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DATE: 20 August 2021

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

Councillor Alexa Michael (Chairman)

Councillor Yvonne Bear (Vice-Chairman)

Councillors Vanessa Allen, Julian Benington, Katy Boughey, Peter Dean, Simon Fawthrop, Christine Harris, Colin Hitchins, Samaris Huntington-Thresher, William Huntington-Thresher, Charles Joel, Josh King, Tony Owen, Richard Scoates, Kieran Terry and Michael Turner

A meeting of the Development Control Committee will be held at Bromley Civic Centre on **TUESDAY 31 AUGUST 2021 AT 7.30 PM**

**PLEASE NOTE: This meeting will be held in the Council Chamber at the Civic Centre, Stockwell Close, Bromley, BR1 3UH. Members of the public can attend the meeting to speak on a planning application (see the box on public speaking below).**

**There will be limited additional space for other members of the public to observe the meeting – if you wish to attend, please contact us before the day of the meeting if possible, using our web-form:-**

**<https://www.bromley.gov.uk/CouncilMeetingNoticeOfAttendanceForm>**

**Please be prepared to follow the identified social distancing guidance at the meeting, including wearing a face covering.**

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

ADE ADETOSOYE OBE  
Chief Executive

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 Tuesday 24 August 2021**.

### **4 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 1 JULY 2021**

(Pages 1 - 6)

### **5 MATTERS OUTSTANDING FROM PREVIOUS MINUTES**

*There are no matters outstanding from previous Minutes.*

### **6 PLANNING APPLICATION (20/02880/FULL4) - FLAMINGO PARK, SIDCUP**

**BYPASS ROAD, CHISLEHURST BR7 6HL (CHISLEHURST WARD) (Pages 7 - 16)**

### **7 PLANNING APPLICATION (21/02269/FULL1) - ST. RAPHAELS RESIDENTIAL HOME, 32 ORCHARD ROAD, BROMLEY BR1 2PS (BICKLEY WARD)**

(Pages 17 - 62)

### **8 DELEGATED ENFORCEMENT ACTION (APRIL 2021 TO JUNE 2021)**

(Pages 63 - 66)

### **9 PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION TO REMOVE PART 2, CLASS A PERMITTED DEVELOPMENT RIGHTS IN THE KNOLL ASRC**

(Pages 67 - 74)

## DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held at 7.30 pm on 1 July 2021

### Present:

Councillor Alexa Michael (Chairman)  
Councillor Yvonne Bear (Vice-Chairman)  
Councillors Vanessa Allen, Julian Benington, Katy Boughey,  
Peter Dean, Simon Fawthrop, Christine Harris, Colin Hitchins,  
William Huntington-Thresher, Charles Joel, Josh King,  
Keith Onslow, Tony Owen, Richard Scoates, Kieran Terry and  
Michael Turner

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

An apology for absence was received from Councillor Samaris Huntington-Thresher; Councillor Keith Onslow attended as substitute.

### **43 DECLARATIONS OF INTEREST**

No declarations of interest were received.

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

The following written question was submitted by Mr Clive Lees, Chairman of Ravensbourne Valley Residents:-

*“Would the Chairman kindly comment on the rooftop railings on the Old Palace (Grade II) and whether in her opinion they comply with planning permission reference 06/02076.”*

The Chairman responded as follows:-

*“While the folding down of the railings was not a condition of the listed building consent reference 06/02076/LBC, the Council’s property team has investigated this matter and I can confirm that the railings have now been put into the folded position so as to minimise the impact on the listed building.”*

### **45 CONFIRMATION OF THE MINUTES OF THE MEETINGS HELD ON 19 AND 20 MAY 2021**

**RESOLVED** that the Minutes of the meetings held on 19 and 20 May 2021 be confirmed and signed as a correct record.

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

**Members noted there were no matters outstanding from previous Minutes.**

#### **47 PLANNING APPLICATION (20/02880/FULL4) - FLAMINGO PARK CLUB, SIDCUP BY-PASS ROAD, CHISLEHURST BR7 6HL (CHISLEHURST WARD)**

Description of application – Section 106A application to amend the terms of the legal agreement attached to planning permission ref 17/04478/FULL1.

Oral representations in support of the application were received from the applicant's agent who gave the following responses to Member questions:-

- Variation to the occupation restriction from the 18<sup>th</sup> to the 23<sup>rd</sup> dwelling would ensure that the first phase (20 residential units) could be fully built out and occupied. It would also give flexibility should the proposed phases change.
- The stadium would be developed up to waterproof shell at which point funding from the first phase of the residential element would go towards its completion.
- Discussions were currently taking place with PA Housing in regard to the provision of affordable housing.
- The second phase of the residential element would not be occupied until the stadium had been completed.

Councillor Boughey considered that variation of the S106 Agreement would help to secure a provider and ensure that all phases of the development would be completed. While there was a small risk that the residential element would be completed without the stadium, this was outweighed by the benefit of the whole development to the local community. Councillor Boughey moved that approval be given.

Councillor Terry alluded to previous issues on the site and while he too was concerned with the risk of being left with housing on Green Belt land and no stadium, on balance he supported the scheme. He seconded the motion for approval with a condition that delegated authority be given to officers to explore the option to review accounts as the scheme progressed.

Councillor Onslow asked if officers had seen evidence that interested Registered Parties (RPs) had advised they were keen to enter into a contract. The Head of Development Management reported that the applicant had provided details of the RPs that had been approached and each one had raised the current occupation limit as an issue.

Councillor Bear proposed that paragraph 1.5 of Schedule 1 be amended to reflect phase 1 completion only and to delete the words '(unless agreed otherwise in writing with the Council)'. Councillor Fawthrop seconded the proposal.

The Head of Development Management confirmed that the original application was accompanied by a financial viability assessment which confirmed that some funding for the development would be provided by the Club.

The Legal Representative advised it was possible for negotiations to begin on the S106 Deed of Variation and be reported back to the next DCC meeting. This could include an updated financial viability appraisal.

**Members having considered the report and representations, RESOLVED that the DEED OF VARIATION BE APPROVED SUBJECT TO LEGAL AGREEMENT as recommended and that negotiations on this be reported back to the next DCC meeting together with an updated financial viability appraisal.**

**48 PLANNING APPLICATION (21/00091/FULL1) - 40 CROYDON ROAD, WEST WICKHAM, BROMLEY BR4 9HR (HAYES AND CONEY HALL WARD)**

Description of application – Demolition of existing warehouse and late additions to retail/office building (No.38 to No. 40 Croydon Road), retention and alteration to front façade and internal stair and erection of part 3 to part 5 mixed use development with basement, ground floor comprising two retail units (Use Class E(a)) and community unit (Use Class E(a)/F) and 61 residential units at upper floors. Associated car parking, public realm and associated works.

Oral representations in support of the application were received from the applicant's agent who gave the following responses to Member questions:-

- The proposed parking provision was adequate and there was ample capacity for on-street parking.
- The facility for residential waste disposal could be reconfigured to include collection of food waste.
- The majority of office space on the upper floors was currently vacant. Evidence suggested that in spite of its existing condition, there was little demand for office use in the area. Consideration had been given to how a flexible office hub could be facilitated.
- Public toilets would be provided within the community facility but would be managed privately.

The Chairman welcomed the preservation of the Art Deco building and the provision of four affordable housing units. However, the parking provision was less than expected for the area and there would be a large loss of retail space and a complete loss of office accommodation.

While Councillor Fawthrop supported the scheme in principle, he was concerned that the only available on-street parking was outside the shops at Kingsway Parade – an issue which could be addressed by condition. He was also concerned that the community aspect of the proposals would undermine the nearby Assembly Rooms and The Beacon Centre. There was no clause in the conditions relating to renewable energy. On a positive note, telecoms equipment would be re-provided. Housing on the ground floor for people with disabilities would be more beneficial to the community.

Councillor Harris considered the development would be a great asset to the area. The applicant was flexible on use of the community space. Parking was protected in many ways across the Borough and some control could be introduced at Kingsway Parade. Councillor Harris moved that the application be permitted.

Councillor Dean seconded the motion for permission stating that while the proposed parking was inadequate, it did meet minimum standards. The applicant was willing to be flexible on community use. A financial viability assessment had been undertaken and as a result, four affordable housing units would be provided. The major contribution to the housing supply outweighed the loss of office space.

Members requested the following:-

- A condition be added for the collection of food waste.
- The condition relating to the re-provision of telecom equipment be amended to ensure the equipment was placed in a more sensitive location.
- The public toilet provision to be conditioned.
- Authority be delegated to planning officers for them to work with the developer and agents in regard to the proposed community use unit to ensure that it was a flexible use to include office accommodation (Class E).

In terms of viability, the Development Management Team Leader – Major Developments, confirmed that the Section 106 Agreement would include early and late stage reviews which the applicant had agreed to. Conditions relating to biodiversity would be added to the consent. Discussions would need to be undertaken with the Highways Department in regard to the introduction of 'pay and display' parking facilities outside the shops at Kingsway Parade.

**Members having considered the report, objections and representations, RESOLVED that PERMISSION BE GRANTED SUBJECT TO A S106 LEGAL AGREEMENT as recommended and subject to the conditions and informatives set out in the report.**

**It was further RESOLVED that:-**

- **A condition be added for the collection of residents' food waste.**
- **The condition relating to the reprovision of telecom equipment be amended to ensure the equipment was placed in a more sensitive location.**
- **A condition be added in regard to public toilet provision.**
- **Authority be delegated to planning officers for them to work with the developer and agents in regard to the proposed community use unit to ensure that it was a flexible use to include office accommodation (Class E).**
- **Authority be delegated to planning officers to discuss the possibility of introducing pay and display parking facilities outside the shops at Kingsway Parade with Highways.**

The meeting ended at 8.38 pm

Chairman

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# Agenda Item 6

<b>Committee Date</b>	31 <sup>st</sup> August 2021		<b>Agenda Item:</b>
<b>Address</b>	Flamingo Park Sidcup Bypass Road Chislehurst BR7 6HL		
<b>Application number</b>	<b>20/02880/FULL4</b>	<b>Officer: Claire Brew</b>	
<b>Ward</b>	Chislehurst		
<b>Proposal (Summary)</b>	Section 106A application to amend the terms of the legal agreement attached to planning permission ref 17/04478/FULL1		
<b>Applicant</b>		<b>Agent</b>	
C/O Agent		Matthew Blythin DHA Planning	
<b>Reason for referral to committee</b>	Members update further to DCC meeting of 1 <sup>st</sup> July 2021	<b>Councillor call-in</b>  No	

<b>RECOMMENDATION</b>	<b>APPROVAL SUBJECT TO LEGAL AGREEMENT</b>
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## Update

- At the meeting of the Development Control Committee on the 1<sup>st</sup> July Members requested an updated financial appraisal of Flamingo Park Developments Ltd, including evidence of the registered provider's position
- The applicant has subsequently provided a summary cost and income plan which confirms that the costs (including contingency) are met by the income generated by the affordable housing, save for a very small relative shortfall which will be met by the Club
- Negotiations are ongoing to ensure that the affordable rented units (including one wheelchair occupant unit) are built-out in the first phase of the development
- A further update will be provided at the meeting.
- The original committee report is repeated below

## Summary

<b>KEY DESIGNATIONS</b>
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- Conservation Area: Chislehurst
- Biggin Hill Safeguarding Area
- Green Belt
- London City Airport Safeguarding
- Sites of Interest for Nat. Conservation
- Smoke Control

## 1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposed amendments to the original legal agreement would give rise to some risk in that some of the residential development could be built-out and occupied and the football grounds remain incomplete
- At the same time the proposed amendments would help to provide some assurance that a Registered Provider will be willing to take-on the enabling residential development, releasing funds for the construction of the stadium and football grounds and delivering some much needed affordable housing.

## 1. LOCATION

- 1.1 The 7.5 hectare (75,000sqm) site is located on the A20 Sidcup Bypass, which is part of the Transport for London Road Network (TLRN). The A20 is also the boundary between the Boroughs of Bromley and Bexley and a major arterial route linking London to Kent.
- 1.2 The site is bounded to the north and east by the A20, to the south Kemnal Park Cemetery and Kemnal Road to the west, which is a private access road providing pedestrian access only. There is a gated pedestrian access to the site off Kemnal Road.
- 1.3 The site forms part of the Green Belt and is partly designated a Site of Interest for Nature Conservation (SINC). It is bordered to the south by the Chislehurst Conservation Area. The trees bordering the site to the south are included within a blanket Tree Preservation Order (TPO). The site also lies within an area of archaeological interest and is within Flood Zone 1.
- 1.4 The site represents the northern tip of a 'green wedge' that extends south to Chislehurst Common, much of which is designated Conservation Area. The surrounding areas are characterised by a mix of residential development on the opposite side of the A20, falling within the London Borough of Bexley to the north and the London Borough of Bromley to the east. Further open space lies to the south and to the west of the site is World of Golf.
- 1.5 The site can be divided into three main areas: eastern grass fields, a hard surface of tarmac and gravel at the centre and western grass fields. There are several buildings which have the benefit of planning permission and/or lawful uses: the pavilion building, most recently used

as a nightclub and containing 2 flats (1338m<sup>2</sup>); the smaller single storey pavilion – former bowling green pavilion (232 m<sup>2</sup>); the brick building (old groundsman's WC & tea room) (13m<sup>2</sup>) and the old rugby posts store (41m<sup>2</sup>).

- 1.6 Historically, the site has also been used for fun fairs and boot fairs under temporary use permitted development.
- 1.7 The site was once a popular sports ground with 4 pitches and good ancillary facilities used by a number of football teams, however, it has been allowed to fall into a poor state of repair and historically there have been a number of unauthorised uses operating from the site including a van hire business, container storage, double glazing business, motor vehicle parking and scaffolding companies.
- 1.8 The site now benefits from planning permission for the existing nightclub building and other buildings and structures to be removed and the site to be re-developed with a new football ground comprising clubhouse and stands (max height approx. 8.4m) with floodlit artificial playing pitch, external grass sports pitches.
- 1.9 Along with the Football Ground and playing fields, permission was also granted for the construction of 42 no. dwellings (26x3 bed two storey terraced dwellings, 12x2 bed flats and 4x1 bed flats set within 4 two storey blocks) to be provided as enabling development, with associated access, parking and landscaping (application ref.17/04478/FULL1). The dwellings as approved comprise 5 affordable rented properties and 37 shared ownership.

