, National Parks, areas specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, and World Heritage Sites.
- 3.10. The consultation recognises that some retail and office buildings in particular could be a substantial size, and therefore result in a significant number of new homes, but considers that the impacts of this would be managed through prior approvals. PD rights do not apply to development that is screened as requiring an Environmental Impact Assessment.
- 3.11. The proposal suggests that all of the uses within Class E would have permitted development to change to C3 residential - this would include uses such as restaurants, indoor sports facilities and creches, which have not previously been permitted to change to residential through PD.

- 3.12. The protections in respect of pubs, including those with an expanded food offer, theatres, and live music venues, all of which are outside of Class E, continue to apply and a requirement for a full planning application will remain for the change of use to or from such uses.
- 3.13. Use Class E applies everywhere in all cases, not just on the high street or in town centres. In order to benefit from the right premises must have been in Class E use on 1 September 2020 when the new use classes came into effect.
- 3.14. The consultation sets out that MHCLG *“want to ensure this new right is carefully balanced, allowing for appropriate residential development but also ensuring there is opportunity for local consideration of plans to mitigate any adverse impacts through prior approval. This also provides an opportunity for the community to make representations on these matters, and for their views to be taken into account by the local planning authority”*. The proposed prior approvals are as follows:
- “Similar to other permitted development rights for the change of use to residential:*
- *flooding, to ensure residential development does not take place in areas of high flood risk*
  - *transport, particularly to ensure safe site access*
  - *contamination, to ensure residential development does not take place on contaminated land, or in contaminated buildings, which will endanger the health of future residents*
- To ensure appropriate living conditions for residents:*
- *the impacts of noise from existing commercial premises on the intended occupiers of the development*
  - *the provision of adequate natural light in all habitable rooms*
  - *fire safety, to ensure consideration and plans to mitigate risk to residents from fire*
- To ensure new homes are in suitable locations:*
- *the impact on the intended occupiers from the introduction of residential use in an area the authority considers is important for heavy industry and waste management*
- 3.15. The application for prior approval would be accompanied by detailed floor plans showing dimensions and proposed use of each room, including the position of windows; information necessary for the consideration of the matters for prior approval; and an appropriate fee.
- 3.16. MCLG recognise that the proposed PD right has the potential to deliver significant numbers of quality new homes to buy or to rent. It is therefore proposed to introduce a fee per dwellinghouse, and that this is set at the current prior approval fee of £96 applied as a fee per dwellinghouse capped at a maximum of the fee for 50 homes. MHCLG consider that this fee level would not impact significantly on the costs to developers within the context of the overall costs of the development and land value uplift to be gained. If taken forward, the fee would be introduced through separate regulations at the earliest opportunity.

### *Discussion*

- 3.17. The proposed Class E to residential PD rights are of significant concern. The introduction of Class E itself, alongside the numerous PD rights introduced in recent years, already significantly undermines the plan-led system. The new proposed PD rights would have an even greater impact, and would fundamentally alter the face of high streets and local economies across the country. Further, it would mean that opportunities to secure affordable housing, funding for infrastructure and other important benefits sought by planning policy are lost. It is a knee-jerk proposal that would likely lead to the decimation of economic and retail floorspace, undermining the ability of local authorities to deliver on economic growth aspirations and causing the very problem the consultation supposedly aims to solve.

- 3.18. Despite the rhetoric in the consultation which seems to focus on 'surplus retail floorspace', the actual proposals do not provide any distinction between occupied and surplus floorspace. As residential use will most likely attract a higher land value than retail in almost all circumstances, this lack of distinction could lead to scores of occupied, successful retailers being evicted so landlords can convert premises to a more lucrative residential use.
- 3.19. Equally as concerning is the lack of any size threshold. Current retail to residential PD rights are capped at 150sqm, but the proposal would allow large retail buildings, offices, restaurants, etc (or buildings with a mix of Class E uses) to change entirely.
- 3.20. There is no locational consideration proposed, meaning that the PD right would be a blunt tool that applies equally to space in the heart of town centres, in local shopping parades and in out of town shopping areas and office locations.
- 3.21. The PD right will apply in conservation areas, although the consultation does suggest a potential requirement for prior approval of the impact of the loss of the ground floor use to residential, in recognition of the conservation value that retail frontage can bring to conservation areas. The proposed PD right poses a real threat to the quality of conservation areas and risks undermining their special qualities. The PD right should be exempt in all conservation areas if there is any allowance for external alterations. At the very least, any proposal within a conservation area (not just those at ground floor level as mooted by the consultation) should be subject to a prior approval requirement allowing assessment against relevant local conservation area policies and guidance. The architectural, historic and heritage value of buildings is not limited to the ground floor of buildings.
- 3.22. In terms of what could be done to mitigate these impacts (aside from not having the PD rights at all), the proposal should be amended so that it only applies to space that has been vacant and marketed for a period (and is therefore genuinely surplus). It should also be limited to areas outside any core retail designations as identified in a Local Plan; and should only apply to upper floors, to ensure that active frontages can continue at ground floor. A maximum size threshold should also be imposed; we suggest this should reflect the current retail to residential PD rights maximum threshold of 150sqm of floorspace (cumulatively) within a building.
- 3.23. The absence of a requirement for permitted development conversions to provide or contribute towards affordable housing, coupled with the absence of a size limit, will result in a significant loss of affordable housing that could otherwise have been secured through conventional planning applications (proposals of 10 units or more). This severely affects the Council's ability to provide housing for those individuals and families who are in acute housing need.
- 3.24. Similarly, the proposed PD rights could lead to large scale residential conversions which will place significant pressure on all types of infrastructure (e.g. transport, social infrastructure) without giving local authorities the ability to secure adequate contributions to mitigate this, e.g. through S106 and/or CIL. While permitted development is technically liable for CIL, in practice it would not be liable for any payment as an allowance is given for any existing occupied floorspace, meaning that the 'net' CIL liable floorspace for permitted development is often 0sqm.
- 3.25. The consultation proposes some prior approval requirements that are intended to be imposed; however, it is essential that further prior approval requirements are put in place if the PD rights are implemented. This should include:
- A requirement for space to be demonstrably surplus to requirements, through a requirement for premises to be vacant for a minimum of 6 months and subject to an active, meaningful marketing exercise for the duration of the vacancy period.



- A requirement to assess the impact of the loss of Class E space on any relevant Local Plan retail or employment designations, such as Town Centres or specific office locations.
- An 'agent of change' requirement which would enable the Council to assess whether the introduction of new residential uses is likely to adversely affect the existing and future operation of businesses in the area.
- A requirement to ensure high quality residential units. The consultation mentions provision of adequate natural light and fire safety measures; while this is supported, this still sets a low bar in terms of design. It is expected that minimum space standards will also apply given recent Government announcements, but ultimately we consider that there should be a prior approval requirement which defers to any local design policies/criteria to assess the design of prior approval applications. This should require proposals to address wider housing quality issues such as layout, private outdoor amenity space, sustainable design standards, number of units per core, etc.
- A requirement for any proposal for 10 units or more to provide affordable housing. To ensure that the prior approval is streamlined, this could be secured by submission of a Unilateral Undertaking (based on a standardised UU template) which commits to providing the required quantum and tenure split. The prior approval test could nuance this by deferring to Local Plan policies on quantum and tenure.
- Introducing a mechanism to ensure that permitted development would make a meaningful contribution to infrastructure, given that receipt of CIL on such proposals is unlikely. New residential use will generally place a much greater strain on infrastructure than existing commercial uses, therefore it is important that funding can be sought to fund necessary infrastructure improvements.

3.26. The consultation does not set out if or how existing Article 4 Directions would continue to apply, which is particular issue for Bromley's Business Improvement Areas where Article 4 Directions currently remove the office to residential PD rights (and is also an issue for the designated office clusters where Article 4 Directions have been proposed but not yet confirmed). Removal of the Directions could have significant implications for these areas. MHCLG must clarify this urgently. If existing Directions are to be removed, then there should be a delay in introducing the new PD rights to give local authorities ample time to introduce new Directions; there is precedence for this with the past introduction of light industrial to residential PD rights.

3.27. Any procedural requirements relating to the new PD rights should allow the local authority to request relevant information related to the prior approval category and refuse prior approval where this is not provided. For example, this could relate to a noise assessment in relation to any 'agent of change' prior approval requirement.

3.28. As with the recently introduced Part 20 PD rights, the automatic consent after 56 days should be removed. Where a decision on a prior approval application is not made within 56 days, applicants could then appeal against non-determination.

3.29. Unlike a standard planning application, prior approval applications are not assessed against Development Plan policy under section 38(6) of the Planning and Compulsory Purchase Act 2004. However, the Development Plan (the Bromley Local Plan and the London Plan) may be a relevant material consideration where it is relevant to a particular prior approval category; for example, Local Plan policies which aim to prevent adverse impacts on the local road network may be relevant when assessing the transport and highways impacts of the development.

#### Supporting public service infrastructure through the planning system

3.30. The consultation proposes to amend existing PD rights to allow schools, colleges and universities, hospitals and prisons to expand and adapt their buildings as they respond to changing demands and ways of working, without the need to seek planning permission.

- 3.31. The existing PD right for extensions of schools, colleges, universities, and hospitals is subject to size limits, limiting extensions or additional buildings to no more than 25% of the gross floorspace of the original buildings with a maximum cap of 100sqm, or 250sqm in the case of schools. It also restricts the height of new buildings to 5 metres. The consultation proposes to amend the right to allow such uses to expand their facilities by up to 25% of the footprint of the current buildings on the site at the time the legislation is brought into force, or up to 250sqm, whichever is the greater. This would allow greater flexibility for those sites that have enlarged or developed additional buildings over time and flexibility for those premises with a smaller footprint. To provide further flexibility, it is also proposed that the height limit is raised from 5 metres to 6 metres, excluding plant on the roof, except where it is within 10 metres of the boundary or curtilage.
- 3.32. The consultation confirms that school playing fields will continue to be protected from development. The existing PD right to allow the erection, extensions and expansion of schools, colleges, universities and hospitals has a condition exempting development on land used as a playing field in the past 5 years from development. The proposals to expand this right would retain this condition, meaning that playing fields will continue to be exempt.
- 3.33. The consultation adds that MHCLG also want to speed up local decision making on planning applications for larger hospital, school, further education college and prison development, including development on new sites. The consultation sets out proposals for a faster planning application process for these types of development, amending the statutory determination period for development within scope of the modified procedure to 10 weeks. This will require local planning authorities to prioritise these decisions over other applications for major development.
- 3.34. Further measures to assist with assessment through the modified process are suggested, including a new planning application form for developments that fall within scope of the modified process. The consultation proposes to shorten the statutory publicity and consultation periods for applications; and would introduce a requirement to notify the Secretary of State when a valid planning application for these developments is received, to allow for effective engagement, support and monitoring of progress.
- 3.35. The consultation notes that local planning authorities will be expected to prioritise the negotiation and finalisation of any section 106 agreements associated with these types of development.
- 3.36. No amendments to the Fees Regulations for these public service infrastructure developments are suggested. MHCLG recognise that the process for determination would be faster, but they do not think it is necessary for the planning application fee to change. The requirements for consultation and publicity will still apply to these applications and local planning authorities will still be required to undertake their usual duties when consulting on public service infrastructure projects, in line with existing legislation.
- 3.37. A faster process requires a clear definition of the developments that will be within scope of the new process, in order that local planning authorities and the Secretary of State can clearly identify and prioritise them. The consultation proposes a two-tier approach based on the scale and definition of the proposed development:
- Scale: proposals for development would fall within scope of the modified process if they are “major development” carried out on a site having an area of 1 hectare or more, and/or involve the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; involve one of the categories of development described in below; and would currently be subject to a 13-week statutory determination period.
  - Categories of ‘major development’ which will be subject to the modified process:
    - hospitals

- schools and further education colleges
- prisons, young offenders' institutions, and other criminal justice accommodation

3.38. The new application process would not apply to EIA development. It will also be limited to those public service infrastructure projects which are principally funded by government.

### *Discussion*

3.39. In principle, measures to improve delivery of important social infrastructure of the types proposed is supported. However, the proposals risk introducing a significant strain on resources when such applications are received, both directly, due to the need to prioritise these applications; and indirectly, as it may require resources to be diverted from elsewhere, which may result in other deadlines being missed, unnecessary appeals, etc.

3.40. With regard to the proposed amendments to PD rights, the protection of playing fields is supported but protections should be extended to explicitly incorporate Green Belt, MOL and any locally defined open space.

### Consolidation and simplification of existing permitted development rights

3.41. The consultation seeks views on the proposed approach to the consolidation and simplification of some existing permitted development rights, including those which provide for change of use between use classes. The requirement for this stems from the recent changes to the UCO.

3.42. The consultation sets out four categories of changes:

- Category 1 - the right is no longer required. Example – Part 3, Class D shops to financial and professional, as both of these uses are now within Class E
- Category 2 - the right is unchanged by the amendments to the Use Classes Order and therefore no amendment is necessary. Example – Part 3, Class L small HMOs to dwellinghouse and vice versa.
- Category 3 - the right may be replaced by the new proposed permitted development right from the Commercial, Business and Service use class to residential. Example – Part 3, Class O offices to dwellinghouses
- Category 4 - the right requires detailed consideration. There are several rights that may fall into this category. Example – Part 3, Classes A, B, C, E, F, J, JA, and K which allow the change of use to one or more uses now within the Commercial, Business and Service use Class. A range of individual rights allow for the change of use from, for example, hot food takeaways, betting shops and pay day loan shops, to uses that are now within the Commercial Business and Service use class. These individual rights differ in some details, such as size limits, matters for prior approval and exclusions such as for listed buildings. Recognising the driver for greater flexibility behind the broader use class, there is potential to consolidate and simplify these, and possibly other rights, into one or more rights. In doing so there could then be some changes to the detail of the limitations in respect of size and matters for prior approval etc.

3.43. While the focus will primarily be on Part 3 Change of use, other Parts of the Order raise similar issues: in particular Part 4 in respect of temporary use, and Part 7 in respect of non-domestic extensions and alterations.

3.44. MHCLG's stated aim is to simplify and rationalise rights where possible, by revoking unnecessary rights and merging where appropriate. They intend that this approach would result in a more accessible set of rights, but note that in doing so a number of issues arise:

- There may be rights under category 4 where the scope of the right is broadened, for example to allow for the change of use to the Commercial, Business and Service use class rather than an individual use within it, such as a shop. Or may similarly be broadened by providing for the change of use from a greater range of uses, such as from the Commercial, Business and Service use class.
- There may be other cases where rights that provide for limited physical works to support the change of use are merged with others that do not, and the provision for physical works falls away.
- The review or merger of rights with no or differing size limits may result in a broader or more restricted right.
- Where individual rights that either do or do not apply in conservation areas or other protected land are merged MHCLG will consider the balance of safeguards to be provided, and whether that could mean that some rights would in future apply in protected land.
- MHCLG will seek to preserve the safeguards in respect of certain uses listed in article 3 (6) of the Use Classes Order as 'no class specified' (i.e. Sui Generis uses), such as public houses. MHCLG would therefore not look to a permitted development right to grant permission and instead continue to require a planning application for the change of use to or from such uses.
- Uses within the previous D2 Assembly and Leisure use class are now found in either the Commercial, Business and Service use class E, Local Community use class F2 or listed as being in no class specified (Sui Generis). Rights that previously allowed for the change of use to any use within the D2 assembly and leisure use class may therefore in future be more restrictive in allowing change to uses within the Local Community use class F2.
- It is proposed that no changes are made in respect of the scope of the recently introduced Part 20 PD rights to construct new homes: extending buildings upwards, and demolition and rebuild, in order to give these PD rights time to establish and for impacts to be assessed before any changes are made.

