

SECTION '2' – Applications meriting special consideration

**Application No :** 13/01684/RECON

**Ward:**  
**Kelsey And Eden Park**

**Address :** Land Rear Of 426 - 428 Upper Elmers  
End Road Beckenham

**OS Grid Ref:** E: 537342 N: 167462

**Applicant :** Mr Peter Ellis

**Objections :** YES

**Description of Development:**

Removal of condition 1 (which restricts the planning permission to Mr Ellis) and Condition 2 (which requires the use of the premises to cease when Mr Ellis ceases to occupy the premises) from planning permission ref. 05/00042 granted for continued use of the buildings for the servicing of motor vehicles.

Key designations:

Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
London City Airport Safeguarding

This application was deferred from Plans Sub Committee on 11th July in order for the application to be re-presented on list 2. The report is repeated below.

**Proposal**

The application site is used for the servicing of motor vehicles. This application seeks:

- the removal of condition 1 from planning permission ref. 05/00042 which restricts the planning permission to Mr Ellis
- the removal of condition 2 from planning permission ref. 05/00042 which requires the use of the premises to cease when Mr Ellis ceases to occupy the premises

**Location**

The site is accessed from a shared rear service drive on the west side of Upper Elmers End Road. It is located behind Nos. 426-428 Upper Elmers End Road and to the rear of properties 139/141 Eden Way.

There is residential sited to the west of the site which is separated by a rear access road. A mix of residential and commercial exists to the east of the site with the pub to the north.

### **Comments from Local Residents**

Support for Mr Ellis as operator but concerns that '... a less benign operator could pose substantial difficulties for neighbours'. Would prefer to see conditions transferred to new owner.

### **Comments from Consultees**

No technical concerns are raised from a highways point of view nor in respect of Environmental Health.

### **Planning Considerations**

The application falls to be determined in accordance with the the NPPF, the London Plan and the following policies of the Unitary Development Plan:

BE1 Design of New Development  
EMP6 Outside Designated Business Areas

SPG1  
SPG2

### **Planning History**

The use of the site has been continuing since at least 1987. The Council refused a retrospective application (ref. 87/01074) on the following grounds.

This was allowed on appeal subject to conditions. The planning history shows there have been a number of renewal applications for the use of the site until 2005 when planning application ref. 05/00042 granted permission for a permanent use. The personal element was retained in order that the situation could be reconsidered should the business change hands.

Two subsequent applications, refs. 12/02084 and 12/03984, sought to remove Condition 1 and Condition 2 from planning permission ref. 05/00042 and were both refused for the following reason:

Given the sensitive location within which the business is sited, the retention of Conditions 1 and 2 are considered necessary in order to assess the degree of impact on residential amenity by any future operator, the absence of which would be contrary to Policies BE1 and EMP6 of the Unitary Development Plan.

### **Conclusions**

The main issues relating to the application are the impact that it would have on the amenities of the occupants of surrounding residential properties.

The applicant has submitted a supporting statement which highlights that Hartfield Motors has been servicing and repairing cars for local residents for twenty eight years and uses local suppliers. They have also provided work experience for pupils from local schools and submits that the garage is now part of the local community. It states that there have never been any complaints against the garage and the application is submitted with letters of support from neighbouring properties. Restrictions are in place relating to opening hours and no paint spraying or bodywork and these are to remain.

Condition 1 restricts the planning permission to Mr Ellis and Condition 2 requires that when the premises cease to be occupied by Mr Ellis the permitted use shall cease and all materials and equipment to be removed from site.

As part of the application, documentation has been provided to evidence participation in the work experience programme 2009, three letters of support from local business, one letter of support from a residential neighbour at 428 Upper Elmers End Road stating that the '... business activity has not once caused me any inconvenience or nuisance...' and a copy of a letter from the West Beckenham Residents' Association which states '...we did not want to prevent Mr Ellis from passing on the business but...that the same considerations should be applied to the new owner...'.

Whilst it is acknowledged that the business has operated for many years without considerable detrimental impact on the neighbouring amenities it is the case that due to Condition 2 once Mr Ellis ceases to occupy the premises the business has to cease too.

It should be noted that the Inspector originally saw justification to grant a personal and limited planning permission:

(appeal decision issued 31 may 1988) '...your client is a hard working young man who, after some years of study and the completion of an apprenticeship, is now well qualified to make a success of his own business...' '...there is justification in the particular circumstances of this case to grant a personal planning permission for a limited period of 2 years...'

The submissions referred to above tend to highlight and reflect the observations made by the Inspector but cannot influence or guarantee the style of operation of any future operator. It remains that the site is in a sensitive location and that without the Conditions in question it is likely the site would not have had the benefit of such a planning permission in the first instance. Additionally the personal element was retained with the permanent planning permission (ref. 05/00042) in order that the situation could be reconsidered should the business change hands.

Policy EMP6 recognises the importance of the retention of business sites located outside of designated Business Areas whilst at the same time wishes to protect local residential amenity. It is for this reason that whilst the Council recognise the value of the local business within the area it also recognises the need to protect

nearby residential amenity and to this end would welcome an application to amend planning conditions by replacing the personal permission of 'Mr Ellis' with another named operator.