## **2. PROPOSAL**

- 2.1 Planning permission ref.17/04478/FULL1 was subject to S106 legal agreement which included clauses to specifically preclude the site from being developed with housing (which is inappropriate development in the Green Belt) without the football grounds and the playing fields ever coming forward.
- 2.2 Specifically, the original legal agreement included:
  - The requirement for a scheme for the construction of the Football Ground, including a timetable for the building works and the phasing of the building works with the Residential Development to be submitted to the Council and approved by it (para 1.2)
  - A prescribed phasing approach which restricted the Residential Development progressing at a faster rate than the Football Ground (para 1.3)
  - A requirement for the development to be constructed in accordance with the scheme submitted to the Council under clauses 1.2 and 1.3 and for works not to proceed to a subsequent phase until all works in the preceding phase have been completed and certified as completed by the Council (para 1.4)

- A clause restricting occupation of the 18<sup>th</sup> dwelling until the Football Ground and Playing Fields have been constructed and are ready for use (para 5.1).
- 2.3 However, since securing planning consent the applicant has experienced difficulty securing a Registered Provider (RP) to deliver the residential development. The applicant states that they have been able to secure interest from three RP's, however, each have advised of their reservation in the wording within the S106, Schedule 1 clause 5.1, relating to restricted occupation of the 18<sup>th</sup> dwelling until the Football Ground and Playing Fields have been constructed and are ready for use.
- 2.4 They state that each interested RP party has advised that they are keen to enter into Contract, however such a restrictive S106 clause will cause an issue with their Board when seeking approval prior to entering into contract to deliver the affordable dwellings on the site.
- 2.5 It is to this end that the applicant is proposing a number of alterations to the legal agreement as follows:
- Clause 1.1 shall be amended to insert the following definition:

***“Ready for Use”*** means available for use and constructed to an operational standard to the satisfaction of the football league in which Cray Wanderers Football Club’s senior first team are competing at that time, and confirmed as such in writing to the Council by that league.

- Deletion of para 1.2 (requirement for a phasing scheme to be submitted and approved) given that clauses 1.3 and 1.4 will provide the necessary fundamental safeguard, and that phasing is also covered off by condition
- Deletion of the phasing clause (para 1.3) and replacement with the following alternative wording:

***1.3 To not construct the Residential Development beyond damp proof course until the Football Ground has been constructed up to damp proof course***

- A new paragraph 1.4 of Schedule 1 shall be inserted as follows:

***1.4 To not construct the Residential Development beyond waterproof shell until the Football Ground has been constructed up to waterproof shell***

- Paragraph 1.4 of Schedule 1 shall be deleted and replaced with the following words:

***1.4 The Development shall be constructed in accordance with paragraphs 1.3 and 1.4 of Schedule 1 and works shall not proceed beyond those works***

*set out in such paragraphs until the Council has certified in writing that those works are completed (such certification not to be unreasonably withheld or delayed)*

- Paragraph 1.5 of Schedule 1 shall be deleted and replaced by the following:

*5.1 Not to Occupy the 23rd Dwelling (unless agreed otherwise in writing with the Council) until the Football Ground and Fields have been constructed and are Ready for Use*

### **3. RELEVANT PLANNING HISTORY**

- 3.1 17/04478/FULL1: Demolition of existing nightclub building and other buildings and structures and removal of existing hardstanding and construction of new football ground comprising clubhouse and stands (max height approx. 8.4m) with floodlit artificial playing pitch, external grass sports pitches and 42 no. dwellings (26x3 bed two storey terraced dwellings, 12x2 bed flats and 4x1 bed flats set within 4 two storey blocks) with associated access, parking and landscaping -

PERMISSION SUBJECT TO LEGAL AGREEMENT granted on 5.7.2019

### **4. CONSULTATION SUMMARY**

- 4.1 Legal Commentary is included in the Assessment section of the report.

### **5. POLICIES AND GUIDANCE**

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

#### **5.2 NPPG**

#### **5.3 The London Plan (March 2021) relevant policies:**

Policy H1	Increasing housing supply
Policy H2	Small sites
Policy H4	Delivering affordable housing
Policy H6	Affordable housing tenure
Policy S5	Sports and recreation facilities

#### **5.5 Mayor Supplementary Guidance:**

- Homes for Londoners (2017)

#### **5.6 Bromley Local Plan (2019) relevant policies:**

- 1 Housing Supply
- 2 Affordable Housing

- 125 Delivery and Implementation of the Local Plan
- 58 Outdoor Sport, Recreation and Play

### 5.7 Bromley Supplementary Guidance:

- Affordable Housing (2008) and subsequent addendums

## 6. Assessment

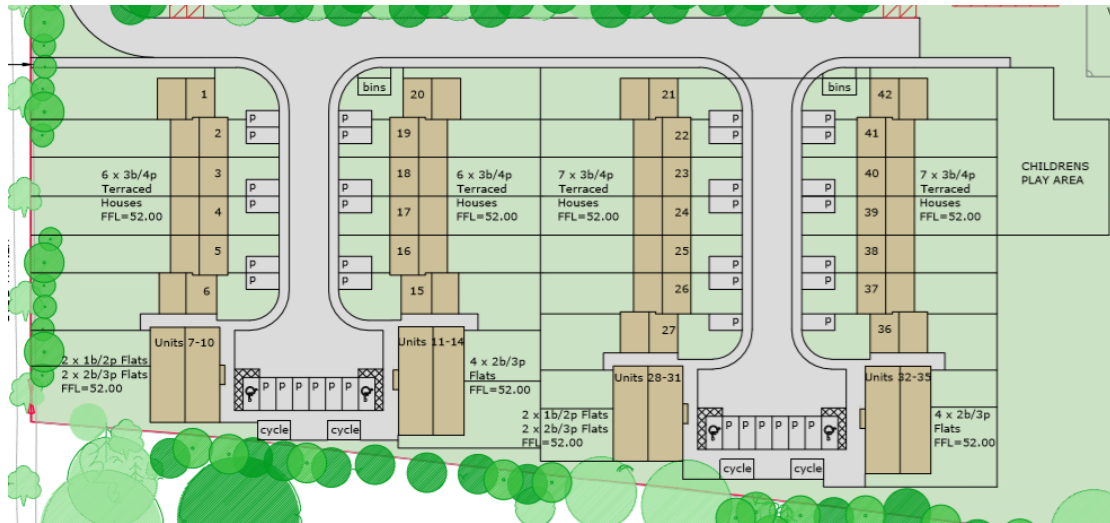
### *Proposed phasing*

- 6.1 The original legal agreement attached to planning permission ref.17/04478/FULL1 was worded in such a way as to ensure that the football grounds and playing fields were fully built-out before the housing development could be completed and occupied. It included an occupation restriction to prevent the 18<sup>th</sup> dwelling from being occupied until the football ground and playing fields are constructed and ready for use and a requirement for the development to be carried out in 3 specific phases:
1. Phase 1 The construction up to damp proof course of the foundations of all the buildings and structures comprised in the Football Ground and in the Residential Development
  2. Phase 2 The provision of roofs and waterproof shall for all the building and structures comprised in the Football Ground and in the Residential Development
  3. Phase 3 the internal fit out and external landscaping of all the buildings and structures comprised in the Football Ground and in the Residential Development
- 6.2 However, the applicant has highlighted that this inadvertently prohibits the development and delivery of the stadium at a *faster* pace than the residential and precludes any potential to phase the residential development, as would be standard practice and feasibly necessary for any RP. Further, it is not considered necessary to prevent the stadium 'getting ahead' of the residential, given that it the residential which is the enabling development and therefore the more problematic in Green Belt terms.
- 6.3 While the amendments to the wording of the legal agreement, as proposed, would prevent the residential development from getting ahead of the football ground works up to a certain point (up to waterproof shell), if the Council has certified in writing that those works are completed then there is potential for the works to then proceed beyond waterproof shell. There is a risk that the houses could then be completed before the football grounds are completed.

### *Residential Occupation*

- 6.4 The residential development layout is such that it will need to come forward in two phases, each comprising one cul-de-sac. Therefore, one

phase will comprise 20 dwellings and the other 22. The applicant has been in discussions with PA Housing who have been reviewing their proposed phasing and at present, it is considered more likely that the 20 unit cul de sac will comprise the first phase.



**Fig 1: approved layout for the residential development (application 17/04478/FULL1)**

- 6.5 The applicant proposes to amend the occupation restriction from the 18<sup>th</sup> dwelling as currently set out in the S106, to the 23<sup>rd</sup> dwelling. This would mean that the 23<sup>rd</sup> dwelling could not be occupied until the Football Ground and Fields have been constructed and are Ready for Use. As a result, the RP could fully build-out and occupy the first phase (20 units of residential) before the football grounds are constructed and are ready for use.
- 6.6 While this would reduce the level of risk for the RP of building-out units which they are then unable to occupy it would leave an element of risk for the Council in that one phase of the residential could be fully built-out and occupied and the stadium never progressed beyond waterproof shell.

*Affordable Housing*

- 6.7 The applicant is keen for the affordable rented units to be delivered early in the first phase and accordingly a revised accommodation schedule is proposed in place of the one currently appended to the s106 to reflect this. No change to the tenure split as approved is proposed and as approved, the rented units remain the same in terms of the numbers of flats and houses. The proposed amended accommodation schedule for Phase 1 seeks to allocate units 6-10 as the affordable rented units, with the remainder shared ownership.

**7. Conclusion**

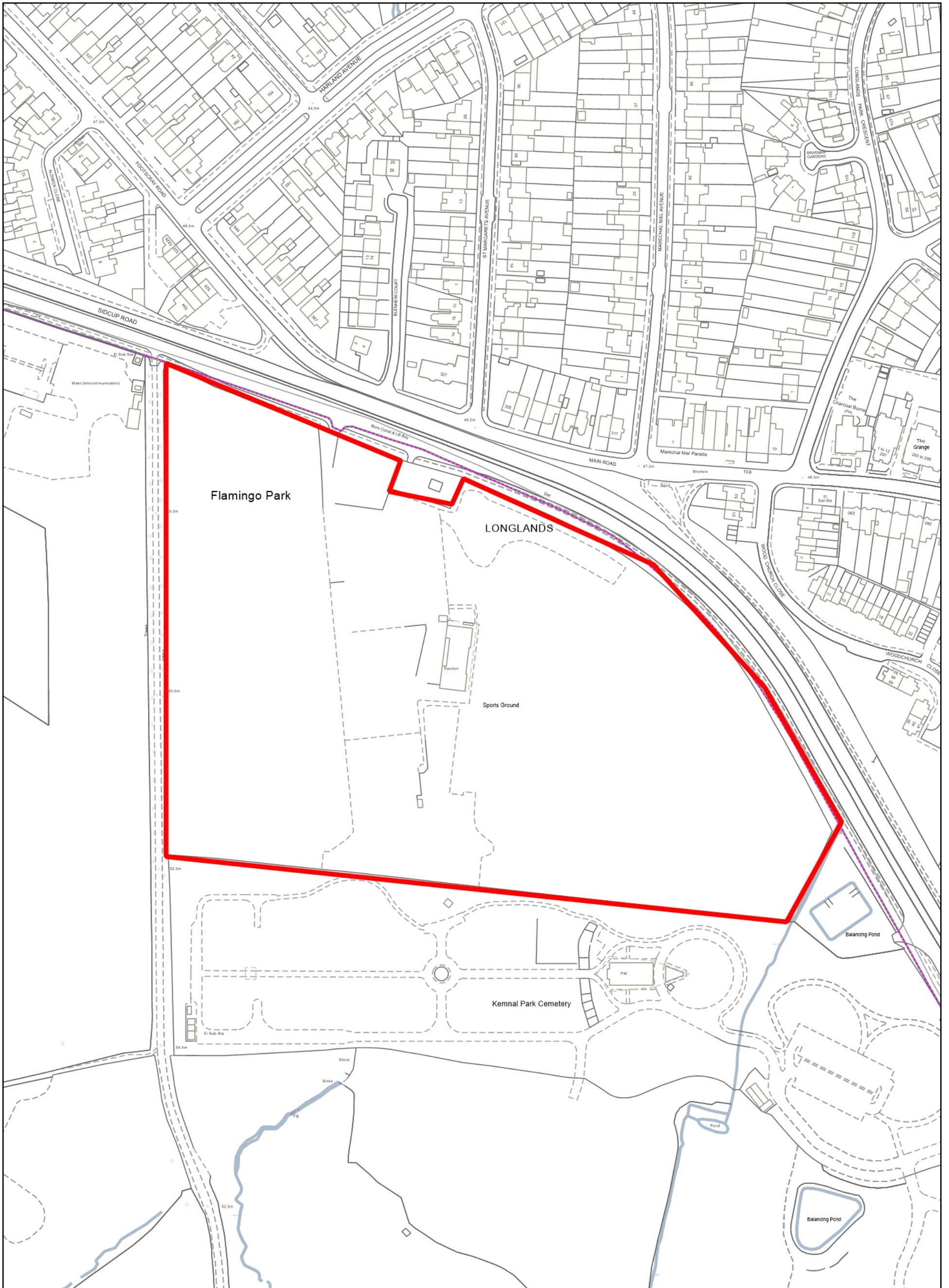
- 7.1 The 42 affordable residential units approved as part of the original application were identified as enabling development to fund

development costs for the football grounds, including the acquisition of the land.

- 7.2 By amending the phasing requirements and lifting the occupation restriction there is a risk that one phase of the residential could be fully built-out and occupied and the stadium never completed, resulting in inappropriate housing development in the Green Belt.
- 7.3 However, with the occupation restrictions no longer in effect there is greater likelihood of a Registered Provider being secured and, with that, essential funds being released helping to fund the stadium and football grounds.
- 7.4 Notwithstanding the risk highlighted, given the current position of Bromley's Five Year Housing Land Supply (FYHLS), where it has been acknowledged that there is a significant undersupply, the provision of affordable housing units at this site, including affordable rented units which would be delivered in the first phase, is seen as a significant benefit weighing in favour of the amendments being approved.
- 7.5 Accordingly, it is recommended that the deed of variation is agreed, in principle, with the final wording to be agreed through discussions between the Council's and the applicant's legal representatives.