### *Discussion*

- 3.45. While the principle of consolidating PD rights is accepted, MHCLG should take this opportunity to undertake a full-scale review of the impacts of PD rights to date, before rushing headlong into a new set of damaging PD rights (particularly the proposed Class E to residential PD rights discussed above). This review should assess whether PD rights are the best holistic option for delivering high quality housing and ensuring that economic growth can continue to be successfully delivered. It should encompass the entirety of the GPDO, including a review of householder Part 1 PD rights and other Part 3 PD rights including C3 to C4 (residential to HMO) PD rights.
- 3.46. Notwithstanding this, the category 1 and 2 proposals are supported, as these are simple consequential amendments. In relation to the category 3 proposals, any consolidation/changes to existing PD rights should take into account the significant potential adverse impacts that may arise as noted in our response to the Class E to residential proposals above.
- 3.47. With regard to category 4, we suggest that any rationalisation of prior approval requirements should default to any highest requirement in any given category, e.g. in relation to size thresholds, information requirements, etc. Where a PD right states that development is not permitted if not in a certain use before a specified date, this date should be retained in any consolidated/amended PD right.
- 3.48. After undertaking the changes outlined, it is essential that any amended GPDO is subject to meaningful consultation. The proposed methodology is fairly clear but it is impossible to comment fully without seeing actual proposed amended PD rights.

#### 4. POLICY IMPLICATIONS

- 4.1 The proposed PD right has the potential to significantly undermine policies in the Development Plan, most notably retail and economic policies and designations. Development Plan policies are material to the determination of prior approval applications where the policies relate to relevant prior approval categories.
- 4.2 An Article 4 Direction can be put in place to remove PD rights, as noted in the report. There are several existing Directions which remove PD rights which the consultation proposes to review. The consultation is silent on how any consolidated and/or amended PD rights will affect existing Article 4 Directions.
- 4.3 In addition, further Article 4 Directions may be expedient following the introduction of amended PD rights. In particular, changes to size limits and conservation area exemptions may necessitate Directions in areas which were previously not considered expedient because the impacts of PD were likely nil or negligible.

#### 5. FINANCIAL IMPLICATIONS

- 5.1 The proposed prior approval fee is likely to be less than an equivalent planning application, but the level of resources needed to assess the application are likely to be similar to a full planning application.
- 5.2 Depending on how the consolidated PD rights affect existing Article 4 Directions, there may be a requirement to re-make existing Directions, which would incur costs (staff resources, consultation costs).

#### 6. LEGAL IMPLICATIONS

- 6.1 The proposed PD rights would be introduced via an amendment to the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
- 6.2 There will be specific considerations for individual prior approval applications, as they come forward in future, for example which Development Plan policies are relevant material considerations and could apply to the determination.
- 6.3 An Article 4 Direction can be put in place to remove PD rights, as noted in the report. The statutory requirements for putting in place an Article 4 Direction are set out in Town and Country Planning (General Permitted Development) Order 2015 (as amended). The consultation is unclear about whether existing Directions will continue to apply, or whether the process for making Article 4 Directions will change as part of the consolidation work that MHCLG propose.

Non-Applicable Sections:	IMPACT ON VULNERABLE ADULTS AND CHILDREN PERSONNEL IMPLICATIONS PROCUREMENT IMPLICATIONS
Background Documents: (Access via Contact Officer)	The Town and Country Planning (General Permitted Development) Order 2015 (as amended).  Development Control Committee report of 24 September 2020 - PLANNING LEGISLATION UPDATE – PERMITTED DEVELOPMENT RIGHTS AND CHANGES TO THE USE CLASSES ORDER, available from: <a href="http://cdslbb/documents/s50083418/PLANNING%20LEGISLATION%20UPDATE%20-%20PERMITTED%20DEVELOPMENT%20RIGHTS%20AND%20CHANGES%20TO%20THE%20USE%20CLASSES%20ORDERP.pdf">http://cdslbb/documents/s50083418/PLANNING%20LEGISLATION%20UPDATE%20-%20PERMITTED%20DEVELOPMENT%20RIGHTS%20AND%20CHANGES%20TO%20THE%20USE%20CLASSES%20ORDERP.pdf</a>

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Report No.  
HPR2021/003

London Borough of Bromley

PART ONE - PUBLIC

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

**Date:**                    **Thursday 28 January 2021**

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

**Title:**                    **LONDON PLAN UPDATE**

**Contact Officer:**        Ben Johnson, Head of Planning Policy and Strategy  
E-mail: ben.johnson@bromley.gov.uk

**Chief Officer:**            Tim Horsman, Assistant Director (Planning)

**Ward:**                    (All Wards);

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1. Reason for report

- 1.1 This report provides an update on the progress of the draft new London Plan, following further correspondence between the Mayor of London and the Secretary of State (SoS) in December 2020 and the publication of an updated draft new London Plan (entitled the 'Publication London Plan')

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2. **RECOMMENDATION(S)**

- 2.1 **That Development Control Committee note this report.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: No impact
- 

### Corporate Policy

1. Policy Status: Not Applicable
  2. BBB Priority: Regeneration
- 

### Financial

1. Cost of proposal: N/A
  2. Ongoing costs: N/A
  3. Budget head/performance centre: N/A
  4. Total current budget for this head: N/A
  5. Source of funding: N/A
- 

### Personnel

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

### Legal

1. Legal Requirement: Planning and Compulsory Purchase Act 2004; Greater London Authority Act 1999
  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? N/A
2. Summary of Ward Councillors comments: N/A



### 3. COMMENTARY

#### Background

- 3.1 The Mayor of London is preparing a new London Plan, which, once adopted, will form part of Bromley's Development Plan and will be used to assess planning applications.
- 3.2 The following reports have previously been considered by Development Control Committee, and provide a useful background for this report:
- 'Draft London Plan Update' Development Control Committee report dated 23 July 2019, available from: <http://cdslbb/documents/s50071016/Draft%20London%20Plan%20UpdatePART%201%20REPORT%20TEMPLATE.pdf>
  - 'London Plan Update' Development Control Committee report dated 3 October 2019, available from: <https://cds.bromley.gov.uk/documents/s50073162/LONDON%20PLAN%20UPDATE%20REPORT.pdf>
  - 'London Plan Update' Development Control Committee report dated 28 January 2020, available from: <http://cdslbb/documents/s50078220/Local%20Plan%20Update.pdf>
  - 'London Plan update - note for Development Control Committee 18/03/2020' - Matter Arising report at the Development Control Committee on 18 March 2020, available from: <http://cdslbb/documents/b50014516/MATTER%20ARISING%20-%20LONDON%20PLAN%20UPDATE%20Wednesday%2018-Mar-2020%2019.30%20Development%20Control%20Committee.pdf?T=9>

#### December 2020 correspondence and further directions

- 3.3 On 9 December 2020, following several months without any further correspondence from the SoS, the Mayor wrote to the SoS<sup>1</sup> noting his intention to publish a new London Plan based on his best understanding of the SoS's views to date (i.e. incorporating changes which address the issues raised in the SoS's March 2020 letter).
- 3.4 The SoS responded on 10 December 2020<sup>2</sup>. The letter included two Annexes; Annex A<sup>3</sup> which provides updated wording for the Directed Changes originally issued in March 2020; and Annex B<sup>4</sup>, which directs two further changes relating to the definition of a tall building and the release of industrial land for housing. In terms of next steps, the SoS notes that he is pleased that the Mayor shares his sense of urgency in getting the London Plan published, and that he will be in a position to formally agree to the publication of the London Plan following re-submission of an 'Intend to Publish' version of the plan which incorporates amendments that address the SoS's directed changes.
- 3.5 On 21 December 2020, the Mayor responded to the SoS<sup>5</sup> and included an updated 'Intend to Publish' version of the London Plan, entitled the 'Publication London Plan'<sup>6</sup>, which the Mayor considers addresses all matters set out in the SoS letter of 10 December 2020.

<sup>1</sup> [https://www.london.gov.uk/sites/default/files/letter\\_from\\_the\\_mayor\\_of\\_london\\_9\\_december\\_2020.pdf](https://www.london.gov.uk/sites/default/files/letter_from_the_mayor_of_london_9_december_2020.pdf)

<sup>2</sup> [https://www.london.gov.uk/sites/default/files/201210\\_sos\\_letter\\_to\\_mayor\\_london\\_plan.pdf](https://www.london.gov.uk/sites/default/files/201210_sos_letter_to_mayor_london_plan.pdf)

<sup>3</sup> [https://www.london.gov.uk/sites/default/files/201210\\_sos\\_annex\\_a\\_changes\\_to\\_fulfill\\_directions.pdf](https://www.london.gov.uk/sites/default/files/201210_sos_annex_a_changes_to_fulfill_directions.pdf)

<sup>4</sup> [https://www.london.gov.uk/sites/default/files/201210\\_sos\\_annex\\_b\\_further\\_directions.pdf](https://www.london.gov.uk/sites/default/files/201210_sos_annex_b_further_directions.pdf)

<sup>5</sup>

[https://www.london.gov.uk/sites/default/files/secretary\\_of\\_state\\_for\\_housing\\_communities\\_and\\_local\\_government\\_21\\_12\\_20.pdf](https://www.london.gov.uk/sites/default/files/secretary_of_state_for_housing_communities_and_local_government_21_12_20.pdf)

<sup>6</sup> [https://www.london.gov.uk/sites/default/files/the\\_publication\\_london\\_plan\\_2020\\_-\\_tracked\\_version.pdf](https://www.london.gov.uk/sites/default/files/the_publication_london_plan_2020_-_tracked_version.pdf)

3.6 The SoS responded on the 24 December 2020<sup>7</sup>, noting the need for further consideration of the Supreme Court decision in relation to the Airports National Policy Statement to determine if this has any implications with respect to your draft London Plan. However, the SoS reiterated in the letter that he wants to see the London Plan published as soon as possible and sought to reassure the Mayor that he will not be raising any further issues and fully expects to be able to formally respond by 1 February 2021.

#### Written Ministerial Statement (WMS) made on 16 December 2020

3.7 In a 'Housing Update' WMS made on 16 December 2020<sup>8</sup>, the SoS stated:

*We recognise that to meet the housing needs of the country, London needs to build more homes. Delivery in the capital remains far too low, creating acute affordability changes for its residents, as well as putting severe pressure on the wider South East.*

*In the short-term we expect to agree the London Plan with the Mayor early in the new year which will set his plan for, amongst other things, meeting London's housing need. This will support greater ambition in London, but alone won't go nearly far enough to meet need in London. We now need to focus on the medium and long term and create a plan to better address London's housing needs, whilst protecting the character of London's communities, particularly in outer London, and London as a place for families.*

3.8 This further demonstrates the SoS's intention to approve the draft London Plan for adoption in the very near future.

#### Discussion

3.9 In terms of the draft London Plan policies themselves, there has been little change of consequence for Bromley since the March 2020 Directed Changes. The Development Control Committee report from 18/03/2020 sets out the headline implications of these directed changes, as follows:

*The key headline from the SoS directed changes is that there are no further changes to Bromley's proposed new housing target as set out in the 'Intend to Publish' version of the London Plan. This means that Bromley's housing target will be 774 homes per annum upon adoption of the London Plan.*

*There are changes to Green Belt policy, in order to bring the London Plan into alignment with national planning policy; the draft new London Plan had originally proposed a more restrictive approach which would not have allowed proposals in the Green Belt, even where very special circumstances were identified.*

*The SoS has also directed changes to maximum parking standards, although the resultant changes would still result in lower maximum standards than those set out in the Local Plan.*

3.10 The two further directed changes from December 2020 are as follows:

- a default definition of a tall building will now apply where there is no local definition set out in a Local Plan (which is the case for Bromley). This definition means that any building of 6 storeys/18 metres or more would be classed as a tall building for the purposes of planning policy, which means that specific policy criteria set out in policy D9 of the new London Plan would apply.

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<sup>7</sup> [https://www.london.gov.uk/sites/default/files/sos\\_to\\_mol\\_241220.pdf](https://www.london.gov.uk/sites/default/files/sos_to_mol_241220.pdf)

<sup>8</sup> <https://questions-statements.parliament.uk/written-statements/detail/2020-12-16/hcws660>

- Local authorities proposing release of Green Belt or Metropolitan Open Land to accommodate new housing may instead, in exceptional circumstances, consider the re-allocation of industrial land to accommodate new housing, even where such industrial land is in active employment use. This change is a plan-making consideration and is not immediately relevant but could be relevant as we progress with the Local Plan Review, dependent on the issues which arise.

3.11 Upon publication of the new London Plan, officers intend to prepare a detailed report for Development Control Committee, noting the implications of the new plan for Bromley, particularly how it might affect the application of policies in the adopted Bromley Local Plan. As noted in the legal implications of this report, planning legislation dictates that, where Development Plan policies conflict (e.g. policies in the Bromley Local Plan and the new London Plan), the most recently adopted Development Plan policy takes priority. This legal requirement means that some policies in the new London Plan, for example a requirement for car-free development in certain locations, would override any policies in the Local Plan which seek specific levels of car parking.

3.12 At this stage, the draft new London Plan is a material consideration in the determination of planning applications. Given its advanced stage and the fact that the SoS has indicated he is largely content with the ‘Publication London Plan’ published on 21 December 2020, it is capable of having very significant weight (although the actual weight to be applied is a case-by-case judgement).

#### 4. POLICY IMPLICATIONS

4.1 Policy implications are set out in the report. A report providing more detailed commentary on the implications of the new London Plan on the Bromley Local Plan will be brought to a future meeting of Development Control Committee following the adoption of the new London Plan.

#### 5. FINANCIAL IMPLICATIONS

5.1 There are no financial implications at this stage.

#### 6. LEGAL IMPLICATIONS

6.1 When adopted, the new 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).

6.2 Section 38(5) of the Planning and Compulsory Purchase Act 2004 (as amended) states: *“if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”*

6.3 This means that where policies in the new London Plan conflict with those in the Bromley Local Plan, the new London Plan would take precedence.

6.4 The new London Plan will also influence any review of the Bromley Local Plan, as there is a requirement for Local Plans to be “in general conformity” with the London Plan.