Given the considerations discussed above and the sensitive location within which the business is sited it is considered necessary to retain a restriction in the form of existing Conditions 1 and 2 in order to assess the degree of impact on residential amenity by any future operators of the site.

It is not considered that any additional information or justification has been submitted since the previous refusal (ref. 12/03984) and as such remains unacceptable.

Background papers referred to during production of this report comprise all correspondence on files refs. 13/01684, 12/03984, 12/02084, 05/00042 and 87/01074, excluding exempt information.

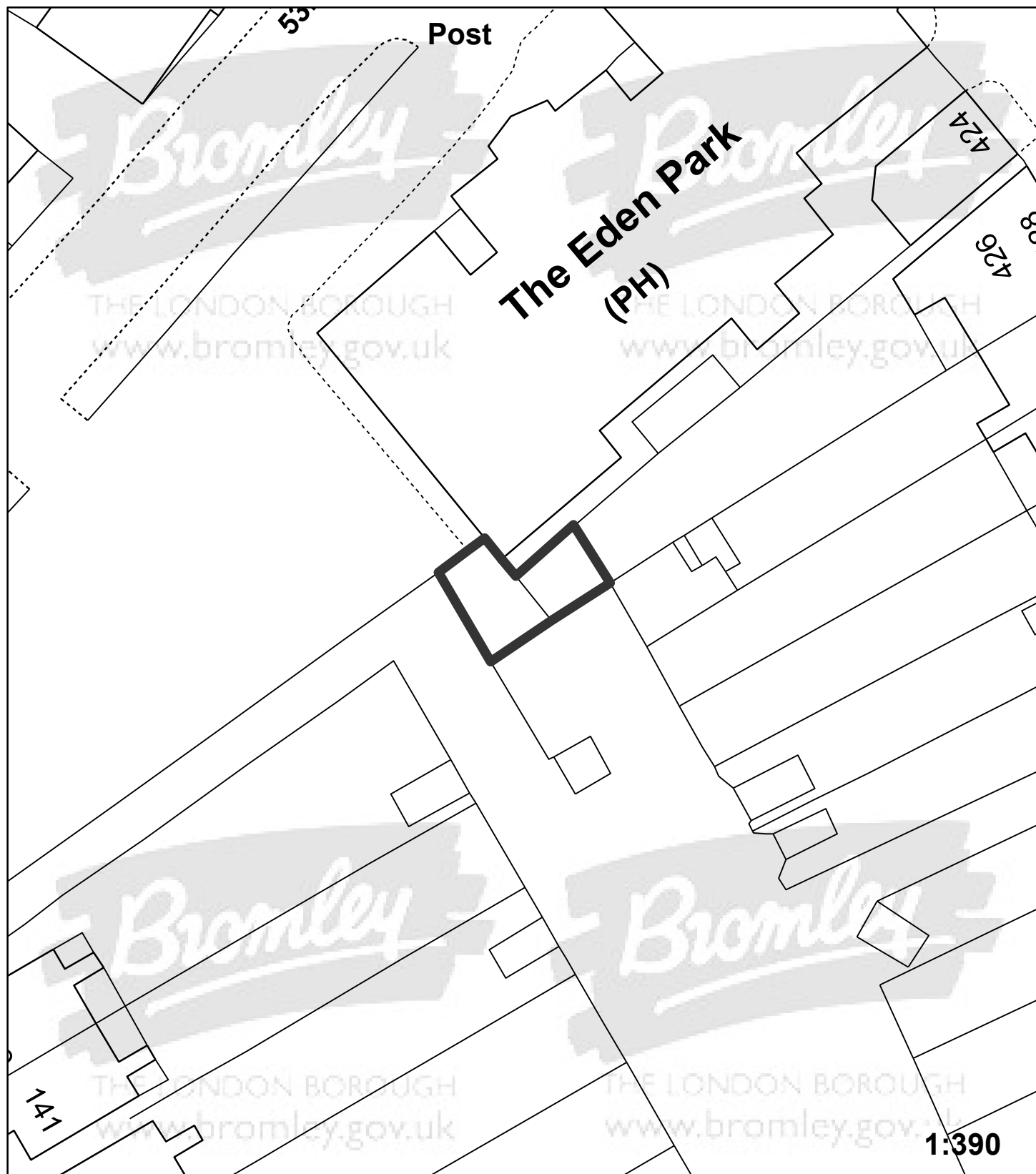
### **RECOMMENDATION: APPLICATION REFUSED**

- 1 Given the sensitive location within which the business is sited, the retention of Conditions 1 and 2 are considered necessary in order to assess the degree of impact on residential amenity by any future operator, the absence of which would be contrary to Policies BE1 and EMP6 of the Unitary Development Plan.

**Application:**13/01684/RECON

**Address:** Land Rear Of 426 - 428 Upper Elmers End Road Beckenham

**Proposal:** Removal of condition 1 (which restricts the planning permission to Mr Ellis) and Condition 2 (which requires the use of the premises to cease when Mr Ellis ceases to occupy the premises) from planning permission ref. 05/00042 granted for continued use of the buildings for the



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

© Crown copyright and database rights 2013. Ordnance Survey 100017661.