**RECOMMENDATION      APPROVAL SUBJECT TO LEGAL AGREEMENT**





20/02880/FULL4

22 June 2021	1:2048
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# Agenda Item 7

<b>Committee Date</b>	31/08/2021	
<b>Address</b>	St. Raphaels Residential Home 32 Orchard Road Bromley BR1 2PS	
<b>Application number</b>	<b>21/02269/FULL1</b>	<b>Officer: Jessica Lai</b>
<b>Ward</b>	Bickley	
<b>Proposal</b>	Demolition of the existing care home buildings and erection of a parking single to part three storey building plus basement to provide a care home (Use Class Order Class C2) and car parking landscaping and associated works.	
<b>Applicant</b>	<b>Agent</b>	
Hallmark Care Homes (Bromley) Ltd	Philp Jones Turley Ltd 40 Queen Square Bristol BS1 4Qp	
<b>Reason for referral to committee</b>	Major application outside delegated authority.	<b>Councillor call in</b> No

<b>RECOMMENDATION</b>	<b>PERMISSION SUBJECT TO S106 LEGAL AGREEMENT</b>
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<p><b>KEY DESIGNATIONS</b></p> <p>Area of open space deficiency          Area deficient in accessible wildlife site          Safeguarding areas for Biggin Hill and London City Airport          Flood Zone 1          Surface water flood risk low to medium          PTAL 1b</p>
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<b>Vehicle parking</b>	Existing number of spaces	Total proposed spaces	Difference in spaces (+ or -)
Parking spaces	27	50	+23
Wheelchair accessible car spaces	N/A	2	+2
Cycle	N/A	20	+20

<b>Electric vehicle charging points</b>	10 charging points (5 active and 5 passive)
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<b>Use</b>	Existing	Proposed	Difference (+ or -)
Care home	3, 068sqm	9,531.73sq.m (GIA)	+ 6,581.71sq.m (GIA)

<b>Representation summary</b>	Neighbouring consultation letters were sent on the 27 <sup>th</sup> May, 2021. A site notice was published on the 28 <sup>th</sup> May, 2021. The application was also advertised in the press on the 9 <sup>th</sup> June, 2021.		
<b>Total number of responses</b>	11		
<b>Number in support</b>	8		
<b>Number of objection</b>	3		

<b>Section 106 Heads of Term</b>	<b>Amount</b>	<b>Agreed in Principle</b>
<b>Health</b>	£ 134, 927	Yes
<b>Energy</b>	£ 254, 505	Yes
<b>Use Class C2</b>	N/A	Yes
<b>Total</b>	<b>£ 389, 432</b>	

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

- The principle to redevelop the existing care home site to provide a new 107 bed care home (Class C2) for residential, nursing and dementia is

supported. The site has an established care house use for residential and nursing care for 58 bed and the site has been vacant for 5 to 6 years.

- The proposal is designed to address the issues arise from the previous appeal and has taken into account the relationship between the side of the building and the neighbouring properties. Eight letters of support and 3 letters of objection were received following the planning consultations.
- The proposal would introduce accommodation in the basement/lower ground floor level. The height and appearance of the proposal would be compatible to its surrounding properties and an acceptable distance would be provided between the neighbouring properties.
- The proposed landscaping details is of good quality and replacement planting would be provided to compensate the loss of trees within the site.
- A total of 50 parking spaces would be provided for staff and visitors. A car park management plan to manage the parking demand would be secured by a planning condition.
- The development is considered acceptable from a sustainability, air quality and environmental perspective.
- Having considered the benefits and harm arising from the proposal and in the absence of a 5-year housing land supply, it is considered that planning permission should be granted as the presumption in favour of sustainable development is applied unless there are material considerations to suggest otherwise.
- Subject to the planning conditions, and a s106 legal agreement it is considered that the benefits of the proposal would outweigh the impact arising from this proposal and planning permission should be granted.

## 1. LOCATION

- 1.1 The application site, also known as the former St Raphaels Residential Home measures approximately 8,750sq.m (0.875 hectares) in area. The site is located on the southern side of Orchard Road, situated between two residential houses number 20 and number 34 Orchard Road.



Image 1: Aerial photo of the site

- 1.2 The site is adjoining to the detached houses on Ashmead Gate to the west, detached houses on High Grove to the south and detached houses on Baytree Close to the east. To the north on the opposite side of Orchard Road are mainly residential houses including a block of residential flats ranging between two to four storeys in height.



Image 2: Properties opposite the site

- 1.3 The site has been vacant approximately 5 to 6 years since the last care home operator vacated the site. The site is secured by temporary security fencing at present. The condition of the existing buildings does not appear to be well maintained. The design, style, appearance, and height of the existing building within the site is varied with a number of extensions and alternations introduced in the past 30 years. The existing buildings are not listed, and the site is not located within a conservation area. The site has an established use as a care home (Class C2) and is not allocated for any particular use in the Bromley Local Plan.



Image 3: Frontage of application site.

- 1.4 The Council's protected trees record indicates that there is one tree with tree protection order (TPO) located to the north west of the site. There

are two TPO trees adjacent to the application site boundary in the south eastern corner.

- 1.5 The site lies within Flood Zone 1, meaning the site has a low probability of flooding from river tidal sources (less than 1 in 1,000 annual probability). The site is subject to low to medium surface water flooding risk. Orchard Road and Ashmead Gate are subject to low surface water flooding risk.
- 1.6 The public transport accessibility of the site is rated at 1b on a scale between 0 to 6b where 0 is worst and 6b is excellent. Sunridge Park railway station and Bromley North railway station are located approximately 930 metres and 1,300 metres from the site. Orchard Road is serviced by a bus route number 314 and the nearest bus stop is located outside out side the application site, on both side of Orchard Road.

## **2. PROPOSAL**

- 2.1 Full planning permission is sought for the demolition of the existing care home buildings and erection of a part single to part 3 storeys building plus a basement level to accommodate a 107-bed care home for residential, dementia and nursing care (Use Class C2).
- 2.2 It is indicated that 40 staff would be on site during the daytime shift (08:00 to 20:00) and 25 staff would be on-site during the night time shift (20:00 to 8:00). It is indicated that 40 percent of the staff attending the site would be expected to use public transport. A total of 50 parking spaces would be provided of which, 17 spaces would be provided in the forecourt of the building on the ground floor and 33 spaces would be located in the basement car park. The applicant has advised that the average age of the residents across Hallmark's existing care homes is approximately 90 years old. The proposed car park spaces would be provided for staff and visitors. A total of 2 disabled parking spaces, 10 electric charging spaces (5 active and 5 passive) and 20 cycle storage spaces would be provided.



Fig 1. Proposed Site layout and landscaping plan

2.3 The location and quantum of the proposed bedroom layout is as follows:

Floor level	Care type (Class C2)	Number of bedrooms
<b>Basement/ Lower ground</b>	Residential Care	14
<b>Ground</b>	Residential and dementia	36
<b>First</b>	Residential and nursing	41
<b>Second</b>	Residential Care	16
<b>Total</b>		<b>107</b>

2.4 A fully landscaped communal central courtyard, outdoor gardens and spaces would be provided at the basement/lower ground floor level. The proposal would also provide a range of communal facilities to the future care home users. This includes:

- An indoor cinema
- Dining and café facilities
- Indoor bowling
- Terrace/roof terrace and conservatory spaces
- Celebration spaces and activities areas



- Assisted bathing facility
  - Staff kitchen and laundry spaces
  - Care home manager and staff rooms
- 2.5 The proposed floor plan indicates that each of the bedroom would be en-suite and single occupancy. Medicine and drug storage areas would be provided on each floor. Nurses are available 24 hours per day on site.
- 2.6 Internal lifts would be provided and would be accessible to all floors. A dedicated servicing and delivery area in the forecourt of the building would be provided.



Image 4. Computer generated images – Front elevation

### 3. RELEVANT PLANNING HISTORY

- 3.1 Full planning permission for the demolition of existing care home and erection of a part one/two/three storey building with an additional storey of accommodation within the roofspace comprising 75 retirement living apartments (51x2 bed and 24x1 bed) with basement level ancillary facilities, parking for 52 cars (33 at basement level, 19 surface level), cycle parking spaces, refuse storage and landscaping was refused on the 12<sup>th</sup> May 2016 (ref: 15/02145/FULL1). The subsequent planning appeal was dismissed on the 4<sup>th</sup> January 2017 and the key issues were:

- (a) The effect of the proposed development on the character and appearance of the surrounding area.

The appeal decision states:

- *The size of the building, despite the gables, returns and recesses, would be perceived as being far bulkier than any other building hereabouts.*

- *From Ashmead Gate the new wing extending southwards into the site relatively close to the boundary is likely to be perceived as a large (up to 3 storey) built block in a currently undeveloped green area. When combined with the glimpses of the eastern wing which would be available from Baytree Close the overall impression would be of the development intruding into, and reducing, the spacious nature of the surroundings.*
- *In place of an Edwardian building characteristic of the area, with subservient later development, the proposed scheme would introduce a bulky and uncharacteristic mass of building which because of its extent and height would detract from the current spacious character of the locality. This would be harmful to the appearance of the area.*



Fig 2. Previous dismissed scheme – front elevation

- (b) The effect of the proposed development on the living conditions of adjoining occupiers;

The appeal decision states:

- *Existing 3 storey building and single storey wing would be replaced by a 4 storey frontage building reducing southwards through the site to 3, 2 and 1 storey. Part of the site to the rear of No 7 Baytree Close would also be developed as an outdoor facility for scheme residents linked to the restaurant/cafeteria proposed. There would also be parking close to the boundary with No 34 Orchard Road.*
- *The limited fenestration proposed at third floor (4th Storey) level would in part preclude unacceptable overlooking towards Nos 34 and 36 Orchard Road and No 7 Baytree Close, as would the high level windows proposed at second floor level. But I have concerns that at least one window to a habitable 3rd floor room would face directly towards the orangery at the rear of No 7 from a significant height. Intervening planting would mitigate the impact to a degree, but I do not consider that it would remove the uncomfortable perception of being overlooked.*
- *Of greater concern is the degree to which the occupants of the dwellings to the east would be affected by the dominant and overbearing presence of the blocks of development proposed. Although reducing in height to the south and being in part located some distance from the common boundary it is my judgement that*

*the dominance of the proposed blocks would create an oppressive atmosphere, especially at No 7 Baytree Close which is built close to the common boundary.*

- (c) The effect of the proposed development on the safety and free flow of traffic.

The appeal decision states:

- *I am not persuaded that the minimal change to trip rates between the former car home with 58 occupants and this proposal with the potential for over 200 occupants can be substantiated. I also share the concern of the Council that the number of car parking spaces proposed may prove to be inadequate. I have nothing before me which justifies the assumption made that at this location the expectation would be about 23% car ownership.*
- *I am not able to make a realistic assessment in this case of whether the impact would be severe since I find the Appellant's evidence rather unconvincing. However, on balance it is my judgement that the proposal would be likely to exacerbate traffic and parking problems in the locality to some degree. As I am dismissing this appeal for other reasons it is not necessary for me to reach a definitive conclusion on this issue.*

- 3.2 Full planning permission for the demolition of nun accommodation and erection of two storey 40 bed nursing wing with part basement associated landscaping and parking was refused on the 16<sup>th</sup> June 1997 (ref: 96/02492/FULMAJ). The subsequent planning appeal was discussed on the 16<sup>th</sup> April 1998. The appeal proposal is a two storey new building positioned along the western part of the site. The appeal was dismissed due to loss of privacy to houses on Ashmead Gate and Orchard Road.
- 3.3 Full planning permission was granted for a single storey extension at rear to provide 8 bedrooms and communal rooms with 14 additional car parking spaces at front on the 30<sup>th</sup> October 1996 (ref: 96/02037/FUL)
- 3.4 Full planning permission was granted for a new pitched roof over existing flat roof at rear of chapel on the 26<sup>th</sup> February 1992 (ref: 92/00014/FUL)
- 3.5 Full planning permission was granted for the widening of vehicular access and extension of car park on the on the 30<sup>th</sup> October 1991 (ref: 91/02240/FUL )
- 3.6 Full planning permission was granted for a part 1/part 2 side single storey rear and side extension, front and rear dormer windows refurbishments (ref: 90/00242/FUL).
- 3.7 Full planning permission was granted for a pitched roof on the 21<sup>st</sup> May 1987 (ref: 87/01033/FUL)

- 3.8 Full planning permission was granted for the erection of a single storey detached building for storage purposes on the 3<sup>rd</sup> July 1986 (ref: 86/01395/FUL)
- 3.9 Full planning permission for the erection of a single storey rear extension and a two storey lift was refused on the 25<sup>th</sup> March 1985 (ref: 84/02950/FUL).
- 3.10 Full planning permission for a single storey rear extension to provide 12 bedrooms and ancillary accommodation two storey lift enclosure was refused on the 2<sup>nd</sup> October 1984 (ref: 84/01891/FUL).

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

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

##### **4.1 Highways – No objection**

###### *Vehicular access*

The existing vehicular access points would be retained. The existing central access would be provided for visitors and staff accessing the site, The existing access located to the north-east of the site would be used by servicing and delivery vehicles and is considered acceptable in principle. Swept path analysis is provided confirming an 8 metres rigid vehicle can perform the serving manoeuvre. This is considered acceptable in principle.

###### *Parking*

A total of 50 parking spaces would be provided. The access to the basement car park would be via a ramp approximately 4.1 metres wide. There is a vehicle waiting area at the entrance of the ramp. Details of the one-way system operation should be provided. A total of 2 disabled parking spaces would be provided and would comply with the London Plan Policy requirements.

###### *Car parking accumulation assessment*

The TRICS database has been provided and staff car parking demand has been taken into consideration separate to the TRICS accumulation. It is indicated that 40 staff would be on site during the daytime shift (08:00 to 20:00) and 25 staff to be on-site during the night time shift (20:00 to 8:00) and no more than 24 staff vehicles are expected to be parked on site during the day time shift and no more than 15 staff vehicles are expected to be parked on site during the night time shift. The proposed car park is therefore expected to operate within its capacity.

###### *Traffic Assessment*

An assessment of the trip attraction of the proposed development is submitted which indicates that the net change in traffic as a result of the proposed development is negligible. On this basis, on further assessment, in terms of junction capacity or road safety implications, has been undertaken. The application is considered satisfaction in principle.

#### *Cycle parking*

A total of 14 long-stay cycle parking spaces within the development, as well as a total of six short-stay cycle parking space, and therefore accords with local parking standards

Should planning permission is recommended the following should be secured by a planning condition

- One-way access details to the basement car park
- Refuse storage and swept path analysis
- Servicing and delivery plan;
- Lighting scheme;
- Construction management plan

The following informative shall also be attached

Any repositioning, alteration and/ or adjustment to street furniture or Statutory Undertaker's apparatus, considered necessary and practical to help with any amendment of vehicular crossover hereby permitted, shall be undertaken at the cost of the applicant

#### **4.2 Drainage (lead local flood authority) – No objection**

The "Flood Risk & Drainage Strategy" Report carried out by Walker associates consulting with Ref No. 7396 dated 12/05/ 2021 to incorporate an attenuation tank with 209m<sup>3</sup> storage capacity and permeable paving hereby permitted shall be implemented in full accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

#### **4.3 Thames Water – No objection**

##### *Waste Comments*

No objection to foul water sewerage network infrastructure capacity

##### *Surface water*

No objection to surface water network infrastructure capacity. 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.

We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the 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. The following informative should be attached:

*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. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing [trade.effluent@thameswater.co.uk](mailto:trade.effluent@thameswater.co.uk) .*

#### *Water network and water treatment infrastructure capacity*

No objection and an informative should be attached to any approval granted:

- Thames Water should be informed prior to any use of main water for construction purpose or a fine may be occurred.
- The proposed development is located within 15m of our underground water assets and could cause the assess to fail if appropriate measures are not undertaken.
- 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.