<p><b>Non-Applicable Sections:</b></p>	<p>IMPACT ON VULNERABLE ADULTS AND CHILDREN</p> <p>PERSONNEL IMPLICATIONS</p> <p>PROCUREMENT IMPLICATIONS</p>
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Background Documents: (Access via Contact Officer)	Publication London Plan, available from: <a href="https://www.london.gov.uk/sites/default/files/the_publication_london_plan_2020_-_tracked_version.pdf">https://www.london.gov.uk/sites/default/files/the_publication_london_plan_2020 - tracked version.pdf</a>
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Report No.  
HPR2021/006

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** RENEWAL, RECREATION AND HOUSING PORTFOLIO HOLDER

**FOR PRE-DECISION SCRUTINY AT THE RENEWAL, RECREATION AND HOUSING POLICY DEVELOPMENT AND SCRUTINY COMMITTEE AND DEVELOPMENT CONTROL COMMITTEE**

**Date:** DCC: 28 January 2021  
RR&H PDS: 2 February 2021

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

**Title:** PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION TO REMOVE PART 1, CLASS B AND C PERMITTED DEVELOPMENT RIGHTS IN PETTS WOOD ASRC

**Contact Officer:** Ben Johnson, Head of Planning Policy and Strategy  
E-mail: ben.johnson@bromley.gov.uk

**Chief Officer:** Tim Horsman, Assistant Director (Planning)

**Ward:** Petts Wood and Knoll; Cray Valley West

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1. Reason for report

- 1.1 This report proposes making an Article 4 Direction to remove Part 1, Class B and C Permitted Development (PD) rights in the Petts Wood Area of Special Residential Character (ASRC). These PD rights allow various alterations to the roof of a dwellinghouse without planning permission.
- 1.2 The Direction would replace an existing Direction which removes these PD rights on front roofslopes only.

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2. **RECOMMENDATION(S)**

- 2.1 That Members, if they agree with the justification put forward for the proposed Article 4 Direction, endorse the making of a 'non-immediate' Article 4 Direction (covering the Petts Wood ASRC shown on the plan in Appendix 1) to withdraw Part 1, Class B and C permitted development rights granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"), Schedule 2.

- 2.2 That Members note, pending agreement to 'make' the Article 4 Direction, that the Portfolio Holder for Renewal, Recreation and Housing will be asked to authorise the making of a non-immediate Direction, which will come into force 12 months from the day on which it is made, if the Direction is subsequently confirmed following public consultation as required by the GPDO (where practicable).**
- 2.3 That Members note that any such decision to confirm a non-immediate Direction will be accompanied by a concurrent decision to cancel the existing Article 4 Direction which relates solely to the removal of Part 1, Class B and C permitted development rights on front roofslopes.**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: None

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## Corporate Policy

1. Policy Status: N/A
2. BBB Priority: Regeneration

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## Financial

1. Cost of proposal: Limited cost associated with 'making' and publicising any Article 4 Direction
2. Ongoing costs: No Cost
3. Budget head/performance centre: Planning Policy and Strategy
4. Total current budget for this head: £0.568m
5. Source of funding: Existing Revenue Budget for 2020/21

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## Personnel

1. Number of staff (current and additional): 10fte
2. If from existing staff resources, number of staff hours: N/A

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## Legal

1. Legal Requirement: Article 4 and Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015
2. Call-in: Applicable: Further Details – Portfolio Decision

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## Procurement

1. Summary of Procurement Implications: None

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## Customer Impact

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

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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: There has been significant levels of correspondence with Petts Wood and Knoll Ward Councillors on this issue. Petts Wood Councillors consider that the Direction should cover the front and side roof slope but exclude the rear roof slope.

### 3. COMMENTARY

#### Article 4 Directions

- 3.1 Article 4 Directions allow authorities to withdraw the PD rights that would otherwise apply by virtue of the GPDO. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission be first obtained from the local planning authority for that development. This gives a local planning authority the opportunity to consider a proposal in more detail, i.e. assessing against policies in the Development Plan.
- 3.2 As set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), the use of Article 4 Directions should be limited to situations where they are necessary to protect local amenity and / or the wellbeing of the area. These criteria are not further defined in the NPPF or the PPG. The PPG notes that the potential harm that a Direction is intended to address should be clearly identified.
- 3.3 Provided that the local authority considers it expedient, an Article 4 Direction can cover an area of any geographic size, from a specific site to a local authority-wide area.
- 3.4 Article 4 Directions relating to certain specified PD rights (including Part 1 PD rights) can be made with immediate effect; or they can be made to take effect following a period of notice (non-immediate); this is usually done in order to remove compensation liability. This report recommends that the Council makes a non-immediate Article 4 Direction to come into force on 12 months from the day on which it is made, which would mean the Council has no liability to compensate landowners affected by the removal of PD rights. This is discussed further in the legal implications of this report.
- 3.5 Prior to coming into force, the Council must confirm whether it intends to proceed with the Directions based on consideration of representations received during public consultation. The decision on whether to confirm will be taken by the Portfolio Holder for Renewal, Recreation and Housing.
- 3.6 During the 12-month notice period, the PD rights would continue to apply (except on front roofslopes which are subject to an extant Direction). If the Direction is confirmed, following this notice period any alterations to any part of a roof within the Petts Wood ASRC would require full planning permission.
- 3.7 The Secretary of State for Housing, Communities and Local Government has the power to revoke or modify Article 4 Directions at any time.

#### Planning policy context

- 3.8 There is a range of national, London and local planning policies that are considered material to any decision of whether it is expedient to make an Article 4 Direction.
- 3.9 The NPPF is underpinned by three overarching objectives, relating to the economic, social and environmental pillars of sustainable development; the social objective refers to the need to foster a well-designed and safe built environment. Paragraph 9 of the NPPF states that: “Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.”
- 3.10 Section 12 of the NPPF sets out national planning policy for achieving well-designed places. Paragraph 124 sums up the importance of good design: “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve.”



Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

- 3.11 Paragraph 127 sets out criteria that should be addressed in planning policies and decisions to ensure development is well designed. This criteria includes ensuring that developments:
- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
  - d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
  - e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
  - f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*
- 3.12 Further guidance is set out in the PPG. The PPG highlights the importance of effective and early engagement with local communities and the local planning authority, to ensure good design is achieved. It states that “planning policies can set out the design outcomes that development should pursue as well as the tools and processes that are expected to be used to embed good design.”<sup>1</sup>
- 3.13 The PPG is also clear that “[a] plan’s vision and objectives can be used to set out the types of place(s) which the plan aims to achieve, how this will contribute to the sustainable development of the area and how this translates into the expectations for development and investment, including design.”<sup>2</sup>
- 3.14 The PPG should be read alongside the National Design Guide<sup>3</sup>. Good design is set out in the National Design Guide under 10 characteristics, including:
- Context - the location of the development and the attributes of its immediate, local and regional surroundings. Well-designed places are based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design; integrated into their surroundings so they relate well to them; influenced by and influence their context positively; and responsive to local history, culture and heritage.
  - Identity – The identity or character of a place comes from the way that buildings, streets and spaces, landscape and infrastructure combine together and how people experience them. It is not just about the buildings or how a place looks, but how it engages with all of the senses. Local character makes places distinctive. Well-designed, sustainable places with a strong identity give their users, occupiers and owners a sense of pride, helping to create and sustain communities and neighbourhoods.

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<sup>1</sup> Paragraph: 002 Reference ID: 26-002-20191001, available here: <https://www.gov.uk/guidance/design>

<sup>2</sup> Paragraph: 003 Reference ID: 26-003-20191001, available here: <https://www.gov.uk/guidance/design>

<sup>3</sup> Available here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/843468/National\\_Design\\_Guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843468/National_Design_Guide.pdf)

- Built form – the three-dimensional pattern or arrangement of development blocks, streets, buildings and open spaces. It is the interrelationship between all these elements that creates an attractive place to live, work and visit, rather than their individual characteristics. Together they create the built environment and contribute to its character and sense of place.
- Homes and buildings - well-designed homes and buildings are functional, accessible and sustainable. They provide internal environments and associated external spaces that support the health and wellbeing of their users and all who experience them. Successful buildings also provide attractive, stimulating and positive places for all, whether for activity, interaction, retreat, or simply passing by.

3.15 Looking forward, the ‘Planning for the Future’ white paper<sup>4</sup> sets out potential reforms of the planning system to streamline and modernise the planning process, including a strong focus on design. While the white paper is not yet relevant material consideration relating to the justification of an Article 4 Direction, it is useful context to understand the Government’s likely approach to design issues in the planning system. Pillar two of the white paper - Planning for beautiful and sustainable places – states that: “planning should be a powerful tool for creating visions of how places can be, engaging communities in that process and fostering high quality development: not just beautiful buildings, but the gardens, parks and other green spaces in between, as well as the facilities which are essential for building a real sense of community.”

3.16 The white paper also cites the Building Better, Building Beautiful Commission report, noting that it found that “[t]oo many places built during recent decades fail to reflect what is special about their local area or create a high quality environment of which local people can be proud.”

3.17 At the London level, the new draft London Plan policy D3 sets out a design-led approach which requires consideration of design options to determine the most appropriate form of development that responds to a site’s context and capacity for growth. Development proposals should, inter alia:

- enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions; and
- respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character.

3.18 Local planning policy set out in the Bromley Local Plan. One of the Local Plan’s key objectives relates to design and the public realm; it aims to ensure that new development of all kinds is well designed, safe, energy efficient and complements its surroundings, respecting the existing scale and layout.

3.19 Policy 44 relates to ASRCs, which are important local designations where new development is required to respect, enhance and strengthen their special and distinctive qualities. Appendix 10.6 of the Local Plan gives detailed descriptions of designated ASRCs including Petts Wood, detailing what makes them special and distinctive.

3.20 All ASRCs have been assessed against the following criteria and found to warrant designation:

- There should be a sufficient number of properties to form an area of distinctive character. The areas should be well established, readily identifiable and coherent,

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<sup>4</sup> Available here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/907956/Planning\\_for\\_the\\_Future\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907956/Planning_for_the_Future_web_accessible_version.pdf)

- The majority of properties should have the same readily identifiable characteristics (e.g. spatial standards, similar materials, well landscaped frontages),
- The boundary should be easily defined and defensible; and
- The areas defined should be primarily residential in character.

3.21 The ASRCs provide significant benefits in terms of local amenity by ensuring that the distinctive character and high-quality environments of the areas are maintained. Alterations to roofs in the ASRC through Part 1, Class B and C PD rights have the potential to significantly affect the ASRC, undermining their distinctive characteristics and adversely impacting local amenity.

#### Justification for Article 4 Direction to remove Part 1, Class B and C PD rights

3.22 Part 1, Class B and C PD rights allow the enlargement of a dwellinghouse consisting of an addition or alteration to its roof; and any other alteration to the roof of a dwellinghouse. The PD rights are subject to a number of restrictions and conditions on their use.

3.23 An Article 4 Direction to remove Part 1, Class B and C PD rights in the Petts Wood ASRC has been in force since 16 January 2018 (see Appendix 1). This Direction only removes the PD rights from the front roofslope, primarily because the potential installation of front rooflights which are visible and prominent from the street could have adverse impacts on the character of the ASRC.

3.24 Subsequently, there have been instances of side roof extensions which are also prominent. As a result, officers have been asked to consider an amended Direction to remove PD rights which allow side roof extensions.

3.25 Having considered the potential impacts of the PD rights, officers consider that a new Direction should be made to entirely remove the Part 1, Class B and C PD rights in the Petts Wood ASRC. A further Direction to remove the PD rights from specific sections of roofs risks further unforeseen circumstances arising, which could lead to further extensions which impact on the character of the ASRC and affect local amenity. While front and side alterations are likely to have the most prominent impacts, rear extensions also have some potential to cause adverse impacts on character, and when considered alongside other alterations, there is a risk of a cumulative deleterious effect on the wider ASRC.

3.26 Removal of the PD rights from the entire roof means there is no ambiguity in terms of how the PD rights apply. An Article 4 Direction is a blunt tool – anything which partially removes PD rights introduces the need for a subjective assessment. Part 1, Class B and C PD rights were not drafted to accommodate such an assessment (unlike other PD rights which require prior approval). It is considered that the planning policy context noted above (an important material consideration) and the potential impacts on local amenity that may arise from further roof extensions, justify removal of the Part 1, Class B and C PD rights in the Petts Wood ASRC.

## **4. POLICY IMPLICATIONS**

4.1 As set out above, there could be significant adverse impacts on local amenity resulting from roof alterations. This could have a particular impact on the Petts Wood ASRC Local Plan designation.

## **5. FINANCIAL IMPLICATIONS**

5.1 This report recommends the making of one non-immediate Article 4 Direction which will ensure that compensation liability is removed. This requires a 12-month notice period to be given, before the Directions come into effect. During this period, the PD rights would continue to apply, and landowners might take advantage of these rights. However, if the Council were to remove these rights with immediate effect, any refusal of planning permission could result in

compensation liability. Compensation can be claimed based on abortive expenditure or other loss or damage directly attributable to the withdrawal of PD rights; this could include differences in land value between an existing and altered property, which could be substantial.

- 5.2 Costs associated with publishing and consulting on the Article 4 Directions will be met by Planning Policy and Strategy and the Council's legal services department.

## 6. LEGAL IMPLICATIONS

- 6.1 Article 4 (1) of the GPDO allows local Planning authorities to withdraw certain PD Rights. The procedure for putting in place an Article 4 Direction is set out in Schedule 3 of the GPDO. The Council's legal services department will be responsible for making and publicising the Directions, in line with the statutory requirements set out in the GPDO.
- 6.2 This includes serving notice on owners and occupiers of every part of land within the areas to which the Direction relates, unless the local planning authority considers that the number of owners or occupiers within the area to which the direction relates makes individual service impracticable. The proposed Direction encompasses over 1,500 properties (which includes instances where there are numerous properties within a single building). This level of notification is considered to be impracticable, hence individual notice will not be given. Notice will be given by local advertisement and site notice, as per the other requirements of the GPDO.
- 6.3 The GPDO requires notice of the proposed Direction to be given as soon as practicable. Due to the current COVID-19 restrictions, it may not be practicable to give notice as per the GPDO requirements. In such instances, the Council will seek to issue notice following the lifting of the COVID-19 restrictions. This is considered to be a practical and pragmatic approach as advocated in the Chief Planners Letter of 20 March 2020<sup>5</sup>.
- 6.4 Cancellation of the existing Direction (at Appendix 1) relating to the front roofslope should be aligned with any new Direction coming into force. For a non-immediate Direction, a decision to cancel the existing Direction will be brought forward alongside any future decision to confirm. Where an immediate Direction is put in place, a decision to cancel the existing Direction should be made at the same time as any decision to pursue an immediate Direction.

<b>Non-Applicable Sections:</b>	<p>IMPACT ON VULNERABLE ADULTS AND CHILDREN</p> <p>PERSONNEL IMPLICATIONS</p> <p>PROCUREMENT IMPLICATIONS</p>
Background Documents: (Access via Contact Officer)	<p>The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)</p> <p>Bromley Local Plan</p> <p>National Planning Policy Framework</p> <p>Publication London Plan (December 2020)</p>

<sup>5</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/875045/Chief\\_Planners\\_Newsletter\\_-\\_March\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875045/Chief_Planners_Newsletter_-_March_2020.pdf)

TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)(ENGLAND) ORDER 2015

DIRECTION MADE UNDER ARTICLE 4 (1) TO WHICH ARTICLE 5 APPLIES

WHEREAS The London Borough of Bromley, being the appropriate local planning authority within the meaning of article 4 (4) of the GDPO, are satisfied that it is expedient that development of the description set out in the Schedule below should not be carried out on the land edged red on the attached plan, unless planning permission is granted on an application made under part III of the Town and Country Planning Act 1990 as amended,

NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town Country Planning (General Permitted Development)(England) Order 2015 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description set out in the Schedule below:

SCHEDULE

The effect of the Direction will be to require that any alteration or addition to any front roofslope (that facing the public highway) that is currently permitted by Class B or Class C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) would require planning permission.

Made under the Common Seal of The Mayor and Burgesses of the London Borough of Bromley this 5<sup>th</sup> day of January 2017

The Common Seal of the Council was affixed to this Direction  
In the presence of

  
Mayor/Councillor  
~~Director of Corporate Services~~  
Senior Solicitor





This Order was confirmed by The Mayor  
and Burgesses of the London Borough of  
Bromley on 16<sup>th</sup> January 2018



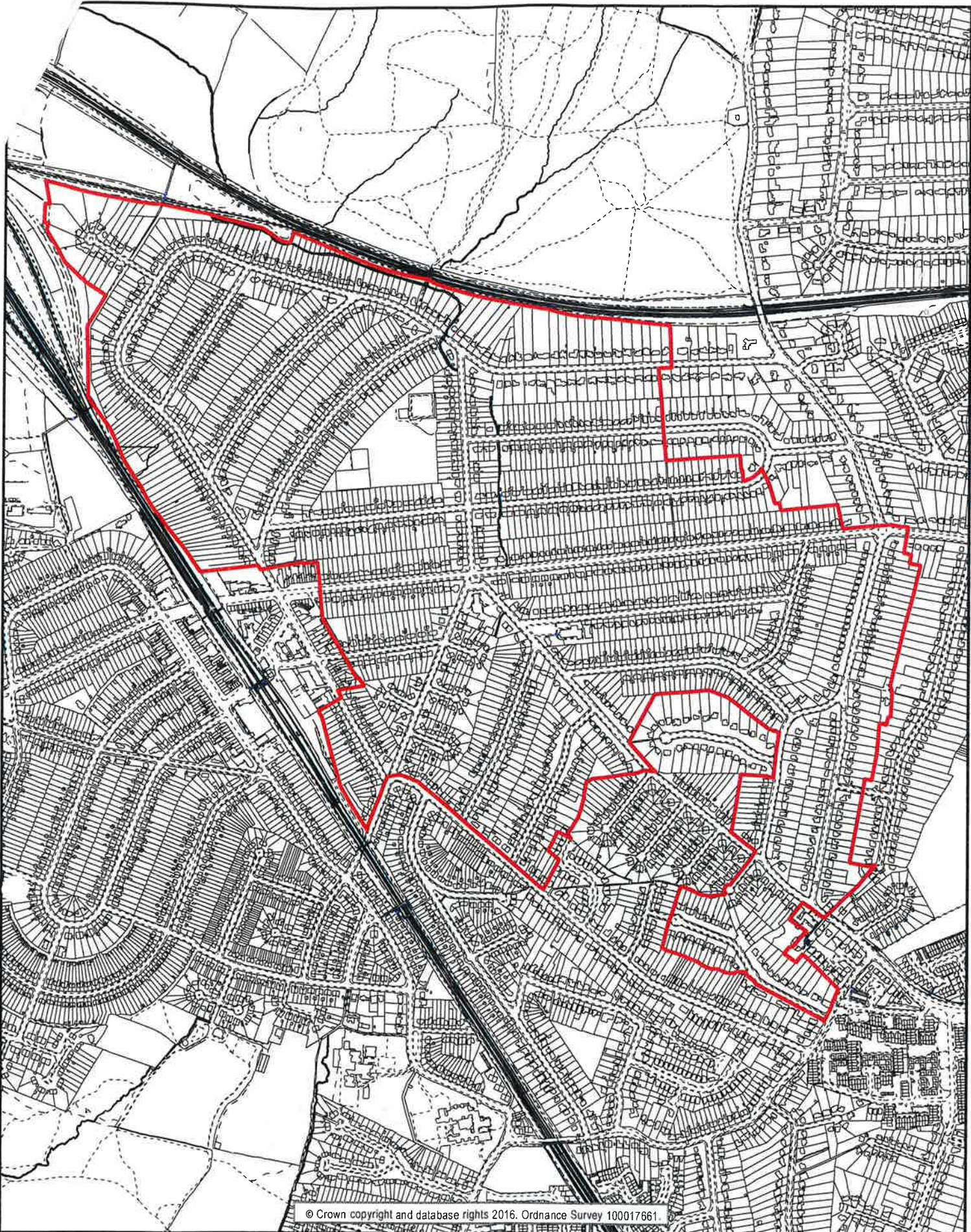
Executed as a DEED by affixing  
THE COMMON SEAL OF THE MAYOR AND  
BURGESSES OF THE LONDON BOROUGH OF  
BROMLEY in the presence of:

*K. Bance*

Mayor/~~Councillor~~

*S. Seal*

~~Director of Corporate Services/Senior Solicitor~~



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**TOWN PLANNING**

**ARTICLE 4 DIRECTION  
CONCERNING  
PETTS WOOD,  
ORPINGTON.**



JIM KEHOE  
CHIEF PLANNER,  
CIVIC CENTRE, STOCKWELL CLOSE,  
BROMLEY, KENT,  
BR1 3UH.  
Tel: 020 8464 3333

Scale 1:9,000




20/09/16

Page 133

Plan No. 6717


Executed as a DEED by affixing  
THE COMMON SEAL OF THE MAYOR AND  
BURGESSES OF THE LONDON BOROUGH OF  
BROMLEY in the presence of:

  
*[Handwritten signature]*  
Mayor/Councillor

*[Handwritten signature]*  
~~Director of Corporate Services/Senior Solicitor~~

This Order was confirmed by The Mayor  
and Burgesses of the London Borough of  
Bromley on *16th January 2018*

Executed as a DEED by affixing  
THE COMMON SEAL OF THE MAYOR AND  
BURGESSES OF THE LONDON BOROUGH OF  
BROMLEY in the presence of:

  
*[Handwritten signature]*  
Mayor/Councillor

*[Handwritten signature]*  
~~Director of Corporate Services/Senior Solicitor~~



Report No.  
HPR2021/004

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** RENEWAL, RECREATION AND HOUSING  
PORTFOLIO HOLDER

**FOR PRE-DECISION SCRUTINY AT THE RENEWAL,  
RECREATION AND HOUSING POLICY DEVELOPMENT  
AND SCRUTINY COMMITTEE AND DEVELOPMENT  
CONTROL COMMITTEE**

**Date:** DCC: 28 January 2021  
RR&H PDS: 2 February 2021

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

**Title:** CONFIRMATION OF NON-IMMEDIATE ARTICLE 4 DIRECTIONS  
TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR  
OFFICE TO RESIDENTIAL CONVERSIONS IN BROMLEY'S  
OFFICE CLUSTERS

**Contact Officer:** Ben Johnson, Head of Planning Policy and Strategy  
E-mail: ben.johnson@bromley.gov.uk

Paul Mellor, Planner  
E-mail: paul.mellor@bromley.gov.uk

**Chief Officer:** Tim Horsman, Assistant Director (Planning)

**Ward:** Bromley Town; Cray Valley West; Orpington;

## 1. Reason for report

1.1 This report recommends that the Council confirms three non-immediate Article 4 Directions to withdraw the permitted development right for change of use from office to residential. These Directions would apply to the three Office Clusters, as shown in the Bromley Local Plan (January 2019) – Crayfield Business Park (Cray Valley West), Knoll Rise (Orpington) and Masons Hill (Bromley Town). If confirmed, the Directions will come into force on 10 July 2021, in order to remove potential liability to pay compensation.

1.2 The areas selected for the Directions are key areas for the retention and promotion of offices, alongside Business Improvement Areas (which are already subject to an Article 4 Direction). This is reflected in their designation as Office Clusters under the Bromley Local Plan. It is expedient to restrict the change of use of offices in these areas by permitted development rights

to avoid harmful impacts upon economic development and to ensure any development within the areas is properly planned in line with the policies of the adopted Local Plan.

- 1.3 In line with the requirements of legislation, representations on the proposed Directions were sought. The Council must take into account any representations made before it confirms the Article 4 Directions. A consultation statement is provided at Appendix 1, which details the single representation received during the consultation; and the Council's response. The representation does not raise any issues that justify non-confirmation of the Directions.
- 

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

- 2.1 That Members of the Development Control Committee recommend the confirmation of three 'non-immediate' Article 4 Directions to withdraw the permitted development right granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2 Part 3 Class O, which permits uses falling within Class B1(a) (office) to change use to Class C3 (dwellinghouses). The areas in which the Article 4 Directions will apply are shown in the plans attached at Appendix 2.
- 2.2 That Members refer the matter to the Renewal, Recreation and Housing Policy Development and Scrutiny Committee for pre-decision scrutiny.
- 2.3 That Members note that the Portfolio Holder for Renewal, Recreation and Housing will be asked to authorise the confirmation of the three non-immediate Directions, which will come into force on 10 July 2021 (12 months from the day on which they were made).

## Impact on Vulnerable Adults and Children

1. Summary of Impact: None
- 

### Corporate Policy

1. Policy Status: N/A
  2. BBB Priority: Vibrant, Thriving Town Centres Regeneration:
- 

### Financial

1. Cost of proposal: Limited cost associated with 'making' and publicising any Article 4 Direction
  2. Ongoing costs: No Cost
  3. Budget head/performance centre: Planning Policy and Strategy
  4. Total current budget for this head: £0.568m
  5. Source of funding: Existing Revenue Budget for 2020/21
- 

### Personnel

1. Number of staff (current and additional): 10fte
  2. If from existing staff resources, number of staff hours: N/A
- 

### Legal

1. Legal Requirement: Article 4 and Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015
  2. Call-in: Applicable: Further Details – Portfolio Decision
- 

### 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? No
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

#### Background and planning policy context

- 3.1 In 2013, the Government amended the Town and Country Planning (General Permitted Development) Order (the 'GPDO') to grant new permitted development (PD) rights to change from office use to residential use, subject to a prior approval process. The amended GPDO initially came into force for a 3 year period, but was later made permanent.
- 3.2 In response to these changes, the Council made an Article 4 Direction covering parts of Bromley Town Centre, which came into effect on 1 August 2015. The Direction was, and remains, essential to support economic development in Bromley Town Centre's primary office locations and Business Improvement Areas, as designated in the Bromley Local Plan.
- 3.3 Article 4 Directions allow authorities to withdraw the PD rights that would otherwise apply by virtue of the GPDO. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission be first obtained from the local planning authority for that development. This gives a local planning authority the opportunity to consider a proposal in more detail, i.e. assessing against policies in the Development Plan. The PD right in question requires prior approval of certain issues, but this determination is limited and does not allow for full consideration against adopted Development Plan policies.
- 3.4 As set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), the use of Article 4 Directions should be limited to situations where they are necessary to protect local amenity and / or the wellbeing of the area. These criteria are not further defined in the NPPF or the PPG. The PPG notes that the potential harm that a Direction is intended to address should be clearly identified. For the Directions proposed in this report, justification is set out in the following sections of this report. The draft London Plan explicitly supports boroughs introducing Article 4 Directions to protect significant areas, including office clusters, against losses from PD rights. This supports Bromley's existing Direction in BIAs and the introduction of further Directions in newly designated office clusters.
- 3.5 Provided that the local authority considers it expedient, an Article 4 Direction can cover an area of any geographic size, from a specific site to a local authority-wide area. PPG advises that any Direction removing PD rights where prior approval powers are available to control PD should have particularly strong justification.
- 3.6 Article 4 Directions relating to certain specified PD rights (including Part 3 PD rights) can be made with immediate effect; or they can be made to take effect following a period of notice (non-immediate); this is usually done in order to remove compensation liability. This report recommends that the Council confirms three non-immediate Article 4 Directions to come into force on 10 July 2021; this is 12 months from the day on which the Directions were made, which would mean the Council has no liability to compensate landowners affected by the removal of PD rights. This is discussed further in the legal implications of this report.
- 3.7 If the Directions are confirmed, any change of use from office to residential would require full planning permission.
- 3.8 The Secretary of State for Housing, Communities and Local Government has the power to revoke or modify Article 4 Directions at any time.
- 3.9 There is a range of national, London and local planning policies that are considered material to any decision of whether it is expedient to make and confirm an Article 4 Direction.
- 3.10 At a national level, paragraph 80 of the NPPF sets out that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. It states

that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development

- 3.11 Paragraph 81 sets out a number of requirements which apply to the development of planning policies, including a need to set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth; and to set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period. The policies set out in the Bromley Local Plan, including the policies identifying office clusters, are consistent with these aspects of the NPPF.
- 3.12 Paragraph 81 also states that policies should be flexible enough to accommodate needs not anticipated in the plan, and to enable a rapid response to changes in economic circumstances. The policies set out in the Local Plan are considered sufficiently flexible to respond in such instances.
- 3.13 The PPG requires local planning authorities to prepare a robust evidence base to understand existing business needs, which will need to be kept under review to reflect local circumstances and market conditions. Bromley's Development Plan is underpinned by robust evidence of need (discussed below).
- 3.14 At the London level, the draft new London Plan expects that Outer London will see growth in office employment and notes the importance of ensuring sufficient space to support the growth of new start-up companies and to accommodate SMEs. Development Plans and development proposals should support the provision of space suitable for SMEs in light of strategic and local assessments of demand and supply.
- 3.15 Policy E1 outlines that improvements to the quality, flexibility and adaptability of office space should be supported by new office space, refurbishments and mixed-use developments.
- 3.16 Policy E1 Part E states that existing viable office floorspace capacity outside specific identified locations should be retained. The policy supports borough Article 4 Directions in locally identified office clusters, to ensure that office functions are not undermined by office to residential PDR and to protect local amenity or the wellbeing of an area.
- 3.17 Policy E2 encourages the provision and protection of Class B uses at a range of sizes and rents to meet the needs of a range of enterprises and start-ups.
- 3.18 Local planning policy set out in the Bromley Local Plan identifies the Office Clusters designation and sets out applicable policy which will apply to proposals which come forward in these areas (Local Plan Policy 85). Office Clusters are one of two Local Plan designations which seek the retention and promotion of office premises and floorspace, the other being Business Improvement Areas (which are already subject to an Article 4 Direction as noted above).
- 3.19 Policy 85 explains that the Council will work to retain and manage an adequate stock of good quality office floorspace by safeguarding three areas – Crayfield Business Park, Knoll Rise and Masons Hill – as Office Clusters. Redevelopment proposals in these areas will be expected to re-provide at least the same quantum of office floorspace.
- 3.20 All three office clusters fall within an identified renewal area; Masons Hill falls within the Bromley Common renewal area, and Crayfield Business Park and Knoll Rise both fall within the Cray Valley renewal area. The Local Plan (policies 13 and 14) seeks to maximise opportunities for enhancement and improvement of the renewal areas and requires developments in renewal areas to maximise their contribution to economic, social and environmental improvements.