#### *Supplementary Comments*

Wastewater: Tree pits and green roofs that are more considered to be more effective (interception/infiltration) in low-return period storms, as opposed to attenuation tanks.

#### **b) Local groups:**

4.4 None received.

#### **c) Adjoining Occupiers:**

**4.7 Eight (8) letters of support have been received and the grounds are summarised as below:**

**Proposal represents an improvement**

- The proposal would enhance the neighbourhood and the design would fit in well with the current buildings in the street
- Developer have accommodated responses from the new neighbours with consultation.
- The proposal would replace the existing buildings which have been vacant for 5 years, subject to vandalism, nuisance and misuse
- Provide a highly desirable luxury car home in the area

### **Highway**

- Parking conditions on the neighbouring road should be monitor and CPZ should be introduced on Orchard Road to discourage commuter parking or care home staff parking on the road
- Construction delivery time should take into account the school rush hours

## **4.8 Three (3) letters of objection have been received and the grounds are summarised as below**

### **Scale (Addressed in section 6.3)**

- The scale of the development is excessive.
- There are 25 care home with vacancy within 3 miles radius from the site.
- The number of bed spaces should be reduced by a quarter

### **Highway (Addressed in section 6.5)**

- Increase traffic and parking problems on the neighbouring residential roads. The site is located near to a local school.
- Controlled parking zone should be introduced in the area with commuter parking

### **Increase surface water flooding problem in the area (Addressed in section 6.10)**

### **Disruption during construction works (Addressed in section 6.4)**

## **5. POLICIES AND GUIDANCE**

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

### **5.2 NPPG**

### **5.3 The London Plan - March 2021**

- GG1 Building strong and inclusive communities
- GG2 Making the best use of land
- GG3 Creating a healthy city
- GG4 Delivering the homes Londoners need
- GG6 Increasing efficiency and resilience

- D1 London's form
- D2 Delivery good design
- D3 Optimising site capacity through the design-led approach
- D4 Delivering good design
- D5 inclusive design
- D6 Housing quality and standards
- D7 Accessible housing
- D9 Tall Buildings
- D11 Safety, securing and resilience to emergency
- D12 Fire safety
- D13 Agent of change
- D14 Noise
- H1 Increasing housing supply
- H13 Specialist older persons house
- S1 development London's social infrastructure
- G5 Urban greening
- G6 Biodiversity and access to nature
- G7 Trees and woodlands
- SI-1 Improving Air quality
- SI-2 Minimising greenhouse gas emissions
- SI-3 Energy infrastructure
- SI-4 Managing heat risk
- SI- 5 Water infrastructure
- SI-8 Waste capacity and net waste self-sufficiency
- SI -13 Sustainable drainage
- T2 Healthy Streets
- T4 Accessing and mitigating transport impacts
- T5 Cycling
- T6 Car parking
- T7 Deliveries, servicing and construction
- DF1 Delivery of the plan and planning obligations
- M1 Monitoring

#### **5.4 Mayor Supplementary Guidance**

- Energy Assessment Guidance (2020);
- Accessible London: Achieving an Inclusive Environment (2014);
- The control of dust and emissions during construction and demolition (2014);
- Character and Context Supplementary Planning Guidance (2014).

#### **5.5 Bromley Local Plan 2019**

- 1 Housing Supply
- 4 Housing Design
- 11 Specialist and Older People's Accommodation
- 21 Opportunities for Community Facilities
- 26 Health and Wellbeing



- 30 Parking
- 31 Relieving congestion
- 32 Road Safety
- 33 Access for all
- 37 General Design of Development
- 72 Protected Species
- 73 Development and Trees
- 77 Landscape Quality and Character
- 79 Biodiversity and Access to Nature
- 99 Residential Accommodation
- 113 Waste Management in New Development
- 115 Reducing Flood Risk
- 116 Sustainable Urban Drainage Systems
- 117 Water and Wastewater Infrastructure Capacity
- 118 Contaminated Land
- 119 Noise Pollution
- 120 Air Quality
- 122 Light Pollution
- 123 Sustainable Design and Construction
- 124 Carbon reduction, decentralised energy networks and renewable energy
- 125 Delivery and Implementation of the Local Plan

## **5.6 Bromley Supplementary Guidance**

- Planning Obligations (2010) and subsequent addendums

## **6. ASSESSMENT**

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

- Principle of development
- Design and layout
- Impact on Neighbouring Amenities
- Transport and Highways
- Biodiversity
- Energy and Sustainability
- Flooding and Drainage
- Planning Obligations and CIL

### **6.1 Principle of development - Acceptable**

#### *Demolition of the buildings*

- 6.1.1 The application site is not allocated to any particular use in the Bromley Local Plan or London Plan. The site comprises of a selection of vacant buildings and was last occupied as a care home under Use Class Order

Class C2 with a capacity of 58 beds. The condition of the site does not appear to be well maintained and is being secured by security fencing.

6.1.2 The site has been vacant for 5 to 6 years and is not providing any particular use. The existing buildings are not listed and range between single storey to 3 storeys in height. The buildings have been extended with various alterations and additions introduced in the past thirty years. Given that the site is neither located within a conservation area nor the existing buildings are listed the proposal poses no special architectural or historic merits, it is considered that the proposal to demolish the existing buildings would not be unacceptable. The proposal would provide a new and modern replacement care home building with improved facilities and would not result in a loss of a care home facility in the area. As such, it is considered that the principle of the development is supported.

*Whether the proposal address the previous appeal issues*

6.1.3 The three key issues arise in the previous appeal relates to:

- (a) The effect of the proposed development on the character and appearance of the surrounding area;
- (b) The effect of the proposed development on the living conditions of adjoining occupiers; and,
- (c) The effect of the proposed development on the safety and free flow of traffic.

6.1.4 The key differences between existing buildings/site, the previous scheme and the current proposal are tabled below:

	<b>Existing use/ capacity</b>	<b>Previous scheme</b>	<b>Current proposal</b>
<b>Use</b>	Fifty-eight (58) bed for residential and nursing care .	Seventy-five (75) self-contained retirement living apartment, comprise of 51 x 2 bed and 24 x 1 bed.	One hundred and seven (107) bed for residential, dementia and nursing care
<b>Building</b>	Up to three floors above ground	Up to four floors above ground plus basement car park	Up to three floors above ground plus basement level for a car park, garden courtyard and bed spaces.
<b>Parking spaces</b>	27 spaces	40 spaces	50 spaces for staff and visitors only

- 6.1.5 The Care Quality Commission published an inspection report in 2011 and this indicates that the site was a registered care home providing residential and nursing care to 58 people. The proposal would provide an improved indoor and outdoor accommodation and facilities for the future occupants that require residential, nursing and dementia care which falls within the same use class.
- 6.1.6 The proposed floor plan indicates that each of the individual bedrooms would be provided with en-suite facilities only. The proposal is designed and laid out to address the issues that arose from the previous appeal decision and this is considered to be a positive improvement when compared with the previous scheme. The assessment of the appeal issues is outlined in the following sections of the report for consideration.

*Need for additional bed space, including dementia bed space*

- 6.1.7 Local Plan Policy 11 Specialist and Older Peoples Accommodation advises that ‘the Council supports the provision of specialist housing across all tenures, where they are conveniently located for a range of local shops, services and public transport, appropriate to the mobility of the residents, and they provide appropriate parking and suitably landscaped amenity space.’ The policy states “*Where opportunities arise to maximise the use of sites currently providing specialist accommodation, proposals for extensions or redevelopments to providing additional accommodation will be looked on favourably, subject to appropriate scheme design.*”
- 6.1.8 The Council’s Care Homes Market Position Statement published in 2020 states “*There were 4,370 (POPPI, 2019) people living in Bromley with dementia in 2017 and with the ageing population the incidence of dementia is set to rise by 752 people by 2025 and will increase by an additional 1,644 people by 2035*”.
- 6.1.9 London Plan paragraph 4.13.13 states “*Dementia does not just affect older people; however, the total number of older people with dementia in London is forecast to rise from 73,825 in 2017 to 96,939 in 2029, an increase of 31 per cent. Methods of offering support for people with dementia have improved in recent years, as have accommodation options. There is currently no clear evidence identifying the best method of provision of dementia care or accommodation, and it is likely that a range of solutions will continue to develop. Boroughs should consider the need for accommodation for people with dementia within specialist older persons housing developments.* Table 4.3 of the London Plan indicates an annual benchmark of 210 units for specialist older persons housing in Bromley between 2017- 2029.
- 6.1.10 The proposal would provide a mixture of nursing, residential care and dementia care (Class C2) within an established care home site and would contribute to the identified demand in Bromley.

- 6.1.11 The Council's Education Care and Health Services (ECHS) division considers that there are sufficient nursing beds within the Borough in the short to medium term. Due to the pandemic, the occupancy rates in registered care homes are reduced to approximately 86 percent in Bromley. The Council's Adult Services have also advised that the applicant should consider affordability of placements if the application is successful. The risks associated with the depletion of resident's funds (to the individual and the Council) have been highlighted. High quality digital infrastructure of innovation and assisted technology could be used to improve quality of care, support individuals to remain independent for longer, improve the quality and efficiency of information sharing between health and social care.
- 6.1.12 A need assessment (prepared by Knight Frank April 2021) is submitted which indicates the elderly population within the selected catchment area is estimated at circa 27,000 by 2025 and is projected to increase by a substantial 12% from 2025 to 2030. An estimate of 1, 072 beds is required to accommodate the need due to the aging population. There are 9 personal care homes and 15 nursing homes within a 10 minute drive catchment area. There are no modern purpose built care home facilities within the 10 minute drive-time catchment area. Among the 644 market standard beds, there are 281 beds provided with en-suite wet rooms.
- 6.1.13 Based on the submitted information and in view of the projected need for care home including dementia care in the long term, it is considered that the proposal to provide an improved care home facility and optimise the range and number of bed spaces would not be unacceptable at this established care home site.
- 6.1.14 Whilst the concerns raised by the Council's Adult Services are noted, it should be noted that the financial issues for the Council are non-planning matters. The Clinical Commissioning Group (NHS) was consulted on the application and no objection is raised. In line with the NHS Healthy Urban Development Unit's HUDU Model and based on the quantum of the proposal, a health planning obligation totalling £134, 927 should be secured by a s 106 legal agreement.

*Five Year Housing Land Supply position*

- 6.1.15 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. It is noted that the trajectory assumes the new London Plan target of 774 units per annum applies from FY 2020/21.

6.1.16 Supporting text to London Plan Policy H1, para 4.1.9 advises that non self contained accommodation for older people (Use Class C2) should count towards meeting housing targets on the basis of a 1:1 ratio, with each bedroom being counted as a single home. As such, the application for an increased provision of the specialist older persons accommodation, and specifically dementia care is supported by Local Plan Policy 11 and London Plan Policy and would make a valuable contribution to the Borough's housing supply.

#### 6.1.17 *Affordable Housing*

6.1.18 Bromley Local Plan Policy 2 relates to the provision of affordable housing with part a) of the policy seeking affordable housing on all developments of 11 residential units or more with the Council seeking a provision of 35% affordable housing with 60% social-rented/affordable rented and 40% intermediate provision. The more recently adopted London Plan states that a 35% provision of affordable housing will be sought on schemes of 10 or more dwellings.

6.1.19 The proposal itself is not contrary to BLP Policy 2 and LP Policy H4 in that the requirement for 35% affordable housing is not triggered. London Plan Policy H13 paragraph 4.13.4 also confirms that the affordable housing does not apply for care home development (Class C2). Development with the following attributes is considered to be a care home accommodation:

- personal care and accommodation are provided together as a package with no clear separation between the two
- the person using the service cannot choose to receive personal care from another provider
- people using the service do not hold occupancy agreements such as tenancy agreements, licensing agreements, licences to occupy premises, or leasehold agreements or a freehold
- likely CQC-regulated activity will be 'accommodation for persons who require nursing or personal care.

6.1.20 Given that exemption from affordable housing rests upon the specific nature of the use outlined in Policy H13, it is considered necessary to secure this use in perpetuity through a s106 agreement.

6.1.21 In summary, the principle to redevelop the existing care home site providing an improved care home facility with additional capacity within an established care home site is supported and would contribute to the medium and long term need of care home provision as well as the Council's housing trajectory. In line with the NHS Healthy Urban Development Unit's HUDU Model, the applicant has agreed a health contribution to be secured by a s106 legal agreement.

### **6.3 Design – Acceptable**

- 6.3.1 London Plan Policy D3 states all development must make the best use of land by following a design-led approach that optimise the capacity of the site and due consideration should be given to the form and layout, experience, quality, and character. This is in line with Bromley Local Plan Policy 37 which states new development will be expected to be of a high standard of design and layout and comply with the criteria a to criteria j.

*Form and layout*

- 6.3.2 The form and layout of the proposal is designed to integrate with the prevailing character of its immediate area. The siting of the proposed building would be broadly consistent with the existing arrangement. The proposed main entrance would occupy the prominent part of the building providing an active appearance connection to the street. New planting would be introduced between the front of the building and the road and defining the spaces between the surface level car park and servicing and delivery area. The layout of the proposed building is designed to accommodate the need of the future occupants with dedicated outdoor spaces and communal outdoor spaces for the prospective occupants. The introduction of new planting along the front boundary and arrangement of outdoor spaces would positively improve the appearance of the site when viewed from road. Overall, it is considered that the proposed layout arrangement is considered to respond appropriately to the site's context and constraints.

*Height, scale and massing*

- 6.3.3 The application site is broadly rectangular in shape and the existing buildings range between single to three storeys in height. The proposed building would comprise of three floors above ground level and is considered to be comparable with the existing buildings. The proposal is considered to be acceptable and has considered how it relates to and fits within its wider context, in terms of scale, height and design.
- 6.3.4 It is noted that the scale, bulk and appearance of the previous scheme was raised at appeal. The proposed floor space would be substantial increased to 9, 531sq.m in total with a car park and accommodation at basement/lower ground floor level. The previous scheme was designed up to four floors above the ground level plus a basement car park. Despite the stepped height as illustrated in the previous scheme, the design and appearance of the previous proposal was considered to be bulky with multiple front dormer windows and front gable.
- 6.3.5 The proposed building height has taken into account its local context including the adjoining two storey detached houses to the rear and both sides. It is noted that the proposal would introduce accommodation in the lower ground floor/basement level. However, it should be noted that the design and layout of the proposal indicates that each of the bedrooms would be provided with a window facing a communal and fully

landscaped outdoor courtyard/spaces. The introduction of bedroom at lower ground floor level is considered acceptable with adequate outlook and outdoor spaces.