3.21 Policies 16 and 17 relate specifically to the Bromley Common and Cray Valley renewal areas respectively.

#### Proposed Article 4 Directions – justification and evidence

3.21 The three proposed Directions will cover the following areas which correlate with the designated Local Plan office clusters:

- Crayfield Business Park - this area is sited to the north of New Mill Road and comprises a group of two storey buildings and associated car parking. The Office Cluster comprises approximately 7,500sqm of office floorspace.
- Knoll Rise - this area is located to the north and south sides of Knoll Rise in close proximity to the junction with Orpington High Street. It comprises over 6,000sqm of office floorspace.
- Masons Hill - this area comprises office buildings on Masons Hill, Homesdale Road and Wimpole Close. The combined office floorspace in the area totals over 6,000sqm.

3.22 Maps of the proposed Article 4 Direction areas can be found at Appendix 2.

3.23 The Directions are considered necessary as the PD right has the potential to cause significant harm to local amenity and wellbeing. The areas identified above contribute significantly to the borough's commercial function. The PD rights compromise the ability of the Council to plan properly, and to ensure uses which contribute significantly to economic growth are protected, and local wellbeing is maintained. In practical terms, without the Directions, there is a very real potential for the loss of jobs and the loss of employment capacity to accommodate future jobs. This is not just due to the loss of individual premises but also the cumulative impacts from loss of multiple premises, which would undermine the core business function of the office clusters.

3.24 The designation of the Office Clusters was evidenced within the 'Local Plan Background Paper – Key Office Clusters' and this document formed part of the evidence base for the examination of the Local Plan. This review paper identified the changes in office stock and identified a gradual decline in office floorspace in the borough between 2005 and 2012.

3.25 Criteria based on accessibility, total floorspace, vacancy level, and age were used to assess prospective sites and the three Office Clusters were identified as areas to be safeguarded for continued office use to meet projected employment demand in the borough.

3.26 The office clusters all fall within renewal areas and consideration was given to their contribution to these areas, particularly economic contributions. Further, the Knoll Rise cluster is in Orpington town centre, which bolsters the multi-functional commercial role of this area. Crayfield Business Park forms part of the strategically important Cray Business Corridor, identified as an economic growth area in the Local Plan.

3.27 Knoll Rise and Masons Hill have PTAL ratings of 4/5, meaning they have easy access via sustainable transport modes. Crayfield Business Park has a low PTAL rating but is located in close proximity to London Distributor Roads and Strategic Routes. In general, the proximity of the office clusters to key transport links provides expansive reach to these locations, via various transport modes, from across the borough.

3.28 The designations and policy preparation were supported by an evidence base including several economic and employment land studies. These studies included the following employment-based requirements for additional floorspace for the borough:

- Bromley Retail, Office Industry and Leisure Study (DTZ 2012): 121,000 sqm, between 2006 and 2031

- Stimulating the Economy Study (GL Hearn 2013): potentially over 250,000 sqm, between 2011 and 2031
- Planning for Growth in Bromley – Cray Business Corridor Study (URS 2014): 28,800 sqm, between 2013 and 2031

3.29 In addition to this local evidence base, studies are routinely prepared at a strategic level to inform the Greater London Authority's planning work including the draft new London Plan. Recent studies have included the following employment-based floorspace requirements specific to Bromley borough:

- London Office Floorspace Projections (Peter Brett Associates 2014): range of 78,000-103,000 sqm, between 2011 and 2036
- London Office Policy Review 2017 (CAG and Ramidus 2017): 122,009 sqm GIA, between 2016 and 2041. This is a significant increase on the previous London Office Policy Review (published in 2012) which projected around 80,000sqm between 2011 and 2036. The projected quantum is not disaggregated within the borough but it is considered that a significant proportion would be delivered in designated areas where office use is prioritised.
- The latest GLA London's Economic Outlook Forecast (Autumn 2020) forecasts that although the growth in workforce jobs will be subdued in the medium-term, London will see a rebound in the number of workforce jobs in 2022, reflecting the projected GVA rebound following the impact of COVID-19 crisis
- The GLA has also released the final Evidence Base report for London's Local Industrial Strategy. This presents clear, robust and comprehensive evidence on London's economy with a view to supporting the overall objective of achieving inclusive growth in London.

3.30 Despite the variety of projections, these studies have shown a consistently strong employment-based demand for additional office floorspace for the life of Bromley's Local Plan. The latest strategic study, the London Office Policy Review 2017<sup>1</sup> highlights that vacancy rates in Bromley have been consistently low (under 5%) and availabilities have remained low up to 2015. The LOPR outlines that small office units in particular should be protected in Bromley (figure 6.4).

3.31 Figure 9.14 of the LOPR 2017 compares the trend-based and employment-based projections at borough level. For many boroughs, the employment-based method generates a higher projection than past trends. In boroughs such as Bromley, Ealing, Harrow and Westminster, the employment-based method shows positive growth in stock, whereas past trends show office floorspace has declined significantly. The trend-based method has undoubtedly been affected by substantial office losses through PD, as noted in paragraph 6.2.18 of the LOPR. Much of these losses involved the loss of occupied premises; figure 7.13 shows that PD approvals in Bromley (as of the end of the 2015 FY) involved the loss of over 10,000sqm of occupied space which disrupts over 1,000 jobs. PD rights have, or have the potential to, cause significant adverse impacts on the office function of identified office clusters. Therefore, the Directions are considered essential to prevent such impacts occurring and thereby causing significant adverse impacts on the amenity of local businesses and the local economy.

3.32 Since the introduction of the PD rights in 2013, 120 prior approvals have been granted in the borough (excluding lapsed and duplicate applications)<sup>2</sup>, which involves the loss of around 50,000sqm of office space. 77% of these prior approvals (approximately 39,000sqm) have

<sup>1</sup> [https://www.london.gov.uk/sites/default/files/london\\_office\\_policy\\_review\\_2017\\_final\\_17\\_06\\_07.pdf](https://www.london.gov.uk/sites/default/files/london_office_policy_review_2017_final_17_06_07.pdf)

<sup>2</sup> As of May 2020.

completed to date; no completions have taken place within the office clusters as designated in the adopted Local Plan. There are extant approvals totaling over 1,000sqm of office losses within the office clusters (all at Masons Hill).

- 3.33 Overall, the Office Clusters contain around 23,000 sqm of office floorspace. The extant approvals in the Masons Hill cluster are not considered to undermine the function of the office clusters. The Council has considered whether the boundaries of the proposed Masons Hill Direction should cover a smaller area than the designated clusters because of the extant approvals, but considers that the Directions should cover the clusters as designated in the Local Plan. It is noted that extant prior approvals are not affected by subsequent Directions, as noted in the GPDO. However, if the extant prior approvals are not completed in line with the conditions set out in the GPDO, they will lapse and the Directions would then preclude any further PD for as long as they remained in force.
- 3.34 Further loss of space in the clusters could reduce opportunities for fledgling businesses to secure space, and could also mean that existing businesses looking to grow are not retained as they may be forced to look outside the borough for additional space.
- 3.35 The introduction of residential premises could also pose a threat as it increases the risk of noise and disturbance complaints due to locating incompatible uses next to one another, and hence causing negative impacts on the amenity of these businesses.

#### Consultation on the Article 4 Directions

- 3.36 The Council consulted on the A4D from 10 July to 4 September 2020, a period of 8 weeks. This is significantly more than the minimum period specified in Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order (the GPDO); the Council considered that as the consultation period overlapped with the typical summer holiday period, it was important to allow for extra time for receipt of representations. In deciding whether to confirm the A4D, the local planning authority must take into account any representations received during the period.
- 3.37 Consultation was undertaken in line with the requirements set out in the GPDO. As part of the consultation, the Council sent letters to around 100 owners/occupiers of properties within the Office Clusters.
- 3.38 One representation was received. The representation relates specifically to the Mason's Hill Direction and considers that the Direction is not justified and is inconsistent with the aims of national planning policy. The full representation is provided in Appendix 1. Officers consider that the representation does not raise any issues which would justify not confirming the Mason's Hill (or other) Directions, as explained in response to the representation in Appendix 1.

#### **4. POLICY IMPLICATIONS**

- 4.1 As set out in the main body of this report, there could be significant adverse impacts on local amenity and wellbeing resulting from the loss of office floorspace, if the proposed Article 4 Directions are not put in place. This could undermine elements of the Development Plan, particularly economic policies set out in the Local Plan and draft new London Plan.
- 4.2 The proposed Directions will restrict housing supply to a degree, but this is likely to be of limited impact in terms of restricting the amount of new residential units created, and hence the effect on the Council's ability to meet housing targets is limited. The clusters cover 0.026% of the total area of the borough, which is an incredibly small proportion and leaves a significant amount of land where PD rights would continue to apply. The potentially significant economic impacts on designated office areas, identified in this report, would outweigh this potentially limited impact



on housing supply, in terms of the deciding whether it is expedient to pursue Article 4 Directions for the office clusters.

- 4.3 The quality of the housing created must also be considered alongside any impact on housing supply. The creation of new housing is not just a numbers game; it is essential that new housing is fit for purpose in order to ensure sustainable development, for example ensuring appropriate sustainable design measures to mitigate climate change. PD rights have become synonymous with poor quality, small homes. As an Article 4 Direction would require planning permission to be secured for such developments in the future, this will ensure delivery of higher quality residential units and assist with the delivery of sustainable development in the borough. It is noted that the Government have amended the GPDO to introduce a requirement for new housing created through PD rights to meet minimum space standards; while this is a positive step in terms of ensuring better quality homes, there are other design requirements in the Development Plan that would not be required through the GPDO.
- 4.4 The clusters themselves have a distinct commercial function and are not considered to be the most suitable areas for delivery of housing. Regardless of this, while the Directions would remove PD rights, they would not remove the potential for housing in the office clusters entirely, for example as part of a mixed-use redevelopment, as policy 85 does not preclude housing in principle. Requiring housing to come through the full planning permission route is more likely to deliver sustainable development which has economic, social and environmental benefits, in line with the objectives of the Development Plan.
- 4.5 The impacts of the COVID-19 pandemic, particularly in the medium and long-term, are still uncertain, but it is noted that it could have significant impacts on the local economy and housing supply in particular. However, such impacts are not yet evident, for example through higher office vacancies. If impacts do materialise, this does not necessarily have implications for the Directions, as these impacts could be a material consideration in a future planning application. However, the PPG notes that it is important for local planning authorities to monitor any Article 4 Directions regularly to make certain that the original reasons the Directions were made remain valid. Therefore, the impact of the COVID-19 pandemic, as well as other positive and negative impacts, will be an ongoing consideration to help determine whether the Directions should remain in place.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 This report recommends three non-immediate Article 4 Directions are confirmed to come into force on 10 July 2021, which will ensure that compensation liability is removed. Where compensation can be claimed based on abortive expenditure or other loss or damage directly attributable to the withdrawal of PD rights; this could include differences in land value between office and residential, which could be substantial.
- 5.2 Costs associated with confirming the Article 4 Directions will be met by the Council's legal services department.

## **6. LEGAL IMPLICATIONS**

- 6.1 Article 4 (1) of the GPDO allows local Planning Authorities to withdraw certain PD Rights. The procedure for putting in place an Article 4 Direction is set out in Schedule 3 of the GPDO. The Council's legal services department will be responsible for confirming the Directions, in line with the statutory requirements set out in the GPDO.
- 6.2 The GPDO requires notice of confirmation of the proposed Directions to be given as soon as practicable. Due to the current COVID-19 restrictions, it may not be practicable to give notice as per the GPDO requirements. In such instances, the Council will seek to issue notice following

the lifting of the COVID-19 restrictions. This is considered to be a practical and pragmatic approach as advocated in the Chief Planners Letter of 20 March 2020<sup>3</sup>.

<b>Non-Applicable Sections:</b>	<p>IMPACT ON VULNERABLE ADULTS AND CHILDREN</p> <p>PERSONNEL IMPLICATIONS</p> <p>PROCUREMENT IMPLICATIONS</p>
Background Documents: (Access via Contact Officer)	<p>Bromley Local Plan 2019</p> <p>The Publication London Plan, December 2020</p> <p>National Planning Policy Framework</p>

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<sup>3</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/875045/Chief\\_Planners\\_Newsletter\\_-\\_March\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875045/Chief_Planners_Newsletter_-_March_2020.pdf)

Schedule of Representations to the Office Clusters Article 4 Direction consultation; and LB Bromley responses.

ID	Organisation	Summary of Representation	Council's Response
001	Clarion Housing Group	<p>Clarion Housing occupy office accommodation at 157-159 Masons Hill.</p> <p>They are the largest housing association in the country, owning and managing 125,000 homes across 170 Local Authorities. Clarion Housing is part of Clarion Housing Group, which is made up of not for profit and commercial subsidiaries. This generates revenues to support social housing residents and provide affordable homes.</p> <p>Paragraph 1 (9) of Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) stipulates that in deciding whether to confirm a direction made under Article 4 (1), the local planning authority must take into account any representations received during the representation period specified in accordance with sub-paragraph (4)(d) of the same. In this respect, please see an <b>OBJECTION</b> to the proposed Article 4 Direction.</p> <p>The National Planning Policy Framework (NPPF) 2019 states at paragraph 53 that:</p> <p><i>The use of Article 4 directions to remove national permitted development rights <b>should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area</b> (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities).</i></p> <p>This is reiterated in the National Planning Practice Guidance (NPPG entitled "When is permission required?") which further states at Paragraph: 038 Reference ID: 13-038-20190722 that:</p> <p><i>The potential harm that the direction is intended to address will need to be clearly identified, and <b>there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to:</b>...</i></p> <ul style="list-style-type: none"> <li>• <i>cases where prior approval powers are available to control permitted development.</i></li> </ul> <p>The NPPF centres on sustainable development consisting of an economic, social and environmental role. This includes providing the supply of housing to meet the needs of current and future generations, but also providing sufficient land in the right places to support economic growth.</p> <p>The NPPF 2019 at Section 11 sets out the government's expectations with regard to making efficient and effective use of land. Particularly, how planning policies and decisions need to reflect changes in demand for land (paragraph 120), informed by regular reviews of land allocated for development in plans and land availability.</p> <p>Such flexibilities are persistent throughout national policy, in taking account of need for different types of development, promoting regeneration and change and the importance of securing well-designed, healthy places. In particular, the government through national policy consistently reiterate the importance of making use of brownfield land within settlements that are no longer required for its current use or fit for purpose in order to ensure housing and other development needs are met.</p> <p>In line with these national policy positions, the government has made clear their intention to remove planning barriers on</p>	<p>The relevant legislation, policy and guidance was all considered when the decision to make the Direction was made. The Council considered at that time that the Direction was justified, and this is still the case in January 2021. The evidence and justification for the Direction is reiterated in the January 2021 DCC report.</p> <p>The cluster is part of the adopted, up-to-date Local Plan; the Direction will give additional protection to over 6,000sqm of office floorspace, which is a significant amount both in the immediate locality and as part of the overall Borough office supply.</p> <p>The respondent considers that the Direction would frustrate the intent of Government policy, but it is noted that A4Ds are a mechanism in current national legislation which local planning authorities can legitimately use; the SoS is the arbiter of whether an individual Direction frustrates the intent of national policy, as he has the ability to</p>

	<p>sites which are no longer required for their original purpose. This has been brought forward through Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), and more recently under Class ZA within the Town and Country Planning (General Permitted Development) (England) (Amendments) (No.3) Order 2020, which allows for the demolition and replacement of specific buildings subject to certain criteria.</p> <p>These permitted development rights are a core part of the government's ambition to drive sustainable, flexible and vibrant communities and places, ensuring the efficient and effective use of brownfield land, and thereby reducing pressure on more constrained areas of the borough to deliver those needs.</p> <p>Such flexibilities are particularly critical in Bromley given the constrained nature of the borough outside the settlement limits. It is paramount that all sites within the settlements and in sustainable locations retain the planning flexibilities afforded by the government to respond to the market and changing patterns of working. In particular, at this time where a greater proportion of the workforce are working from home part, if not full, time, it is necessary that sites such as Masons Hill can be flexible to respond quickly to changing demands at a local level, in order to ensure the future sustainable use of the site.</p> <p>This is a core part of the government's proposed planning reforms under the Planning for the Future White Paper, which proposes a simpler framework that supports a more competitive market and therefore more resilient places. Key to this, as set out in Pillar 2, is offering greater flexibility in the use of land to meet changing economic and social needs – thereby delivering homes and workplaces where they are needed to provide a flexible labour market and opportunity for economic growth, where the market needs it. Given the government intention to enable the market to respond to needs of the area, any proposal to restrict such flexibilities will undermine the ability for local areas to respond effectively, as necessary, to the changing demands.</p> <p>With regard to the local amenity test set out in the NPPF, the surrounding area is mixed use by nature, with local shopping frontages on Masons Hill and Homesdale Road including offices, retail, café/pub/take away, together with care and residential. There are a notable number of 'commercial' units along these roads which, in the event Masons Hill was converted, would retain the mixed-use character of the area and continue to provide the necessary amenity facilities to support the local residents and workforce. Therefore it cannot be justified that the retention of planning flexibilities for conversion of Masons Hill Office Cluster would harm the local amenity or well-being of the area. Rather, the ability to change of use at Masons Hill Officer Cluster, if necessary, would support these local facilities through footfall and custom that may otherwise be lost were the building to fall out of use. In the long term, the change to the Use Classes that have come into force on 1 September 2020 will enable the remaining units to respond to provide for the needs of the community, which aligns with the flexibilities proposed by government and will enable units to change to meet local needs.</p> <p>Further, matters of flood risk, noise, contamination and highways impact form part of the Prior Approval process and therefore would remain to be fully considered. Therefore, the retention of permitted development rights on this site will enable flexibility to ensure that in the event buildings are no longer required for their current purpose, they can be brought into further use without delay to support the local community and economy.</p> <p>Overall, for the reasons set out above, whilst the site is allocated within the Local Plan for office use, it has not been demonstrated to be necessary to protect the Masons Hill Office Cluster through an Article 4 Direction and there is not any particularly strong justification for the withdrawal of permitted development rights. This is therefore contrary to national planning policy and guidance. The proposal will directly contradict the government's objective to remove unnecessary planning applications from the system, and could frustrate the market from actively</p>	<p>modify or cancel Directions. To date, the SoS has not signalled any intent to intervene with this Direction.</p> <p>The Direction does not prevent a planning application coming forward, but would ensure that up-to-date Local Plan policy is applied to ensure that the loss of office is fully justified.</p> <p>With regard to local amenity, this is not defined in the PPG but the Council consider that it is not limited to the immediate area; the concept of amenity in this regard can potentially be Borough-wide. In terms of the Direction in question, it is covered by an employment designation which has wider significance, which will help ensure key employment growth within the local economy.</p>
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	<p>responding to changing demands and needs, to the detriment of the local economy.</p> <p>I trust this is informative in the council's decision-making and we request that the Masons Hill Office Cluster is not subject to the proposed Article 4 Direction.</p>	
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**DRAFT NON IMMEDIATE ORDER: Crayfield Business Park Office Cluster 7/1/2020**

TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 2015  
AS AMENDED

DIRECTION MADE UNDER ARTICLE 4 (1)

WHEREAS The London Borough of Bromley, being the appropriate local planning authority within the meaning of article 4 (5) of the GDPO, are satisfied that it is expedient that development of the description set out in the Schedule below should not be carried out on properties on the land edged red on the attached plan, and known as Crayfield Business Park Office Cluster unless planning permission is granted on an application made under part III of the Town and Country Planning Act 1990 as amended,

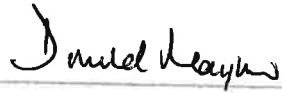
NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town Country Planning (General Permitted Development) Order 2015 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description set out in the Schedule below:

SCHEDULE

***Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.***

Made under the Common Seal of The Mayor and Burgesses of the  
London Borough of Bromley this 10<sup>th</sup> day of July 2020

The Common Seal of the Council was affixed to this Direction  
In the presence of

  
\_\_\_\_\_  
Authorized Officer

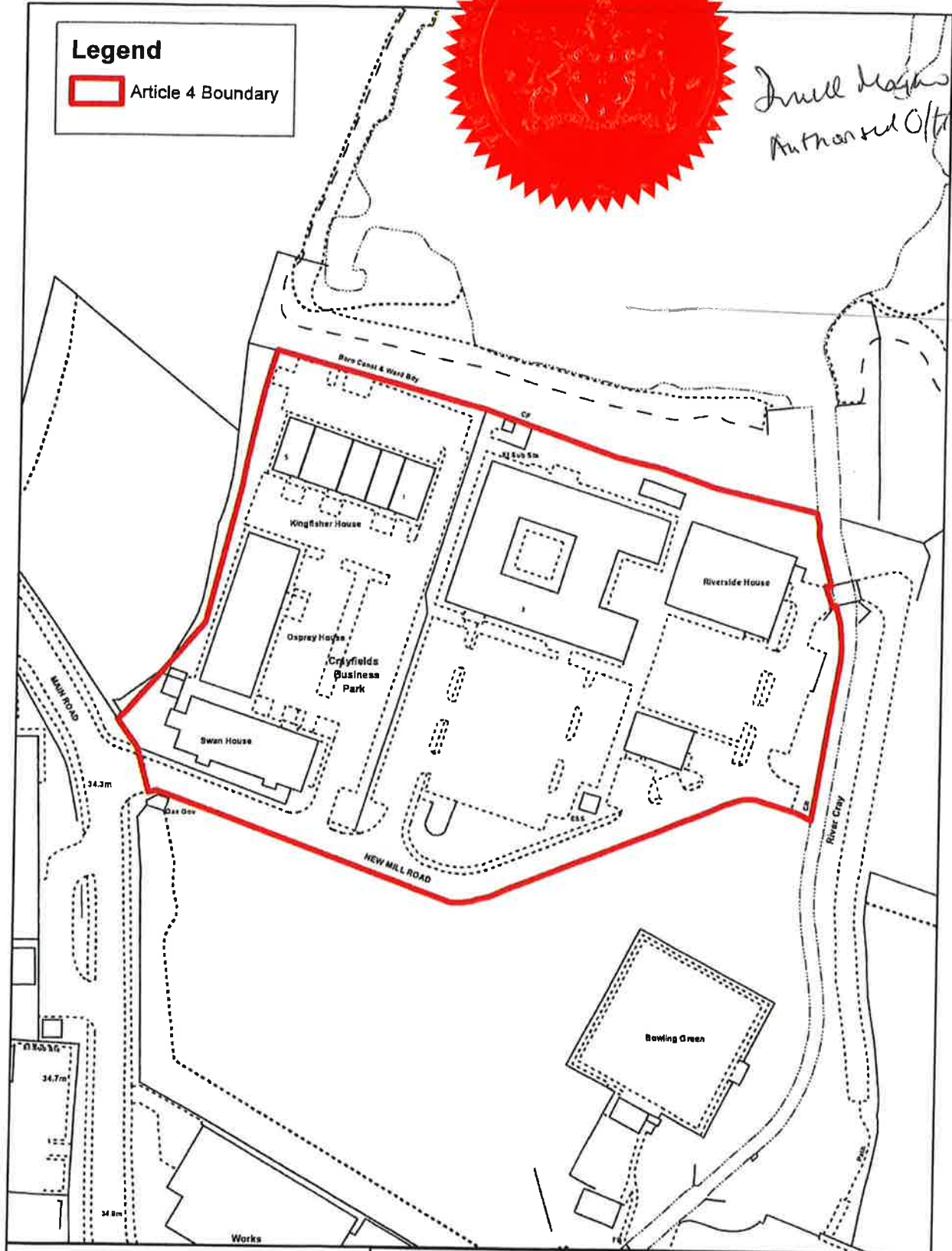


**Legend**

 Article 4 Boundary



*Druid Marks*  
Authorised Officer



**Planning Division  
Housing, Planning &  
Regeneration**



**Article 4 Direction  
Crayfield Business Park  
Office Cluster**



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Ordnance Survey 100017661.

May 2020

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Page 229



TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 2015  
AS AMENDED

DIRECTION MADE UNDER ARTICLE 4 (1)

WHEREAS The London Borough of Bromley, being the appropriate local planning authority within the meaning of article 4 (5) of the GDPO, are satisfied that it is expedient that development of the description set out in the Schedule below should not be carried out on properties on the land edged red on the attached plan, and known as Knoll Rise Office Cluster unless planning permission is granted on an application made under part III of the Town and Country Planning Act 1990 as amended,

NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town Country Planning (General Permitted Development) Order 2015 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description set out in the Schedule below:

SCHEDULE

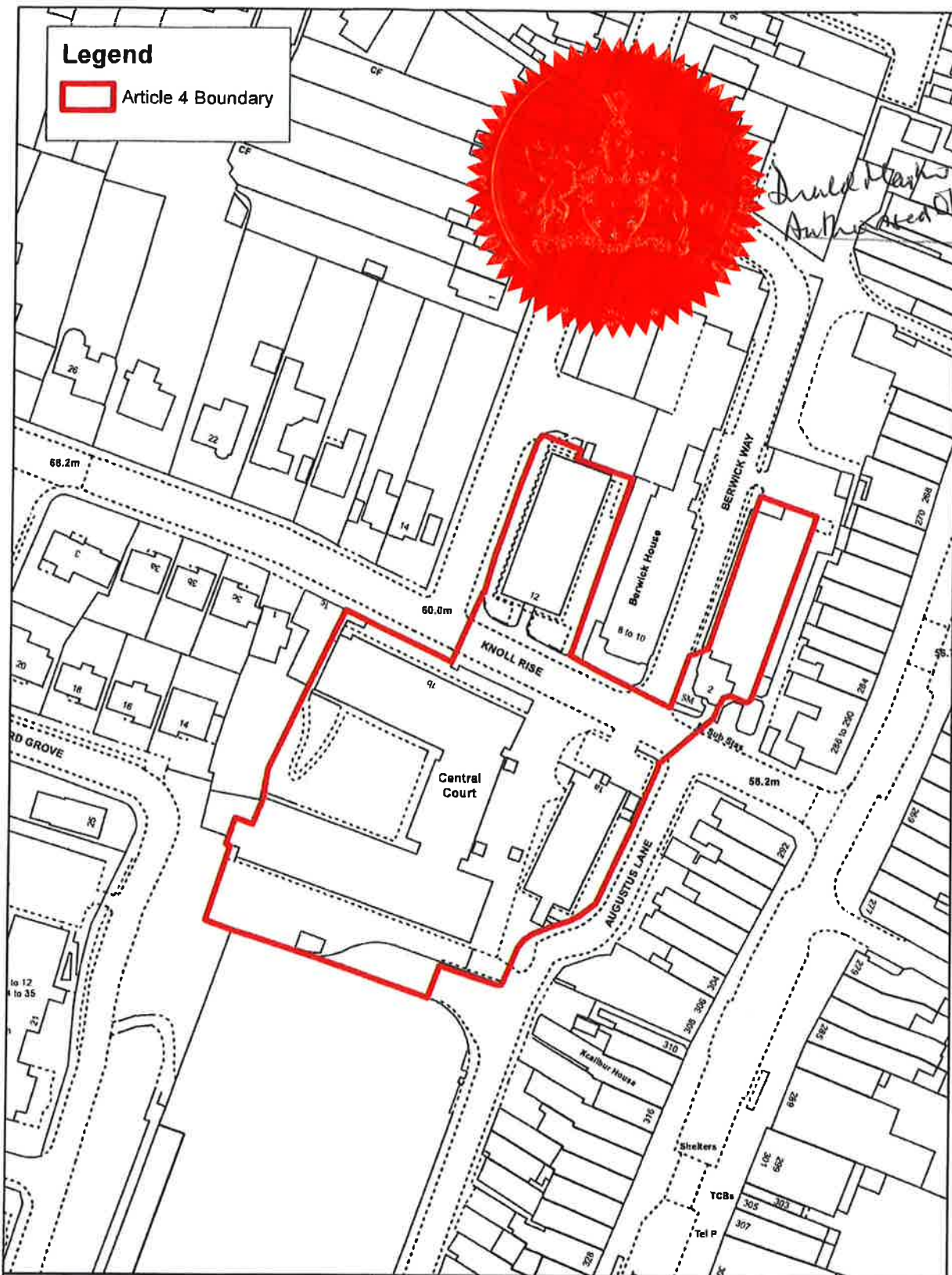
***Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.***

Made under the Common Seal of The Mayor and Burgesses of the  
London Borough of Bromley this 10<sup>th</sup> day of July 2020

The Common Seal of the Council was affixed to this Direction  
In the presence of

*Donald Mayne*  
Authorized Officer





**Planning Division  
Housing, Planning &  
Regeneration**

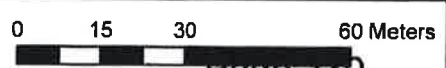


**Article 4 Direction  
Knoll Rise, Office Cluster**



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May 2020



1:1,199

TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 2015  
AS AMENDED

DIRECTION MADE UNDER ARTICLE 4 (1)

WHEREAS The London Borough of Bromley, being the appropriate local planning authority within the meaning of article 4 (5) of the GDPO, are satisfied that it is expedient that development of the description set out in the Schedule below should not be carried out on properties on the land edged red on the attached plan, and known as Masons Hill Office Cluster unless planning permission is granted on an application made under part III of the Town and Country Planning Act 1990 as amended,


NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town Country Planning (General Permitted Development) Order 2015 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description set out in the Schedule below:

SCHEDULE

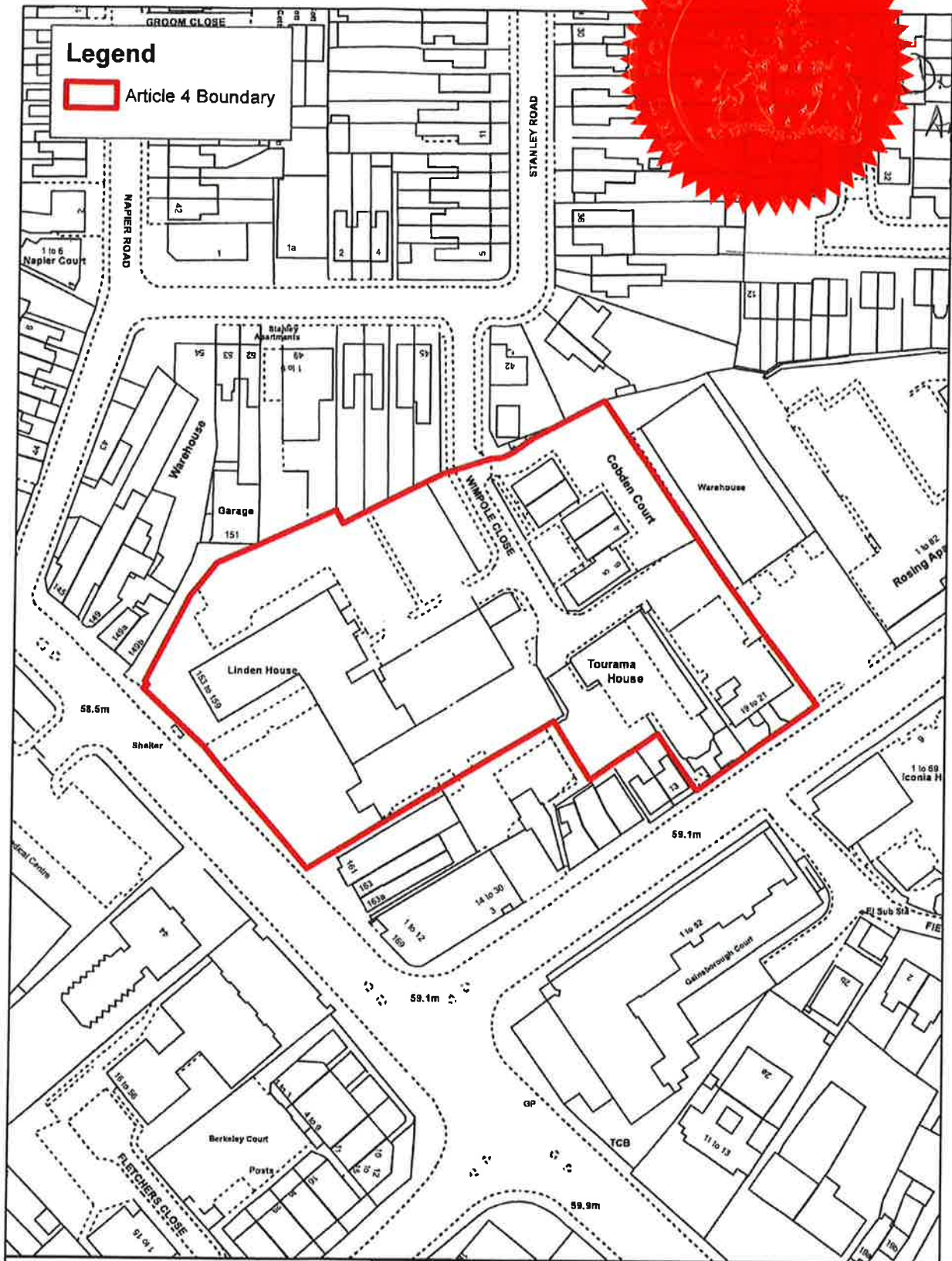
***Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.***

Made under the Common Seal of The Mayor and Burgesses of the  
London Borough of Bromley this 16<sup>th</sup> day of July 2020




The Common Seal of the Council was affixed to this Direction  
In the presence of

  
*David Daykin*

Authorised Officer



*David Mayhew  
Authorized  
Officer*

<p><b>Planning Division Housing, Planning &amp; Regeneration</b></p>	<p> <b>Article 4 Direction Masons Hill, Office Cluster</b></p> <p style="text-align: right;">N </p>
<p>© Crown copyright and database rights 2020. Ordnance Survey 100017661.</p>	<p>May 2020</p> <p style="text-align: center;">0 15 30 60 Meters </p> <p style="text-align: right;">1:1,250</p> <p style="text-align: center;">Page 231</p>

Report No.  
HPR2021/005

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** RENEWAL, RECREATION AND HOUSING PORTFOLIO  
HOLDER

**FOR PRE-DECISION SCRUTINY AT THE RENEWAL,  
RECREATION AND HOUSING POLICY DEVELOPMENT AND  
SCRUTINY COMMITTEE AND DEVELOPMENT CONTROL  
COMMITTEE**

**Date:** DCC: 28 January 2021  
RR&H PDS: 2 February 2021

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

**Title:** PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION TO  
REMOVE PERMITTED DEVELOPMENT RIGHTS FOR  
UPWARDS EXTENSIONS IN AN AREA WITHIN THE  
RAVENSBOURNE VALLEY LOCAL VIEW

**Contact Officer:** Ben Johnson, Head of Planning Policy and Strategy  
E-mail: ben.johnson@bromley.gov.uk

**Chief Officer:** Tim Horsman, Assistant Director (Planning)

**Ward:** Bromley Town

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1. Reason for report

- 1.1 A report to Development Control Committee on 19 November 2020 recommended a number of Article 4 Directions to withdraw permitted development (PD) rights which allow blocks of flats to extend upwards by up to two storeys to provide new residential units. The report was subsequently considered by the Renewal, Recreation and Housing Policy Development and Scrutiny Committee (RRHPDS) on 16 December 2020. RRHPDS asked Development Control Committee to consider a further Direction covering a discrete area which falls within the local view of the eastern skyline of the Ravensbourne Valley.
- 1.2 This report discusses whether there is justification for the Direction; and sets out the approach for making the Direction if Members consider that there is justification.
- 

2. **RECOMMENDATION(S)**

- 2.1 **That Members note the discussion in the report.**

**2.2 That Members, if they agree with the justification put forward by RRHPDS for the proposed Article 4 Direction, endorse the making of a ‘non-immediate’ Article 4 Direction (covering the area shown in the plan attached at Appendix 1) to withdraw the following permitted development rights granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”), Schedule 2:**

- **Part 20, Class A**
- **Part 20, Class AA**
- **Part 20, Class AD**

**2.2 That Members note, pending agreement to ‘make’ the Article 4 Direction, that the Portfolio Holder for Renewal, Recreation and Housing will be asked to authorise the making of a non-immediate Direction, which will come into force 12 months from the day on which it is made, if the Direction is subsequently confirmed following public consultation.**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: None

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## Corporate Policy

1. Policy Status: N/A
2. BBB Priority: Regeneration:

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## Financial

1. Cost of proposal: Limited cost associated with 'making' and publicising any Article 4 Direction
2. Ongoing costs: No Cost
3. Budget head/performance centre: Planning Policy and Strategy
4. Total current budget for this head: £0.568m
5. Source of funding: Existing Revenue Budget for 2020/21

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## Personnel

1. Number of staff (current and additional): 10fte
2. If from existing staff resources, number of staff hours: N/A

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## Legal

1. Legal Requirement: Article 4 and Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015
2. Call-in: Applicable: Further Details – Portfolio Decision

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## Procurement

1. Summary of Procurement Implications: None

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## Customer Impact

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

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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Bromley Town Ward Councillors have expressed support for an Article 4 Direction to remove upwards extension PD rights from the area outlined on the map at Appendix 1.

### 3. COMMENTARY

#### Background

3.1 Six PD rights which allow the upwards extension of residential and mixed-use buildings have been recently introduced through amendments to the GPDO. These are:

- Part 1, Class AA - permits the enlargement of a dwellinghouse by the construction of new storeys on top of the highest existing storey of the dwellinghouse. Two storeys may be added if the existing dwellinghouse is two or more storeys tall, or one additional storey where the dwellinghouse consists of one storey.
- Part 20, Class A – permits the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats.
- Part 20, Class AA – permits construction of up to two new storeys of flats on top of detached buildings in commercial or mixed use, including where there is an element of residential use.
- Part 20, Class AB - permits the construction of new flats on top of terrace buildings (including semi-detached buildings) in commercial or mixed (including residential) use; two storeys may be added if the existing building is two or more storeys tall, or one additional storey where the building consists of one storey.
- Part 20, Class AC - permits the construction of new flats on top of terrace dwellinghouses (including semi-detached houses); two storeys may be added if the existing building is two or more storeys tall, or one additional storey where the building consists of one storey.
- Part 20, Class AD - permits the construction of new flats on top of detached dwellinghouses; two storeys may be added if the existing building is two or more storeys tall, or one additional storey where the building consists of one storey.

3.2 There are a number of restrictions imposed on these new PD rights, as well as further considerations relating to how Development Plan policy applies to the assessment of prior approval assessments. Further information on the details of the PD rights are set out in two recent reports to Development Control Committee, the Upwards Extension Permitted Development Rights report<sup>1</sup> which was noted at the meeting held on 14 July 2020; and the Planning Legislation Update report<sup>2</sup> which was noted at the meeting held on 24 September 2020. At both of these meetings, members asked officers to investigate the potential for Article 4 Directions to remove the new PD rights in certain areas across the Borough.

3.3 Officers subsequently presented a report to the 19 November 2020 Development Control Committee meeting<sup>3</sup> recommending Article 4 Directions covering 15 areas; 13 Areas of Special Residential Character as shown in the Bromley Local Plan (January 2019), and two discrete areas which fall within local views. These proposed Directions were informed by a detailed assessment of a number of locations relating to Local Plan policy areas which could be adversely affected by the PD rights. One of these policy areas was local views and landmarks protected by Local Plan policy 48. Officers assessed all 10 views of local importance to determine whether any of them merited protection; only one was considered to justify an Article 4 Direction, the view of Croydon town centre from Village Way, Beckenham.

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<sup>1</sup> Available here:

<https://cds.bromley.gov.uk/documents/s50082500/UPWARDS%20EXTENSION%20PERMITTED%20DEVELOPMENT%20RIGHTSPART%201%20REPORT%20TEMPLATE.pdf>

<sup>2</sup> Available here: <https://cds.bromley.gov.uk/documents/s50083418/PLANNING%20LEGISLATION%20UPDATE%20-%20PERMITTED%20DEVELOPMENT%20RIGHTS%20AND%20CHANGES%20TO%20THE%20USE%20CLASSES%20ORDERP.pdf>

<sup>3</sup> Available here: <http://cdslbb/documents/s50084647/PROPOSED%20NON-IMMEDIATE%20ARTICLE%204%20DIRECTIONS%20TO%20REMOVE%20PERMITTED%20DEVELOPMENT%20RIGHTS%20FOR%20UPWARDS%20EXTEN.pdf>



3.4 The report was the subject to pre-decision scrutiny by RRHPDS ahead of consideration by the Renewal, Recreation and Housing Portfolio Holder. As set out in the minutes of the 16 December 2020 meeting<sup>4</sup>, RRHPDS recommended that the Portfolio Holder authorise the making of the Directions as detailed in the report, and also asked for a report be submitted to the next meeting of the DCC recommending that an Article 4 Direction is put in place to remove PD rights for tall buildings located towards the top of Ravensbourne Valley which would in the opinion of RRHPDS, interfere with the skyline if further extended.

### Article 4 Directions

3.5 Article 4 Directions allow authorities to withdraw the PD rights that would otherwise apply by virtue of the GPDO. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission be first obtained from the local planning authority for that development. This gives a local planning authority the opportunity to consider a proposal in more detail, i.e. assessing against policies in the Development Plan. The PD rights in question all require prior approval of certain issues, but this determination is limited and does not allow for full consideration against adopted Development Plan policies.

3.6 As set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), the use of Article 4 Directions should be limited to situations where they are necessary to protect local amenity and / or the wellbeing of the area. These criteria are not further defined in the NPPF or the PPG. The PPG notes that the potential harm that a Direction is intended to address should be clearly identified. For the Directions proposed in this report, justification is set out in the following sections.

3.7 Provided that the local authority considers it expedient, an Article 4 Direction can cover an area of any geographic size, from a specific site to a local authority-wide area. PPG advises that any Direction removing PD rights where prior approval powers are available to control PD should have particularly strong justification.

3.8 Article 4 Directions relating to Part 20 PD rights can only be made to take effect following a period of notice (non-immediate); giving 12 months' notice would mean the Council has no liability to compensate landowners affected by the removal of PD rights. This is discussed further in the legal implications of this report.

3.9 Prior to coming into force, the Council must confirm whether it intends to proceed with the Directions, based on consideration of representations received. The decision on whether to confirm will be taken by the Portfolio Holder for Renewal, Recreation and Housing.

3.10 During the 12-month notice period, the PD rights would continue to apply. If the Directions are confirmed, following this notice period any upwards extensions within the areas covered by the Directions would require full planning permission.

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

### Planning policy context

3.12 There is a range of national, London and local planning policies that are considered material to any decision of whether it is expedient to make an Article 4 Direction.

3.13 The NPPF is underpinned by three overarching objectives, relating to the economic, social and environmental pillars of sustainable development; the social objective refers to the need to

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<sup>4</sup> <http://cdslbb/documents/g7035/Public%20minutes%20Wednesday%2016-Dec-2020%2018.30%20Renewal%20Recreation%20and%20Housing%20Policy%20Development%20and%20.pdf?T=11>

foster a well-designed and safe built environment. Paragraph 9 of the NPPF states that: “Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.”