- 6.3.6 The maximum height of the proposed building would measure 10.7 metres to its ridge line and is of a height compatible to the adjoining house which measures approximately 10.3m at number 34 Orchard Road. The height of the proposed building would not be higher than the maximum height of the existing building and would be approximately 2 metres lower than the previous scheme which was dismissed at appeal.
- 6.3.7 The width of the proposed front elevation would be reduced from a maximum of 83.2m to 71.9m when compared with the existing building frontage. The main entrance of the proposed building would be centrally sited at the most prominent location. The siting of the building would be broadly in line with the existing front building lines, except the north east corner of the proposed building would be partially project 5 metres further to the front, whilst maintaining a minimum distance of 12 metres to its front boundary.
- 6.3.8 The architectural language and style of the proposal is inspired by surrounding buildings. The proposed front elevation would present a good degree of symmetry with a Tudor pattern which echoes some of the residential houses on Orchard Road. The proposed building is designed to maintain a two-storey appearance with a loft level when viewed from Ashmead Gate and Baytree Close. This is illustrated on the proposed second floor plan and side elevations (West and East elevation). It is considered that the design of the proposal has taken into account its local context and relationship with the adjoining building as well as the issues that arose in the previous appeal. The roof profile design and pattern of the proposed building has been simplified when compared with the previous design submitted at pre-application stage.
- 6.3.9 Overall, it is considered that the design and appearance of the proposal would represent an improvement when viewed from the front and side which aims to maintain a comparable building height and style consistent with its surrounding area.



Fig 3. Proposed front elevation (Red line indicates existing. Blue line indicates previous dismissed scheme)

#### *Material palette*

- 6.3.10 The external wall of the building would be mainly constructed with white colour render and red/ brown colour brick. Vertical and decorative tiles would be made of clay. The roofing material would be mainly made of

brown and dark brown colour tiles. The windows and doors would be made of UPVC and dark grey in colour. The proposed architectural treatment including a stagger of building lines which also assist the brick down the bulk of the building and add to the interest of the proposed building.

6.3.11 Overall, the proposed architectural approach is considered to be acceptable and would positively integrate with the surrounding area. Subject to the full specification and performance details of the proposed external materials including the windows and doors, it is considered that the proposed material palette would be acceptable.

#### *Design out crime and lighting strategy*

6.3.12 London Plan Policy D3 states that measures to design out crime should be integral to development proposals and be considered early in the design process. Development should reduce opportunities for anti-social behaviour, criminal activities, and terrorism, and contribute to a sense of safety without being overbearing or intimidating. Developments should ensure good natural surveillance, clear sight lines, appropriate lighting, logical and well-used routes and a lack of potential hiding places. This approach is supported by Local Plan Policy 37(h) (General Design).

6.3.13 The Designing out Crime Officer has raised no objection to the proposal and recommend a planning condition be attached requiring the development to achieve the Secure by Design accreditation, should the permission be granted. In addition, details of external lighting should be submitted and secured by a planning condition.

#### *Fire Safety*

6.3.14 London Plan Policy D12 states that in the interest of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standard of fire safety and a fire statement detailing how the development proposal will function is required.

6.3.15 A fire statement is submitted which demonstrates the proposed development has been designed to comply with the fire safety standard, including means of escape for the building users the residents and staff, alarm system and fire suppression system. It is considered that the submitted details are acceptable and is recommended a condition confirm the development would comply with the Approved Document B prior to occupation of the building be secured by a planning condition.

### **6.4 Impact on neighbouring amenities – Acceptable**

#### *Ashmead Gate*

6.4.1 No.5 Ashmead Gate is the only house on Ashmead Gate adjoining to the rear of the application site. The application site is located to the north



of the neighbouring properties. Due to its orientation and the spatial distance between the properties, it is considered that the proposal would not result in adverse impact in terms of loss of sunlight or daylight.

6.4.2 The proposed floor plans indicate the nearest rear wall of the proposed building would be located approximately 14.6 meters to the shared boundary with No. 5 Ashmead Gate and the 16.4 metres to the flank wall of the No.5 Ashmead Gate. Whilst there are no rear habitable room windows would be facing the neighbouring property and it considered acceptable in terms of impact of outlook, the proposed floor plans indicates that a roof terrace floor connected to an indoor communal lounge would be provided on the first and second floor. Subject to the screening details, it is considered that an adequate level of privacy level can be maintained between the properties.

6.4.3 No.1 to No.4 Ashmead Gate are not adjoining to the application site. The minimum distance between the front wall of these houses to the boundary of the application site is measures approximately 20m. Due to the distance, siting and relationship with the application site, it is considered that the proposal would not have an adverse impact on residential amenities.

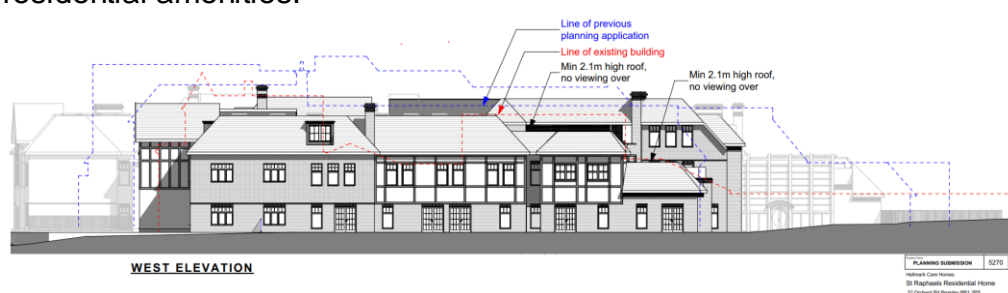


Fig 4. Proposed west elevation facing Ashmead Gate (Red line indicates existing. Blue line indicates previous dismissed scheme)

#### *Baytree Close*

6.4.4 No.6 and No.7 Baytree Close are adjoining to the east of the application site. The rear of the existing care home building is single storey in height with windows facing the neighbouring the property. The proposed ground floor and first floor plan indicate that there are habitable room windows would be facing the neighbouring properties. However, it should be noted the ground floor windows would be screened by boundary treatment. The relationship between the buildings would be identical to the existing condition. The nearest flank wall of the proposed first floor would be positioned approximately 20.5 metres to the shared boundary with No.7 Baytree Close. There are no existing flank first or second floor windows at No.7 Baytree Close which is the elevation which faces the application, except a rooflight. Due to its distance and relationship with the neighbouring properties, it is considered that an adequate level of privacy can be maintained between the properties.

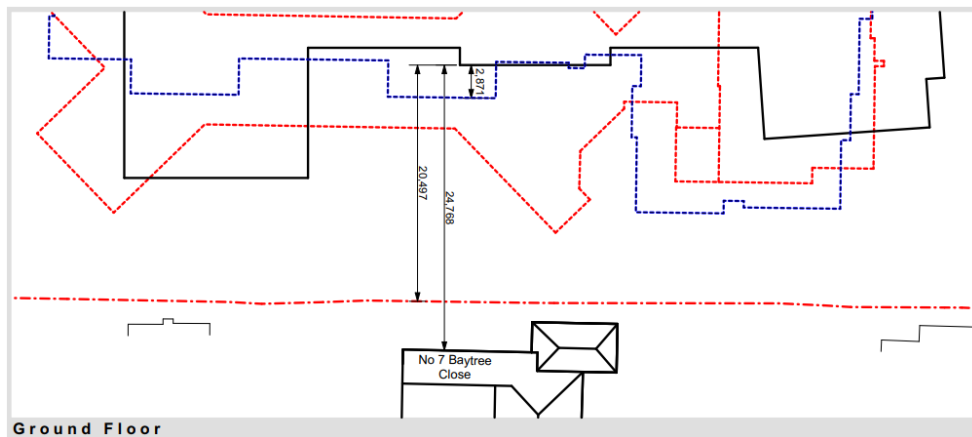


Fig 5. Comparison of proposed ground floor plan (Red line indicates existing building. Blue line indicates previously refused scheme. Black line indicates proposed building line.

6.4.5 The scale and massing of the proposed building would be greater than the existing building, in particular the east elevation. Whilst the proposed building would comprise of 3 floors, it should be noted that the east elevation is designed to maintain a two storey appearance with a roof level. This approach is considered to be compatible with the surrounding houses in the area. It should be noted that the flank wall of the proposed building would be positioned approximately 3 to 6 metres away for its shared boundary with No.6 Baytree Close. Given that there are no habitable room windows facing the neighbouring properties and a good distance can be maintained between the properties, it is considered the impact on neighbours' residential amenities in terms of outlook and privacy would be limited and would not lead to an adverse impact.

6.4.6 Furthermore, it should be noted that outdoor private balconies were originally proposed in the previous dismissed scheme. It is considered that the current proposal would represent an improvement and adequate level of privacy and outlook can be maintained.

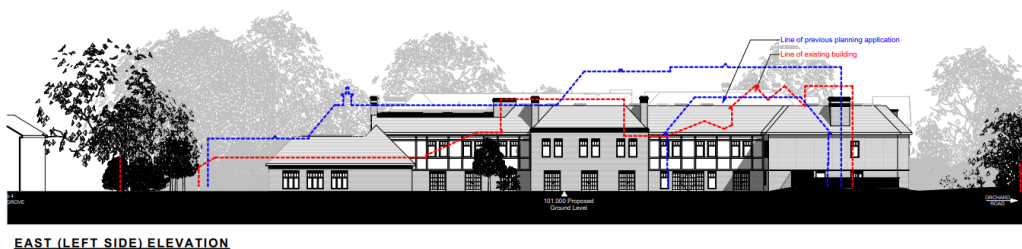


Fig 6 Proposed East elevation facing Baytree Close (red line indicate existing building. Blue line indicates previous dismissed scheme)

### High Grove

6.4.7 No .4 to No. 6 High Grove are located to the south and adjoining to the rear of the application site. There are no habitable room windows above

the ground floor which would face these properties, except roof terraces on the first and second floor. The drawings indicate that the proposed roof terraces would be enclosed with 2.1m screening. A minimum distances range between 11.7m to 16.4m to the shared boundaries of the neighbouring properties would be provided at the ground floor level. At ground floor level, the minimum back to back distance between the properties themselves would measure approximately 23 metres. Due to the distance and no objections were received from High Grove, it is considered that an adequate level of amenities between the properties can be maintained.



Fig 7. Proposed rear elevation facing High Grove (red line indicates existing building. Blue line indicates previous dismissed scheme).

#### *Orchard Road*

- 6.4.8 The application site is located between No.20 and No.34 Orchard Road. No. 34 Orchard Road is located to the east and adjoining to the site. The flank wall of the proposed building would be positioned approximate 16 metres from its shared boundary with No.34. A greater distance measuring approximately 3.2m to 4m would be provided when compared with the existing building. There are no habitable room windows would be facing the neighbouring properties, except landing windows. The proposed front elevation plan indicates that the proposed building would be of a compatible to the neighbouring properties in terms of building height. It is considered that the proposal would not have an adverse impact on the residential amenities enjoyed by the neighbouring properties.
- 6.4.9 No. 20 Orchard Road is not adjoining to the application site and is separated by Ashmead Gate. New bedroom windows would be installed on the flank wall of the proposed building. However, it should be noted that the flank wall of the existing building is located approximately 1.5 metres from its side boundary towards No. 20 Orchard Road. The nearest flank wall of the proposed building would be positioned approximately 9.5 metres to its side boundary. A side-to-side distance measure approximately 25m would be provided. As such, it is considered that the proposal would not have an adverse impact on residential amenities enjoyed by the neighbouring properties.
- 6.4.10 It is noted that the demolition and construction works would have an impact on the residential amenities in terms of noise, air quality and traffic. Should planning permission be forthcoming, a construction management plan would be in place to mitigate and manage its impact and these details would be secured by a planning condition.

## **6.5 Transport and Highways - Acceptable**

6.5.1 Orchard Road is a local road and forms a part of the 12 designated cycle routes in the borough. There are no on-street marked parking spaces near to the site. There are single and double yellow lines along Orchard Road.

### *Access*

6.5.2 BLP Policy 32 states the Council will consider the potential impact of any development on road safety and will ensure that it is not significantly adversely affected.

6.5.3 The existing vehicular access points via Orchard Road would be retained. The main vehicular access to the site is centrally sited and would be mainly used by staff and visitors associated to the occupants. The existing access located near the north-east corner of the site would be used for servicing and delivery and would be close to kitchen and waste storage areas.

6.5.4 The access detail to the proposed basement car park via a one-way ramp measures approximately 4 metres wide and the access details including the gradient and traffic light system within the site should be provided and in operation prior to its first occupation and maintained during the life time of the development. These details should be secured by a planning condition.

6.5.5 The Council Highway officers have reviewed the proposed access arrangement. Subject to the planning conditions, no objection is raised in respect of this element.

### *Parking*

6.5.6 The London Plan states car parking should be restricted in line with levels of existing and future public transport accessibility and connectivity. London Plan Policy T1 states that 80 percent of all trips in London should be made by foot, cycle or public transport by 2041. The London Plan seeks to encourage more sustainable travel, enabling car-free lifestyles that allow an efficient use of land and improve well-being by encourage cycling and walking.

6.5.7 London Plan Policy T6.5 states disabled persons parking should be provided in accordance with the levels set out in Table 10.6, ensuring that all non-residential elements should provide access to at least one on or off-street disabled persons parking bay.

6.5.8 There is no specific minimum or maximum parking standard for care home (Class C2) in the London Plan and Local Plan. The adequacy of parking provision is therefore assessed on a case-by-case basis, taking

into account the nature of proposed use, anticipated staff and visitor attending the sites, servicing and delivery requirements as well as the proximity and connectivity to public transport.

6.5.9 The proposal would provide a 107 bed care home of residential, nursing and dementia care and the proposed use would fall under use class order class C2. The submitted documents indicates that the average ages of the care home users would be on average 90 years old and are not expected to drive or be provided with a parking space.

6.5.10 A total of 40 staff are expected to be on site during the day time shift (8am to 8pm) and 25 staff to be on-site during the night time shift (8pm to 8am). The applicant anticipates that 40 percent of the staff will utilise public transport. The applicant also anticipates that no more than 24 private staff vehicles would be parked on site during the daytime hours and no more than 15 private staff vehicles would be parked on site during the night hours.

6.5.11 It is noted that the submitted parking design and management plan states that:-

- *“staff parking spaces will not be specifically allocated, as to maximise spaces for visitors should the number of staff parking on site reduce over time”*
- *The car park management system will be reviewed six months after the opening of the new care home and thereafter on an annual basis.*

6.5.12 Officers are supportive of the objectives and measures of the above to ensure an optimal parking provision can be provided for its future staff and visitors. It is also important to ensure the parking demand associated to the development can be accommodated within the site without causing adverse impact on parking conditions in the area.

6.5.13 A car park accumulation assessment is submitted as part of the transport assessment. The Council's highway division have reviewed the assessment and based on the anticipated number of staff and travel patten, it is considered that the proposed car park is expected to operate within capacity and no objection is raise.

6.5.14 Based on the information provided, it is considered that the parking spaces should be provided and available prior to the first occupation of the building. An annual travel survey associated to staff and visitors parking should be carried out to inform its annual travel plan and parking provision. A car park management plan has also been conditioned.