- 3.14 Paragraph 118(e) sets out a policy approach to encourage upwards extensions, which predates the introduction of the upwards extension PD rights. It is notable, however, that the policy approach set out in the NPPF refers explicitly to compliance with local design policies and standards, reflecting the importance that such policies have in terms of guiding suitable development in keeping with local character.
- 3.15 Section 12 of the NPPF sets out national planning policy for achieving well-designed places. Paragraph 124 sums up the importance of good design: “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”
- 3.16 Paragraph 127 sets out criteria that should be addressed in planning policies and decisions to ensure development is well designed. This criteria includes ensuring that developments:
- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
  - d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
  - e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
  - f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*
- 3.17 Further guidance is set out in the PPG. The PPG highlights the importance of effective and early engagement with local communities and the local planning authority, to ensure good design is achieved. It states that “planning policies can set out the design outcomes that development should pursue as well as the tools and processes that are expected to be used to embed good design.”<sup>5</sup>
- 3.18 The PPG is also clear that “[a] plan’s vision and objectives can be used to set out the types of place(s) which the plan aims to achieve, how this will contribute to the sustainable development of the area and how this translates into the expectations for development and investment, including design.”<sup>6</sup>

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<sup>5</sup> Paragraph: 002 Reference ID: 26-002-20191001, available here: <https://www.gov.uk/guidance/design>

<sup>6</sup> Paragraph: 003 Reference ID: 26-003-20191001, available here: <https://www.gov.uk/guidance/design>

3.19 The PPG should be read alongside the National Design Guide<sup>7</sup>. Good design is set out in the National Design Guide under 10 characteristics, including:

- Context - the location of the development and the attributes of its immediate, local and regional surroundings. Well-designed places are based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design; integrated into their surroundings so they relate well to them; influenced by and influence their context positively; and responsive to local history, culture and heritage.
- Identity – The identity or character of a place comes from the way that buildings, streets and spaces, landscape and infrastructure combine together and how people experience them. It is not just about the buildings or how a place looks, but how it engages with all of the senses. Local character makes places distinctive. Well-designed, sustainable places with a strong identity give their users, occupiers and owners a sense of pride, helping to create and sustain communities and neighbourhoods.
- Built form – the three-dimensional pattern or arrangement of development blocks, streets, buildings and open spaces. It is the interrelationship between all these elements that creates an attractive place to live, work and visit, rather than their individual characteristics. Together they create the built environment and contribute to its character and sense of place.
- Homes and buildings - well-designed homes and buildings are functional, accessible and sustainable. They provide internal environments and associated external spaces that support the health and wellbeing of their users and all who experience them. Successful buildings also provide attractive, stimulating and positive places for all, whether for activity, interaction, retreat, or simply passing by.

3.20 Looking forward, the 'Planning for the Future' white paper<sup>8</sup> sets out potential reforms of the planning system to streamline and modernise the planning process, including a strong focus on design. While the white paper is not yet relevant material consideration relating to the justification of an Article 4 Direction, it is useful context to understand the Governments likely approach to design issues in the planning system. Pillar two of the white paper - Planning for beautiful and sustainable places – states that: “planning should be a powerful tool for creating visions of how places can be, engaging communities in that process and fostering high quality development: not just beautiful buildings, but the gardens, parks and other green spaces in between, as well as the facilities which are essential for building a real sense of community.”

3.21 The white paper also cites the Building Better, Building Beautiful Commission report, noting that it found that “[t]oo many places built during recent decades fail to reflect what is special about their local area or create a high quality environment of which local people can be proud.”

3.22 At the London level, the new draft London Plan policy D3 sets out a design-led approach which requires consideration of design options to determine the most appropriate form of development that responds to a site’s context and capacity for growth. Development proposals should, inter alia:

- enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions; and
- respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character.

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<sup>7</sup> Available here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/843468/National\\_Design\\_Guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843468/National_Design_Guide.pdf)

<sup>8</sup> Available here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/907956/Planning\\_for\\_the\\_Future\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907956/Planning_for_the_Future_web_accessible_version.pdf)

- 3.23 Local planning policy set out in the Bromley Local Plan. One of the Local Plan's key objectives relates to design and the public realm; it aims to ensure that new development of all kinds is well designed, safe, energy efficient and complements its surroundings, respecting the existing scale and layout.
- 3.24 Policy 48 of the Local Plan requires developments which may impact on the skyline to demonstrate how they will protect or enhance the quality of the views, vistas, gaps and skyline. This includes 10 views of local importance, five landmarks and two major skyline ridges.

#### Potential Article 4 Direction within the Ravensbourne Valley Local View

- 3.25 The area under consideration for a potential Article 4 Direction is identified in Appendix 1. It is made up of three separate blocks of flats - Cameron House on Highland Road; and Treversh Court and Townend Court on Grasmere Road.
- 3.26 As noted above in paragraph 3.1, six upwards extension PD rights have been recently introduced. Any Direction covering the above buildings would only need to remove Part 20, Class A, Class AA and Class AD PD rights, as these are the only ones that could be utilised by these buildings (Part 1, Class AA only applies to houses, and Part 20, Class AB and AC only apply to terraced buildings).
- 3.27 Local Plan policy 48 identifies views of local importance. Development which may impact on these views must demonstrate how it will protect or enhance the view quality. In principle an increase in height through PD rights could impact on designated views; the views reinforce a sense of place and add significant amenity value in their localities, and therefore an increase in height through PD rights have potential to harm this local amenity. The addition of extra storeys can block or obscure views; or introduce an obtrusive element which detracts from the overall quality of the view; this is particularly the case where PD rights may be utilised in the foreground of a view. The key question in terms of whether an Article 4 Direction is justified is whether the potential adverse impacts on local amenity are of enough significance to justify a Direction.
- 3.28 Paragraph 3.3 refers to the previous officer assessment of potential Directions in local views. Officers consider that this assessment still stands and that there is not sufficient justification, in line with the PPG, to justify an Article 4 Direction. While the impact on local views can in principle justify a Direction as noted above, in this case officers consider that the existing prominence of Townend Court and the visibility of the other buildings, means that the additional potential impacts would not likely be of such significance that would justify an Article 4 Direction.
- 3.29 The justification put forward by RRHPDS is that any further increase in height on the three buildings in question would seriously diminish the value of the skyline. The tallest of the three buildings – Townend Court - already intrudes on the skyline within the local view, with the other two buildings being visible just above the treeline. Further height increase would increase the prominence of Townend Court and potentially increase visibility of the other two buildings above the tree line.
- 3.30 Photos 1 and 2 below show Google Streetviews from Farnaby Road and from further afield at a point in the playing field off Warren Avenue (taken in August 2020 and June 2019 respectively).

**Photo 1**



**Photo 2**



#### **4. POLICY IMPLICATIONS**

- 4.2 Any Article 4 Direction will restrict housing supply to a degree; this is a relevant consideration in determining whether the making of a Direction is expedient. However, the impacts on housing supply are likely to be of limited impact (individually and cumulatively alongside other Directions) in terms of restricting the amount of new residential units created, and hence the effect on the Council's ability to meet housing targets is limited.
- 4.3 The quality of the housing created must also be considered alongside any impact on housing supply. The creation of new housing is not just a numbers game; it is essential that new housing is fit for purpose in order to ensure sustainable development, for example ensuring appropriate sustainable design measures to mitigate climate change. PD rights have become synonymous with poor quality, small homes. As an Article 4 Direction would require planning permission to be secured for such developments in the future, this will ensure delivery of higher quality residential units and assist with the delivery of sustainable development in the borough. It is noted that the Government have amended the GPDO to introduce a requirement for new housing created through PD rights to meet minimum space standards; while this is a positive step in terms of ensuring better quality homes, there are other design requirements in the Development Plan that would not be required through the GPDO.
- 4.4 Prior approval permissions have often been used as a 'fallback' position, whereby developers secure prior approval permission and then subsequently apply for full planning permission for a more comprehensive development on the same site, noting that if this permission was not

granted then there is an extant prior approval that can be delivered. Fallback positions can be material considerations in the determination of planning applications although the weight given would depend on whether the applicant has secured the prior approval permission; it is not enough to just highlight that prior approval permission could be sought, as there is no guarantee prior approval will be granted. Where prior approval permission has been granted, an applicant would also need to demonstrate that there is a realistic intention to implement the prior approval, for the fallback to be given weight. It is noted that development granted through the upwards extension PD rights must be completed within three years of the date of grant of prior approval, which will factor into any consideration of the weight given to a fallback position.

- 4.5 The impacts of the COVID-19 pandemic are currently uncertain, but it is noted that it could have significant impacts on housing supply in particular. However, such impacts are not yet evident, for example through higher commercial vacancies or impacts on housing delivery statistics. If impacts do materialise, this does not necessarily have implications for any Directions, as these impacts could be a material consideration in a future planning application. However, the PPG notes that it is important for local planning authorities to monitor any Article 4 Directions regularly to make certain that the original reasons the Directions were made remain valid. Therefore, the impact of the COVID-19 pandemic, as well as other positive and negative impacts, will be an ongoing consideration to help determine whether the Directions should remain in place.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 This report discusses whether there is justification for an Article 4 Direction to remove upwards extension PD rights within the local view of the eastern skyline of the Ravensbourne Valley; and sets out the approach for making the Direction if Members consider that there is justification. Where Members consider that a Direction is justified, only a non-immediate Article 4 Direction can be made. This will ensure that compensation liability is removed, if a 12-month notice period is given before the Direction comes into effect.
- 5.2 Compensation can be claimed based on abortive expenditure or other loss or damage directly attributable to the withdrawal of PD rights; this could include differences in land value between an existing and extended property, which could be substantial.
- 5.2 Where Members consider it is expedient to 'make' an Article 4 Direction, the costs associated with publishing and consulting an Article 4 Directions will be met by Planning Policy and Strategy and the Council's legal services department.

## **6. LEGAL IMPLICATIONS**

- 6.1 Article 4 (1) of the GPDO allows local planning authorities to withdraw certain PD Rights. The procedure for putting in place an Article 4 Direction is set out in Schedule 3 of the GPDO. The Council's legal services department will be responsible for making and publicising the Directions, in line with the statutory requirements set out in the GPDO.
- 6.2 This includes serving notice on owners and occupiers of every part of land within the areas to which the Directions relate, unless the local planning authority considers that the number of owners or occupiers within the area to which the direction relates makes individual service impracticable. While the number of properties that would be subject to a Direction are fairly limited, the cumulative amount of properties (combined with other Directions) may be considered to be impracticable, hence individual notice may not be given. Practicability will be determined by available resources, at the point of time when any decision is made to 'make' a Direction and the Direction can then be formally made following the procedure set out in the GPDO. Regardless of individual owner/occupier notice, notice will be given by local advertisement and site notice, as per the other requirements of the GPDO.

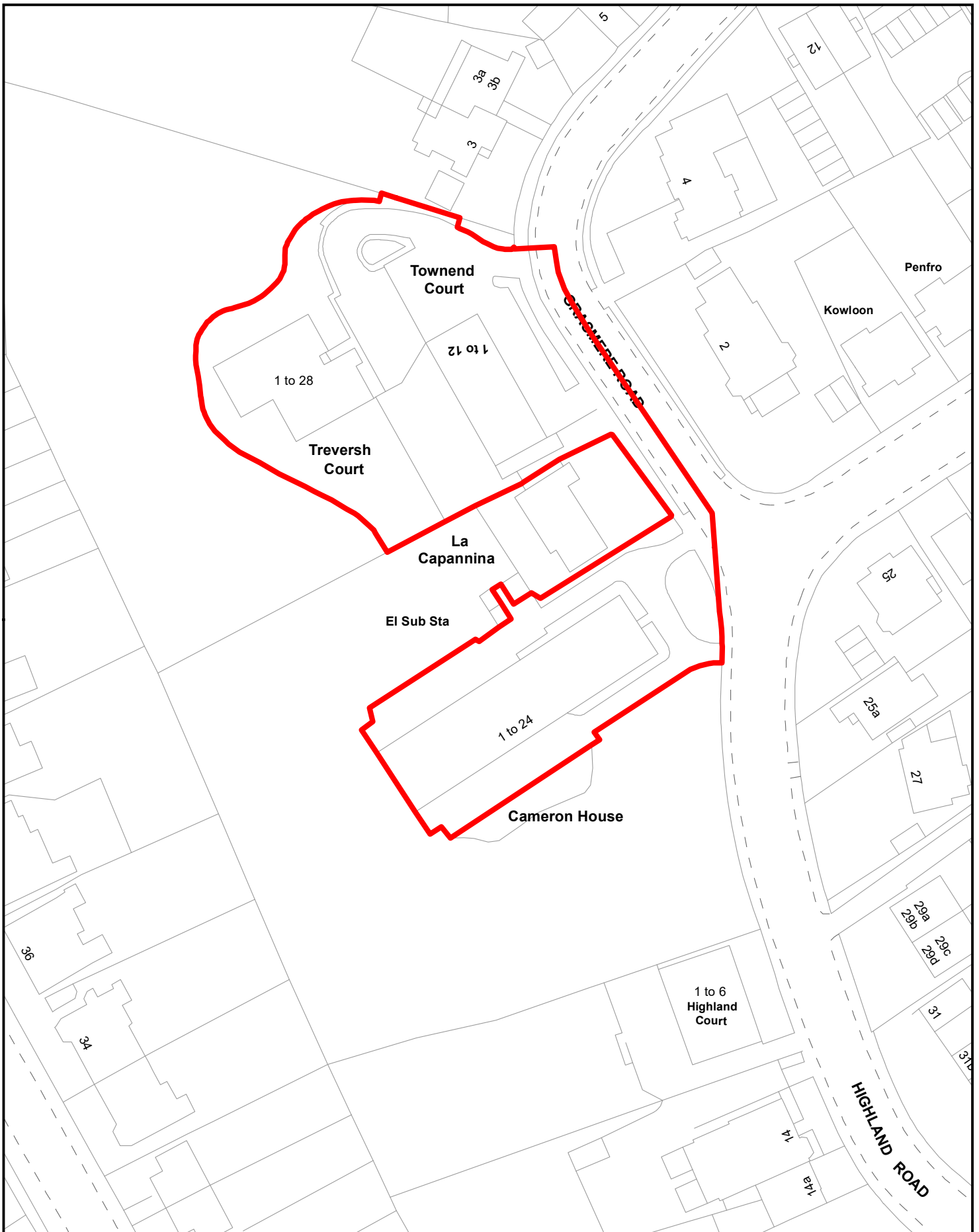
6.3 The GPDO requires notice of the proposed Directions to be given as soon as practicable. Due to the current COVID-19 restrictions, it may not be practicable to give notice as per the GPDO requirements. In such instances, the Council will seek to issue notice following the lifting of the COVID-19 restrictions. This is considered to be a practical and pragmatic approach as advocated in the Chief Planners Letter of 20 March 2020<sup>9</sup>.

<b>Non-Applicable Sections:</b>	<p>IMPACT ON VULNERABLE ADULTS AND CHILDREN</p> <p>PERSONNEL IMPLICATIONS</p> <p>PROCUREMENT IMPLICATIONS</p>
Background Documents: (Access via Contact Officer)	<p>The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 - <a href="https://www.legislation.gov.uk/ukxi/2020/632/regulation/22/made">https://www.legislation.gov.uk/ukxi/2020/632/regulation/22/made</a></p> <p>The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 - <a href="https://www.legislation.gov.uk/ukxi/2020/755/contents/made">https://www.legislation.gov.uk/ukxi/2020/755/contents/made</a></p> <p>The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020 - <a href="https://www.legislation.gov.uk/ukxi/2020/756/contents/made">https://www.legislation.gov.uk/ukxi/2020/756/contents/made</a></p> <p>Bromley Local Plan</p> <p>National Planning Policy Framework</p> <p>Publication London Plan (December 2020)</p>

<sup>9</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/875045/Chief\\_Planners\\_Newsletter\\_-\\_March\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875045/Chief_Planners_Newsletter_-_March_2020.pdf)

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**Planning Division  
Housing, Planning &  
Regeneration**



**Proposed Article 4 Direction  
Townend Court, Treversh Court and Cameron House,  
Grasmere Road, Bromley**



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