6.5.15 London Plan Policy T6.5 requires disabled persons parking bays be located on firm and level ground, as close as possible to the building entrance or facility they are associated with. Designated bays should be marked up as disabled persons parking bays from the outset. Designated disabled persons parking bays and enlarged bays should be

designed in accordance with the design guidance provided in BS8300: Vol 1.

6.5.16 The proposal would provide two enlarged disabled spaces and an enlarged drop off point available for use by ambulances. A temporary vehicle waiting area within the car park is also provided. These provisions would be located near to the main entrance of the proposed care home at street level and would be acceptable.

6.5.16 London Plan specifies a minimum for the installation of electric charging points for residential development and this requirement does not cover care home. Local Plan Policy 30 requires 1 in every 5 parking spaces be provided with an electric charging point. In line with LP Policy 30, a minimum of 10 electric charging points would be secured by a planning condition.

#### *Cycle Parking*

6.5.17 London plan Policy T5 states proposals should help remove barriers to cycling and create a healthy environment in which people choose to cycle. Appropriate levels of cycle parking should be secured and designed in line with the London Cycling design standards. Table 10.2 of the London Plan sets the minimum long stay and short stay cycle storage requirement for new development.

6.5.18 The Transport statement indicates that 40 staff would be employed. The proposal is required to provide a minimum of 8 long stay cycle storage for staff (1 spaces per 5 full time staff) and 6 short stay cycle storage spaces for the occupant (1 space per 20 bedrooms). The proposal would provide 20 cycle storage space and would above the minimum policy requirement.

#### *Servicing and delivery*

6.5.19 The transport assessment indicates that all servicing vehicles will access the site via an existing vehicle cross over near the north east corner of the site. The largest vehicle expected to service the proposed site is an 8m rigid HGV. A swept path analysis is provided which confirms vehicles can enter and exit the site in a forward gear and its considered acceptable. Given that the servicing and delivery area is located close to the neighbouring properties, it is considered that the details of servicing and delivery hours associated to the care home should be secured by a planning condition. The Council's highway division has raised no objection to this element of the proposal and is considered acceptable.

#### *Waste storage*

6.5.20 BLP Policy 113 states major development proposals will be required to implement site waste management plans to reduce waste on site and

manage remaining waste sustainability. New development will be required to include adequate space to support recycling and efficient waste collection.

6.5.21 A dedicated waste storage area would be provided, and the applicant has confirmed the waste would be private collected. The Council's Waste Services were consulted, and no objection is raised.

## 6.6 Trees

6.6.1 Trees play an important role within the urban environment. London Plan Policy G7 states development proposal should ensure that wherever possible, existing trees of value are retained. BLP Policy 73 states new development will be required to take particular account of existing trees on the site and on adjoining land, which in the interest of visual amenity and/or wildlife habitat.

6.6.2 The grounds to the rear of the buildings are extremely overgrown with limited access. The Council's record indicates that the site is subject to a Tree Preservation Order which protects a tree (Acacia) located near to the north west corner of the site.

6.6.3 An Arboricultural Report indicates that the TPO trees is no longer in existence and confirmation was sought with the Council's tree officer and it is confirmed the TPO tree seems to have since been removed and the TPO is therefore not relevant and will be added to the list of revocations. It should be noted that the tree survey accompanying the previous appeal scheme in 2015 also indicates the TPO was already no longer in existence.

6.6.4 The current Arboricultural Report indicates that thirty-four individual trees and eight tree/shrub groups would be partially removed. The majority of the trees to be removed are all considered to be low quality trees. There are 7 Category B trees and the majority of these trees are internal to the site and do not offer any significant wider public amenity and the loss of the tress is not considered to be detrimental to the surroundings with replacement.

6.6.3 The condition of the trees/shrub to be removed are as follow:

<b>Category A</b>	N/A
<b>Category B</b>	T1 Eucalyptus Gunnii (Cider Gum); T17 Dawn Redwood; T18 Maple; T42 Pine; T48 Lawson Cypress T50 Apple; T52 Turkey Oak
<b>Category C</b>	T3 Sycamore; T5 Ash; T6 Pine; T7 Sycamore; T8 Sycamore; T9 Ash; T10 Pin Oak; T11 Ash; T32 Holly; T37 Poplar; T40 Ash; T41 Ash; T46 Damson; T47 Apple; T49 Apple; T51 Magnolia; T53 Pinus spp; T54

	Pinus spp; T55 Holly; T56 Holly; T57 Ash; G1 Leyland Cypress; G2 Lawson Cypress; G3 Sycamore, Cherry, Laurel and Holly; G4 Laurel and Elder; G6 Laurel; G7 Lawson Cypress and Leyland Cypress; G8 Leyland Cypress; G9 Lawson Cypress and Leyland Cypress; G10 Laurel;
<b>Category U</b>	T15 Beech; T44 Pear

6.6.4 A landscaping scheme including a landscaping design statement, landscaping management and maintenance scheme are submitted which details the layout of hard and soft landscaping and the following zones:

*Site entrance and car park*

6,6,5 New trees and planting will be provided in the forecourt and surface level car park including large stock ornamental and herbaceous shrub planting. New replacement trees would also be introduced in the service year with a mixture of native and ornamental trees. The proposed landscaping plan indicates that permeable paving would be use in the car park. Multi-stem Amelanchier tress and ornamental shrub planting bedded behind the grass verge and both side of the main entrance would be landscaped.

*Boundaries along the site*

6.6.6 Most of the existing trees along the site boundaries will be retained, except the individual and groups of low categories tress that will be removed due to their condition and its value. The sited boundary will be secured with 1.8 metres high close board fencing and a buffer zone would be created between the proposed building and the neighbouring residential gardens. The applicant has advised that the proposed tree species and location were chose carefully with consideration given to the neighbour's requests during the pre-application statement of community involvement stage. Various native hedge planting and trees are proposed along the boundaries which would encourage and foster biodiversity value of the site. A selection of smaller tree species near to the boundaries would be introduced to reduce the overshadowing impact to the neighbouring properties.

*Dementia Garden*

6.6.7 Dedicated gardens area would be provided to cater for the need of people requiring dementia care. These gardens will be separated from the main gardens and service yard and would be secured to ensure the security of the residents. The access to these gardens would be from the ground floor communal lounge or private patios, with maintenance access being from the service yard.



6.6.8 The proposed landscaping plan indicates that different activities zones will be provided and connected via a figure-of-eight resin bound gravel foot path circulation system. The meandering path will also offer a pleasant route for walks and help with easy way finding. Patio area would be provided to the front of the communal lounges. The patios will be separated from each other with shrubs and herbaceous planting providing a degree of screening between the patios. The ellipse shaped lawn area can be used for outdoor active games such as coquet or bowls. Outdoor seating areas will be provided for individual or group enjoyment,

#### *Main garden*

6.6.9 The gardens located to the south and west of the care home building will be open to all residents and designed to provide all year interest and to create pleasant spaces in developing sense of well-being for the residents and their visitors. Two symmetric circular sensory gardens with seating, cantilevered timber arches, and central features located to both sides of the conservatory will provide outdoor seating gathering or relaxing areas. Gazebos will be used to provide a destination point and shelter seating areas during hot or rainy weather conditions.

#### *Internal central courtyard*

6.6.10 The courtyard garden is located on the basement/lower ground floor level and is accessed via the building. The courtyard is located outside the café, dining room, celebration spaces where outdoor scheduled activities would be organised for the residents. A central water feature with different seating area, planter, cantilever pergolas would be provided.

#### *Urban greening factor*

6.6.11 London Plan Policy G5 states major development should contribute to the greening of London including urban greening as a fundamental element of site and building design, and by incorporating measures such as high-quality landscaping, green roofs, green wall and nature-based sustainable drainage. The London plan recommends a target score of 0.4 for developments that are predominantly residential. London Plan Policy G6 states development should manage impacts on biodiversity and aim to secure net biodiversity gain.

6.7.6 The proposal would also achieve an Urban Greening Factor of 0.42 which be above the target score for residential development. Overall, it is considered that the design, layout and allocation of gardens spaces are well designed to accommodate the need of the future occupants. A detailed landscaping management and maintenance schedule is also provided which indicates the spaces would be well maintained. New replacement plantings would be introduced in the proposed gardens to compensate the loss of trees and biodiversity value site. Whilst the

proposal would result in the loss of existing low to moderate value trees, the proposed replacement trees and landscaping details indicates the proposal would provide adequate replacement and is considered acceptable in this instance.

## **6.7 Biodiversity - Acceptable**

6.7.1 BLP Policy 72 states planning permission will not be granted for development that will have an adverse effect on protected species, unless mitigation measures can be secured to facilitate survival, reduce disturbance, or provide alternative habitats. London Plan Policy G6 states that development proposals should manage impacts on biodiversity and aim to secured net biodiversity gain.

6.7.2 A preliminary ecological assessment and biodiversity impact assessment are submitted which considers any likely impact of the scheme upon protective species including bats. The site has no specific GiGL records for protected species or habitat and is not considered to be a biodiversity hotspot. The site is surrounded by built development and is not located within or adjacent to any statutory or non-statutory designed sites. The department for Environment Food and Rural Affairs published a multi-agency geographic information for country side map, the nearest identified habitat is woodland and is located approximately 116 metres north from the site, near the Scott Park Primary School.

### *Bats*

6.7.3 The site including the internal and external condition of the building have been surveyed. The external features of the building are considered to be in acceptable condition with no substantial crevasses or voids present considered to be of potential value to roosting bats. The trees at the site were assessed for their suitability to support roosting bats based on the presence of features such as holes, cracks, splits, or loose bar. There were no features considered suitable to support roosting bats identified during the survey work undertaken. A preliminary ground level roosts assessment involved a detailed inspection of exterior semi-mature and mature trees from ground level to look for features that Bats may use for roosting along with direct evidence. The potential roost in the trees ranged from negligible to low potential. All the trees to be removed have negligible roost potential for bats.

### *Other protected species*

6.7.4 There are no identified water bodies within the site. The report indicates there are no suitable habitats for badgers, hazel dormouse, water vole, otter, barn owl or protected birds within the site and no further survey is required. The site is deemed to have negligible potential to support badgers, invertebrates, hedgehog, flora or protected birds.

6.7.5 Whilst there are no protected species identified, the removal of trees should not be undertaken during the breeding season (between March to August). A suitably experienced ecologist should be present through the vegetation clearance to check the obligation for breeding birds. Should breeding birds be identified in the vegetation then this should remain in place until the young have fledged. It is considered swift brick and bat boxes should be installed to encourage the biodiversity value of the site. Subject to the works being supervised by an ecologist and installation of bird and bat boxes, it is considered that the proposal would be acceptable.

## **6.8 Energy and Sustainability - Acceptable**

6.8.1 Paragraph 153 of the NPPF states that in determining planning applications, LPAs should expect new developments to comply with policies and requirements for decentralised energy supply unless this is demonstrated to not be feasible or viable.

6.8.2 BLP Policy 124 and London Plan Policy SI 2 requires major development should be net zero- carbon, reducing greenhouse gas emissions in operation and minimising both annual and peak energy demand in accordance with the energy hierarchy

- 1) Be Lean: use less energy and manage demand during operation;
- 2) Be Clean: exploit local energy resources (such as secondary heat) and supply energy efficiently and cleanly;
- 3) Be Green: maximise opportunities for renewable energy by producing, storing and using renewable energy on-site;
- 4) Be Seen: monitor, verify and report on energy performance.

6.8.3 London Plan requires a net zero-carbon target for all new major developments with at least a 35% on-site reduction beyond Part L 2013 of the Building Regulations. Under the Be Lean measures, non-residential development should achieve 15 per cent through energy efficiency measures. Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on site, any short fall should be provided in agreement with the borough, either:

- 1) Though a cash in lieu contribution to the borough's carbon offset fund or
- 2) Off-site provided that an alternative proposal is identified and delivery is certain.

6.8.4 Development proposals referable to the Mayor should calculate whole life-cycle carbon emissions through a nationally recognised Whole Life-Cycle Carbon Assessment and demonstrate actions taken to reduce life-cycle carbon emissions.

6.8.5 An updated Energy Statement following the GLA's energy hierarchy has been received and this has been reviewed by the Council's Energy

officer. Under the “**Be Lean**” category, a range of passive design features would be employed to reduce the heat loss and demand for energy. The measures include building fabric performance and insulation, mechanical and natural ventilation through openable windows are proposed to reduce the carbon emission of the proposed development. These measures would meet the minimum 15 percent for the non-domestic requirement as outlined in the GLA energy guidance and this is considered acceptable.

6.8.6 As there is no district network in the area, it is not possible to achieve any carbon reduction under the “**Be Clean**” category at the present time and no carbon reduction can be awarded under this category.

6.8.7 Under “**Be Green**” category, a range of on-site renewable energy technologies are proposed. It is considered that the use of air source heat pumps to provide space and water heating would be used as the most feasible option for this site. The proposed system is also designed to connect to a decentralised heat network for future connection when this technology becomes available in the area.

6.8.8 The air source heat pumps would operate by extracting low grade heat energy from the surrounding air and transferring that energy in the form of higher-grade heat into the building using under floor heating or radiator systems or through an all-air system. The heat distribution will be via low temperature radiators (bedrooms and en-suites), ceiling mounted cassettes and underfloor distribution pipes (communal spaces). Separate ASHP/VRF units have been proposed to provide space heating, cooling and hot water to ensure their effective operation and to maximise on the systems’ efficiencies.

6.8.9 The updated energy assessment indicates that the total regulated on-site carbon saving would achieve 64.5 percent (162.2 tonnes) carbon saving against Part L 2013 of the Building Regulations Compliant Development. There is a shortfall of 35.5 percent (89.3 tonnes) and a planning contribution of £ 254, 505 would be secured by a legal agreement. The breakdown is as follows:

- On site regulated carbon dioxide emissions (Building Regs 2013 Compliant Development) = 251.5 tCO<sub>2</sub> per annum
- Proposed on site reduction of carbon emissions from energy demand/CHP/renewables = 162.2tCO<sub>2</sub> per annum
- On site shortfall = 89.3 tCO<sub>2</sub> per annum
- Payment-in-lieu amount calculated as 89.3 (tCO<sub>2</sub>) x £95 (per tCO<sub>2</sub>) x 30 (years) = £254, 505.

6.8.11 The Council’s Energy officer has been consulted and no objection is raised to the proposal and recommended the total carbon offsetting payment of £254, 505 will be secured by a legal agreement. A condition is recommended to secure the carbon saving measures as set out in the energy statement can be delivered.

### *Overheating*

6.8.12 London Plan Policy SI 4 states major development should demonstrate through an energy strategy how they will reduce the potential for internal overheating and reliance on air conditioning systems in accordance with the cooling hierarchy.

6.8.13 An overheating analysis is submitted and indicated that the proposal would comply with the overheating risk analysis (CIBSE standards TM49, TM 52 and TM59) through the application of passive solar shading features, mechanical ventilation and installation of comfort cooling system within the development design. The overheating study shows that the principles of the cooling hierarchy have been followed. The report states that the bedrooms are running no or very minimal risk of overheating in the context of TM52 without the addition of comfort cooling. The design of the building has adopted all possible passive measures without compromising on the usability of the rooms and providing safe and easy to operate spaces for the residents. As the main heating strategy for the building is based on centralised air source heat pumps, capable of providing cooling as well as space heating at very high efficiencies, it is understandable and desirable to use the proposed system's cooling capacity to provide comfortable indoor temperatures when it might be necessary. It is considered that the proposal would be acceptable and would be able to provide a comfortable indoor environment.

### *Water infrastructure*

6.8.14 London Plan Policy SI-5 states development proposal should:

- 1) through the use of planning conditions minimise the use of mains water in line with the optional requirement of the building regulations (residential development), achieving mains water consumption of 105 litres or less per head per day (excluding allowance of up to five litres for external water consumption).
- 2) Achieve at least the BREEAM excellent standard for the "Wat 01 water category or equivalent for commercial development.
- 3) Incorporate measures such as smart metering, water saving and recycling measures, including retrofitting, to help to achieve lower water consumption rates and to maximise future proofing.

6.8.15 Thames Water has been consulted and no objection is raised in relation to the impact upon the water network infrastructure capacity, waste water network and sewage treatment work. In line with the policy requirement, planning condition to minimise the use of mains water in line with the optional requirement of the Building Regulations (residential development), achieving mains water consumption of 105 litres or less per head per day would be attached. The drainage strategy indicates that water butts would be used to help reduce dependence on mains

water and details of installation would be secured by a planning condition.

## **6.9 Environmental Issues - Acceptable**

### *Air Quality*

- 6.9.1 The NPPF at para 170 states decisions should among other things prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality. Proposals should be designed and built to improve local air quality and reduce the extent to which the public are exposed to poor air quality.
- 6.9.2 BLP Policy 120 states developments which are likely to have an impact on air quality or which are located in an area which will expose future occupiers to pollutant concentrations above air quality objective levels will be required to submit an Air Quality Assessment. Developments should aim to meet “air quality neutral” benchmarks in the GLA’s Air Quality Neutral report. London Plan Policy SI-1 also echo this requirement.
- 6.9.3 The site is within Bromley Air Quality Management Area which means the site is located within an area that has been declared for exceedance of the annual mean Air Quality Objectives for nitrogen dioxide (NO<sub>2</sub>). An air quality assessment has been submitted which assesses the likely effects of the proposals for the proposed end-users, and to assess potential impacts as a result of the development.

### *Operational phase*

- 6.9.4 There is no gas systems, or systems with combustion process proposed to support the development. Three Air Source Heat Pump (ASHP) systems and a backup diesel generator would be installed on the roof and the specification as follow
- X8 Daikin VRV4 Units, RYYQ 20T;
  - X8 Mitsubishi CAHV/P500YA/HPB; and
  - X4 Mitsubishi PURY/EM300/YNW-A.
- 6.9.5 Dispersion modelling results indicate that annual mean pollutant levels across the application site were below the relevant air quality objectives and was predicated to be negligible at all receptor locations. The assessment also indicates the proposal would not have an adverse impact on air quality, except during the construction period.

### *Construction phase*

- 6.9.6 A range of mitigation measures is outlined in the construction and management plan aiming to minimise or reduce dust which would be required and implemented during demolition and construction stages.
- 6.9.7 The assessment has been reviewed by the Council's Environment Health and no objection has been raised, subject to implementation of mitigation measures in line with the submitted construction and management plan and in line with the Council's Control of Pollution and noise from demolition and construction site code of practice 2017.
- 6.9.8 In accordance with the London Plan, all Non Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases of the development shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance 'Control of Dust and Emissions During Construction and Demolition' dated July 2014 (SPG) or any subsequent guidance. All NRMM shall meet Stage IIIA of EU Directive 97/68/EC (as amended). 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).
- 6.9.9 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*

- 6.9.7 London Plan Policy D13 agent of change principle places the responsibility for mitigating impacts from existing noise and other nuisance- generating activities or uses on the proposed new noise-sensitive development. Development should be designed to ensure the established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them.

#### *Operational phase*

- 6.9.8 A noise impact assessment including a noise survey and the details of the proposed Air Source Heat Pump (ASHP) systems and a backup diesel generator to be installed at the roof level is submitted. The report identifies a high likelihood of adverse impact at the surrounding residence without noise mitigation. The proposed mitigation measures would include a 1.8m acoustic barrier and acoustic louvres. The report indicates that the acoustic louvres should cover the entire southern boundary of the proposed plant area, with a higher performing barrier implemented close to the louder Daikin Units. The inclusion of the acoustic louvres will reduce the noise levels from all proposed plant to

below the background sound level and would minimise the risk of adverse impact upon the neighbouring properties.

- 6.9.9 The Council Environmental Health were consulted and considered the proposed mitigation measures would be acceptable. It is noted that the plants/system associated to the kitchen has not been included within the assessment and would need to have rated sound pressure level equal to, or below, 30 dB at a distance of 1 metre from the nearest noise sensitive receptions. Subject to the conditions securing the details of the proposed noise mitigation measures, external plant noise associated to the kitchen and an updated noise assessment to including levels during the night hours shall be secured by planning conditions. It is considered that the proposal would not have an adverse impact on the neighbouring properties.

#### *Land Contamination*

- 6.9.10 In accordance with BLP new development of contaminated land, or land suspected of being contaminated is proposed, details of site investigation and remedial action should be submitted. A preliminary investigation report and a main investigation report are submitted which indicates that an intrusive investigate is considered to be necessary to further quantify any potential risk. The Council's Environmental Health officers have reviewed the submitted details and subject to a further assessment (Phase 2) including site investigation works and further sampling, it is considered that the proposal is acceptable, and these details will be secured by a planning condition.

### **6.10 Flooding and Drainage - Acceptable**

#### *Surface water drainage*

- 6.10.1 The NPPF states that major development should incorporate sustainable drainage systems which should take account of advice from the lead flood authority; have appropriate proposed minimum operational standards; have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits. London Plan Policy SI-13 and BLP Policy 116 states development proposals should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible.
- 6.10.2 A flood risk and drainage strategy report is submitted which indicates that the site is located within Flood Zone 1 where the probability of river or sea flooding is less than 0.1% (1 in 1000) chance in any given year as defined by the Environment Agency. The site is also located within an area subject to the low and risk of surface flooding. The sub soil of the site is clay which means reliance on natural infiltration will not be viable. There is no known water course in the vicinity that would be suitable as a point of connection.



6.10.3 The proposed surface water drainage strategy has been designed in line with the Environment Agency Climate Change Guidance to consider and manage the impact of a 1 in 100 year plus 40% climate change rainfall. The report indicates that the surface water would be discharged to the adopted Thames Water sewer network in Orchard Road, as per the current scenario. The proposed drainage strategy would also incorporate the following measures which demonstrates that the discharge rates of the site will be reduced to mimic the existing green-field run-off rate for all storm events. This equates to 1.2l/s for the 1 in 1 year event, 3.3l/s for the 1 in 20 year event and 4.7s/for the 1 in 100 year event plus 40% climate changes. The proposed measures include:

- Attenuation cellular storage tank measures 209 cubic metres;
- Rainwater harvesting tank; and,
- Permeable paving.

6.10.4 Foul water network generated from the site would be discharged via the existing foul water network. The Council's drainage officer and Thames Water have raised no objection to the proposal, except conditions to secure the details of the drainage strategy works be implemented. Subject to the conditions and informative, it is considered that the proposal would be acceptable with regards to the surface water run-off and drainage.

## **7. Planning Obligations and CIL**

*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.
- 7.2 The London Borough of Bromley Community Infrastructure Levy (CIL) proposals were approved for adoption by the Council on 19 April 2021, with a date of effect on all relevant planning permissions determined on and after 15 June 2021. In line with the Community Infrastructure Levy (CIL) Charging Schedule (April 2021), the gross internal area of a new build residential development which delivers additional care and support services, i.e. care home (Use Class C2) is not CIL liable. Nonetheless, officers consider that a site-specific health contribution should be secured to address any potential increase in pressure on local health services. The NHS HUDU formula based health contribution for a 107 bed care home amounts to £173, 917 and the amount of required contribution is agreed by the applicant.

*Heads of Terms – Infrastructure impact and mitigations:*

- 7.3 The following planning obligations will need to be secured as part of an S106 legal agreement, which the applicant has agreed to in principle, should permission be granted:
- Health: £ 134, 927
  - Energy £ 254, 505;
  - Use as Class C2
- 7.4 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.

## **8.0 Planning balance and conclusion**

- 8.1 The proposal is designed to address the previous issues arise at appeal in terms of design and appearance, impact on the residential amenities and have demonstrate adequate parking spaces can be provided for the future staff and visitor. The current proposal would provide 107 residential, nursing and dementia care. The proposal would bring a vacant site back into active use and would contribute to the Council's housing trajectory.
- 8.2 The scale of the proposal would be increased when compared with the existing building. However, it should be noted that the design and layout of the proposal has demonstrated an acceptable relationship between the neighbouring properties with only a limited impact on the neighbouring residential amenities in terms of privacy and outlook. The proposed building would comprise of 3 floors above ground level and would represent an improvement when compared with both existing condition of the site and previous dismissed scheme. The design is considered to complement the surrounding built form. The current proposal is considered to be acceptable by officers. It is considered to be sustainable in overall terms and compliant with the development plan as a whole.
- 8.3 The Council has a 3.31 year land supply of deliverable housing sites, the housing policies of the development plan are out-of-date and the presumption of sustainable development set out in Para. 11 of the NPPF applies to the application. This means a presumption in favour of granting planning permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within the NPPF taken as a whole. There are no other adverse impacts of the scheme that are considered to significantly and demonstrably outweigh the economic, social and environmental benefits of the scheme when considering the NPPF as a whole. The balance test is therefore tilted towards granting planning permission.

- 8.4 Subject to compliance with the recommendations in the technical reports and implementation of the recommended works undertaken where necessary, it is considered that the application is recommended for permission, subject to the planning condition and completion of a S106 legal agreement.

## **RECOMMENDATION**

### **PERMISSION SUBJECT TO S106 LEGAL AGREEMENT AND PLANNING CONDITIONS**

## **SUMMARY OF CONDITIONS AND INFORMATIVES**

Any other informative(s) considered necessary by the Assistant Director of Planning

### Standard Conditions:

1. Time limit of 3 years
2. Drawing numbers

### Pre-Commencement Conditions:

3. Slab level
4. Construction and Environmental Management Plan
5. Sustainable urban drainage
6. Noise impact assessment
7. Phase 2 Land contamination assessment

### Above Ground Construction Conditions:

8. External materials
9. Green roof and water butts
10. Mechanical ventilation and plant details
11. Fire statement including Part B5 of Building Regulations Approved Document B
12. Terraces screening specification
13. Water infrastructure

### Prior to occupation conditions:

14. Energy Statement including Be Seen
15. External light
16. Servicing and delivery plan
17. Refuse strategy and management
18. Electric charging points
19. Secure by Design
20. Car park management plan and travel plan in 12 months
21. Swift nest bricks, bird and bat boxes

### Compliance conditions:

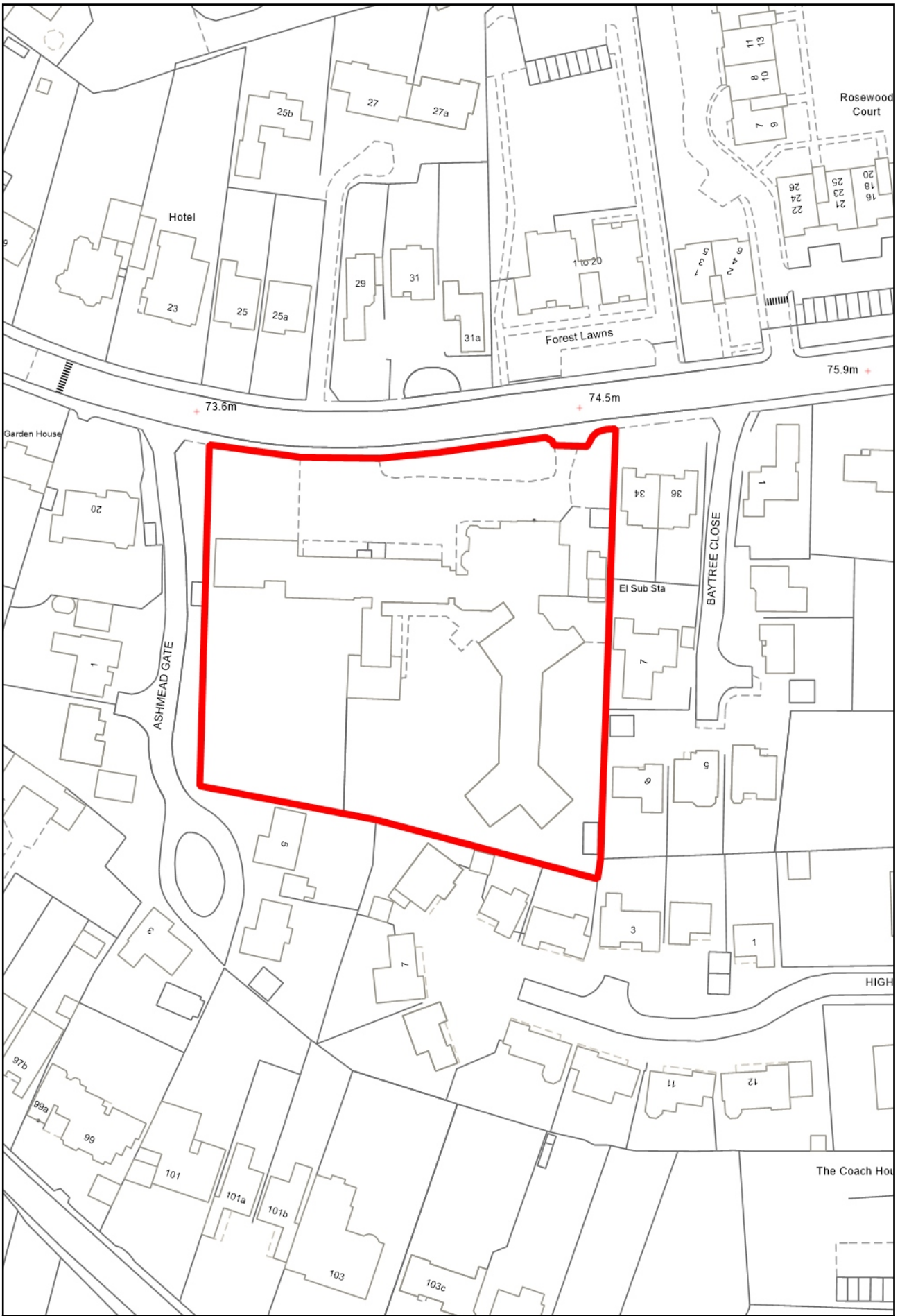
22. Air quality assessment
23. Hand and soft landscaping
24. Arboriculture method statement and tree protection plan
25. External plant noise
26. Parking spaces
27. Cycle storage
28. Hardstanding for wash-down facilities for construction vehicles

29. All Non-Road Mobile machinery to comply with relevant emissions standards


Informatives


- Mayoral CIL
- Secured by Design
- Dust Monitoring
- Vehicle crossover
- Thames Water (various)

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 Ordnance Survey 100017661.


**21/02269/FULL1 - St Raphael's Residential Home**  
 32 Orchard Road, Bromley



19 August 2021

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# Agenda Item 8

Report No.  
HPR2021/041

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** Tuesday 31 August 2021

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

**Title:** DELEGATED ENFORCEMENT ACTION  
(APRIL 2021 TO JUNE 2021)

**Contact Officer:** John Stephenson, Head of Planning and Development Support Team  
Tel: 02083134687 E-mail: John.Stephenson@bromley.gov.uk

**Chief Officer:** Tim.Horsman, Assistant Director (Planning and Building Control)

**Ward:** (All Wards);

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1. Reason for report

Enforcement action has been authorised under Delegated Authority for the following alleged breaches of planning control. In accordance with agreed procedures Members are hereby advised of the action taken.

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2. **RECOMMENDATION(S)**

**Members to note the report.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: n/a
- 

### Corporate Policy

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

### Financial

1. Cost of proposal: Not Applicable
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: Planning – Appeals and Enforcement Section
  4. Total current budget for this head: £385k
  5. Source of funding: 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: Town and Country Planning Acts
  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? No
2. Summary of Ward Councillors comments: n/a

### 3. COMMENTARY

Enforcement action and prosecutions have been authorised by the Assistant Director Planning under Delegated Authority during the period 1 April 2021 to 30 June 2021 in respect of development undertaken without the benefit of planning permission at the following sites:

#### Abbreviation key:

Breach of Condition Notice **[BCN]**

Enforcement Notice - Operational Development **[OPDEV]**

Enforcement Notice – Material Change of Use **[MCU]**

Failure to Comply with Condition Notice **[FCCN]**

Planning Contravention Notice **[PCN]**

Prosecution – matter going to court

Section 215 Notice (Untidy site) **[S215]**

Reference No.	Complaint	Site	Ward	Recommendation	Decision date
21/00193	extension	Widmore Road, Bromley	PLAISTOW & SUNDRIDGE	PCN	Apr-21
20/00532	windows	Hayes Wood Avenue, Hayes	HAYES & CONEY HALL	OPDEV	Apr-21
20/00229	outbuilding	Leaves Green Crescent, Keston	DARWIN	BCN	Apr-21
20/00229	outbuilding	Leaves Green Crescent, Keston	DARWIN	OPDEV	Apr-21
21/00214	outbuilding	Archer Road, Orpington	CRAY VALLEY WEST	PCN	Apr-21
20/00708	gym hours	Stanley Road, Bromley	BROMLEY TOWN	BCN	Apr-21
20/00928	outbuilding	Roedean Close, Orpington	ORPINGTON	BCN	Apr-21
20/00292	shutters	Royal Parade, Chislehurst	CHISLEHURST	OPDEV	Apr-21
20/00431	extension	Meadow View, Orpington	CRAY VALLEY EAST	OPDEV	Apr-21
20/00123	decking	Langley Way, West Wickham	WEST WICKHAM	OPDEV	Apr-21
18/00431	container	Carlton Parade, Orpington	CRAY VALLEY EAST	OPDEV	Apr-21
20/00835	extension + air con units	High Street, Orpington	ORPINGTON	OPDEV	Apr-21
21/00191	scaffolding containers	Bromley Common, Bromley	HAYES & CONEY HALL	OPDEV & MCU	Apr-21
20/00922	air con units	Carlton Parade, Orpington	CRAY VALLEY EAST	OPDEV	Apr-21
20/00414	air con units	Sevenoaks Road, Orpington	ORPINGTON	OPDEV	Apr-21
20/00482	Not in accordance with plans	Mayfield Avenue, Orpington	PETTS WOOD AND KNOLL	FCCN	May-21
20/00560	structure	Bromley Common, Bromley	HAYES & CONEY HALL	OPDEV	May-21
20/00188	waste transfer site	Bromley Common, Bromley	HAYES & CONEY HALL	OPDEV	May-21
20/00188	waste transfer site	Bromley Common, Bromley	HAYES & CONEY HALL	MCU	May-21
20/00201	extension	Lynwood Grove, Orpington	PETTS WOOD AND KNOLL	OPDEV	May-21

19/00644	Untidy site	High Street, Beckenham	COPERS COPE	PROSECUTION	May-21
20/00867	Untidy site	Spinney Way, Cudham	DARWIN	S215	May-21
20/00294	Untidy site	Luxted Road, Downe	DARWIN	S215	May-21
21/00082	Untidy site	Farnaby Road, Bromley	BROMLEY TOWN	S215	May-21
21/00157	condition 22	Wickham Road, Beckenham	KELSEY & EDEN PARK	BCN	May-21
20/00536	childcare	Southover, Bromley	PLAISTOW & SUNDRIDGE	MCU	May-21
19/00503	sub-division residential	Grovelands Road, Orpington	CRAY VALLEY WEST	MCU	May-21
18/00157	HMO	High Street, Orpington	PETTS WOOD AND KNOLL	MCU	May-21
21/00193	extension	Widmore Road, Bromley	PLAISTOW & SUNDRIDGE	OPDEV	May-21
19/00037	structures	Old Maidstone Road, Sidcup, DA14 5BA	CRAY VALLEY EAST	OPDEV	May-21
21/00434	home office	Hayes Lane, Hayes	HAYES & CONEY HALL	PCN	May-21
20/00766	residential	Hillcrest Road, Bromley	PLAISTOW & SUNDRIDGE	PCN	May-21
21/00270	machinery	Swanley Bypass, Swanley	CRAY VALLEY EAST	PCN	Jun-21
21/00344	sub-division residential	Barnet Drive	BROMLEY COMMON & KESTON	MCU	Jun-21
21/00256	extension, excavation	Stock Hill, Biggin Hill	BIGGIN HILL	OPDEV	Jun-21
21/00095	car repair	Victoria Gardens, Biggin Hill	BIGGIN HILL	PCN	Jun-21
20/00120	untidy site	Blandford Road, Beckenham	CLOCK HOUSE	S215	Jun-21

3.2 For further details of any of the above cases please contact John Stephenson (details as above).

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

Report No.  
HPR2021/044

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: 31 August 2021  
RR&H PDS: 8 September 2021

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

**Title:** PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION TO REMOVE PART 2, CLASS A PERMITTED DEVELOPMENT RIGHTS IN THE KNOLL 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

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## 1. Reason for report

- 1.1 This report recommends that the Council makes a non-immediate Article 4 Direction to withdraw the Part 2, Class A permitted development (PD) right which allows the erection or construction of a gate, fence, wall or other means of enclosure. The Direction would apply to the Knoll Area of Special Residential Character (ASRC). The Direction 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.

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## 2. RECOMMENDATION(S)

- 2.1 That Members endorse the making of a 'non-immediate' Article 4 Direction (covering the Knoll Area of Special Residential Character, as defined in the Bromley Local Plan) to withdraw the permitted development right granted by Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

**(“the GPDO”), Schedule 2, which allows the erection or construction of a gate, fence, wall or other means of enclosure.**

- 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 making of a non-immediate Article 4 Direction, which will come into force 12 months from the day on which it is made, if it 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: No Cost
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 2021/22

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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? No
2. Summary of Ward Councillors comments: Ward councillors were not asked to comment on the report, but it is noted that the request to investigate the potential for an Article 4 Direction originally came from ward councillors.

### 3. COMMENTARY

#### Article 4 Directions - background

- 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 NPPF was amended in July 2021, which introduced a new requirement for Directions to be based on robust evidence and apply to the smallest geographical area possible<sup>1</sup>. The PPG notes that the potential harm that a Direction is intended to address should be clearly identified. For the proposed Direction, justification is set out in this report.
- 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. PPG advises that any Direction covering a wide area or removing PD rights where prior approval powers are available to control PD should have particularly strong justification.
- 3.4. Article 4 Directions removing Part 2 PD rights can be made with immediate effect or to take effect following a period of notice to remove compensation liability (non-immediate). The PPG says that an immediate Direction can be made where the development presents an immediate threat to local amenity or prejudices the proper planning of an area, but in all cases the local planning authority must have already begun the consultation processes towards the making a non-immediate Article 4 Direction. This report recommends that the Council issues a non-immediate Article 4 Direction with a 12-month notice period, in order to reduce the Council's liability to compensate landowners affected by the removal of PD rights.
- 3.5. Prior to coming into force, the Council must confirm whether it intends to proceed with a non-immediate Direction, based on consideration of representations received. The decision on whether to confirm will be taken by the Portfolio Holder for Renewal, Recreation and Housing.
- 3.6. During the 12-month notice period, the PD rights would continue to apply. If the Directions are confirmed, following this notice period, the erection or construction of a gate, fence, wall or other means of enclosure within the Knoll 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.

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

- 3.8. There are 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:

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<sup>1</sup> The amended NPPF introduces a different test for Article 4 Directions which relate to change from non-residential use to residential use; such Directions should be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts.



*“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 126 sums up the importance of good design: *“The creation of high quality, beautiful and sustainable 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 130 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<sup>49</sup>; 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, which 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>2</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>3</sup>
- 3.14. The PPG should be read alongside the National Design Guide<sup>4</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

<sup>2</sup> Paragraph: 002 Reference ID: 26-002-20191001, available here: <https://www.gov.uk/guidance/design>

<sup>3</sup> Paragraph: 003 Reference ID: 26-003-20191001, available here: <https://www.gov.uk/guidance/design>

<sup>4</sup> Available here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/962113/National\\_design\\_guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962113/National_design_guide.pdf)

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.

3.15. Looking forward, the ‘Planning for the Future’ white paper<sup>5</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, 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 is 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 identified ASRCs, which provide significant benefits in terms of local amenity by ensuring that the distinctive character and high-quality environments of the areas are

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<sup>5</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)

maintained. Appendix 10.6 of the Local Plan gives detailed descriptions of designated ASRCs, including the Knoll ASRC, detailing what makes them special and distinctive.

- 3.20. Two background papers<sup>6</sup> prepared in support of the ASRC policy ahead of the Local Plan examination - one specifically relating to the Knoll ASRC - provide further clear evidence of the value of the ASRCs.
- 3.21. 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.
  - 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.
- 3.22. The Part 2, Class A PD right allow gates, fences, walls or other means of enclosure of up to 2 metres in height (or up to 1 metre in height adjacent to a highway used by vehicular traffic). Officers have been asked to consider the justification for an Article 4 Direction to remove Part 2, Class A PD rights in the Knoll ASRC.
- 3.23. Considering the intent of the ASRC designation and the potential impacts of the PD right, officers consider that there is justification to put in place an Article 4 Direction. Part of the justification for the Knoll ASRC is the views through to rear gardens and landscaping in front gardens. While gates, fences, walls or other means of enclosure would already be restricted to 1 metre for front gardens (as they are adjacent to a highway), there could still be scope for harm to local amenity which affects these distinctive characteristics, for example by obscuring views or landscaping. This is the case in terms of individual properties but especially when considering cumulative impacts.
- 3.24. The PD right allows the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. Officers consider that it is not necessary to remove the part of the PD right which allows maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. The PD right already restricts any height increase for maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure; the height can only be increased through the erection or construction of a gate, fence, wall or other means of enclosure.
- 3.25. Removing the part of the PD right which allows maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure would therefore only affect an existing gate, fence, wall or other means of enclosure; this could mean that repairs or improvements to them, would need full planning permission. This could affect, for example, repairs to a broken gate.
- 3.26. It is noted that an existing Article 4 Direction<sup>7</sup> which covers the Petts Wood ASRC, the Chenies Conservation Area and the Chislehurst Road Conservation Area only removes the ability to

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<sup>6</sup> Local Plan Background Paper - Potential Areas of Special Residential Character Spatial Character Assessments (September 2015), available from: [https://www.bromley.gov.uk/download/downloads/id/3088/sd52\\_potential\\_asrcs\\_-\\_spatial\\_character\\_assessments\\_2015.pdf](https://www.bromley.gov.uk/download/downloads/id/3088/sd52_potential_asrcs_-_spatial_character_assessments_2015.pdf); and Local Plan Background Paper - Proposed North Copers Cope Road and The Knoll Areas of Special Residential Character Spatial Character Assessments (November 2016), available from: [https://www.bromley.gov.uk/download/downloads/id/3089/sd53\\_north\\_copers\\_cope\\_rd\\_and\\_the\\_knoll\\_asrcs\\_-\\_character\\_assessments\\_2016.pdf](https://www.bromley.gov.uk/download/downloads/id/3089/sd53_north_copers_cope_rd_and_the_knoll_asrcs_-_character_assessments_2016.pdf)

<sup>7</sup> Available here:

[https://www.bromley.gov.uk/download/downloads/id/2578/petts\\_wood\\_asrc\\_the\\_chenies\\_ca\\_and\\_chislehurst\\_road\\_ca.pdf](https://www.bromley.gov.uk/download/downloads/id/2578/petts_wood_asrc_the_chenies_ca_and_chislehurst_road_ca.pdf)

erect or construct a gate, fence, wall or other means of enclosure; maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is still PD in these areas.

#### 4. POLICY IMPLICATIONS

4.1 As set out above, there could be significant adverse impacts on local amenity resulting from the erection or construction of a gate, fence, wall or other means of enclosure. This could have a significant impact on the particular characteristics of the Knoll ASRC Local Plan designation.

#### 5. FINANCIAL IMPLICATIONS

5.1 This report recommends a 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 Direction comes into effect. During this period, the PD right would 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.

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 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. The proposed Direction encompasses several hundred properties. 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.

<p><b>Non-Applicable Sections:</b></p>	<p>IMPACT ON VULNERABLE ADULTS AND CHILDREN</p> <p>PERSONNEL IMPLICATIONS</p> <p>PROCUREMENT IMPLICATIONS</p>
<p>Background Documents: (Access via Contact Officer)</p>	<p>The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)</p> <p>Bromley Local Plan (January 2019)</p> <p>London Plan (March 2021)</p> <p>National Planning Policy Framework (July 2021)</p>