

Application No : 13/01973/FULL1

Ward:
Copers Cope

Address : Dylon International Ltd Worsley Bridge
Road London SE26 5BE

OS Grid Ref: E: 536890 N: 171285

Applicant : Relta Ltd

Objections : YES

Description of Development:

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

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
Flood Zone 2
Green Chain
London City Airport Safeguarding
London City Airport Safeguarding Birds
Local Distributor Roads
Metropolitan Open Land

Proposal

An appeal against the Council's non-determination of this application within the statutory 13 week period has been received and Members are requested to consider whether there are grounds upon which to contest the appeal. The scheme involves the replacement of previously permitted office accommodation with 74 residential units. The proposal is summarised as follows:

- five storey building comprising 74 residential units, A1 retail (249m²) unit, A3 café/restaurant (113m²) unit and a D1 creche (624m²) in place of Building A03 which was proposed to include 6,884m² of office floorspace. This office building was approved as part of the implemented planning permission granted at appeal (LBB ref. 09/01664) for a mixed use redevelopment comprising basement car parking and 2 part five/ six/ seven/ eight storey blocks for use as Class B1 office accommodation (6884m²)/ Class A1 retail (449 sqm)/ Class A3 cafe/ restaurant (135 sqm)/ Class D1 creche (437 sqm) and 149 flats (32 one bedroom/ 78 two bedroom/ 39 three bedroom)
- additional 74 secure cycle storage spaces will be provided at basement level
- overall design and scale of the proposed building remain unchanged from that of approved Block A03
- balconies will be added to the rear elevation of the building.

Location

- 1.119 hectare irregular shaped site is currently occupied by part of the 1930s built former Dylon factory, including the office building to the front of the site
- site is located to the south of Station Approach and to the west of Worsley Bridge Road
- Hayes to Charing Cross railway line abuts the western boundary and the former Dylon sports ground lies to the south
- north side of Station Approach lies within the London Borough of Lewisham where the Broomsleigh Business Park extends to the north on the west side of Worsley Bridge Road and generally comprises older style business accommodation
- Gardner Industrial Estate and the Abbey Trading Estate lie to the west of the site beyond the railway line and include modern two to three storey sheds
- there are 1930s or 1940s built two and three storey industrial buildings on Worsley Bridge Road to the southeast of the site
- there are a number of sports pitches in the surrounding area, including a large area of designated Metropolitan Open Land to the south and east of the site
- there is a residential estate built in the 1990s comprising a mixture of two storey houses and a three storey block of flats opposite Worsley Bridge Road to the east of the site
- site has a Public Transport Accessibility Level (PTAL) level of 2 (low).

Application documents

- Sustainability Appraisal and Energy Statement
- Transport Statement
- Energy Assessment and Renewable Feasibility Report
- Code for Sustainable Homes Pre-Assessment
- Architectural Design Statement

The application is accompanied by an Office Market Report which includes the following points:

- office uses are not viable on market based terms - although the site is well located next to Lower Sydenham Station the evidence from marketing has proved that there is no demand for the approved office floor space
- since 2009 there has been an overall weakening of demand for offices within this part of London and supply levels have continued to increase
- no shortage of office floorspace throughout Bromley, even in preferred office locations
- it is recognised by the Council's consultants that new office development in the Borough is no longer viable, even in Bromley town centre
- suburban office market in south east London is in structural decline and this market reality will not change - prospective major redevelopment proposals in Croydon (retail led) will further divert any demand from back office/footloose "outliers" away from Bromley in the medium to long term

- latest London Policy review demonstrates that most large occupiers in Bromley are referred to as "outliers" that can easily relocate - Bromley is unlikely to be seen as a significant office area in the long term and this also impacts upon the need for offices in non recognised locations such as Lower Sydenham
- existing vacancy rates in Bromley town centre are approaching 20% and there is a realistic pipeline representing over 10 years supply
- indicators suggest there is a declining market requirement for offices in Bromley generally and a secondary area such as Lower Sydenham will decline more rapidly
- office rental levels in Sydenham (£9.50 per sq. ft. approx.) are only marginally above industrial values - there is no prospect for office development in such circumstances and this position is not going to change
- high development costs cannot be adequately "subsidised" by the residential element of the permitted scheme (on the application site) which itself attracts high costs
- there is over 69,000 sq m of existing accommodation on the market in Bromley and Lewisham in 189 buildings and a further 27,000 sq m of unimplemented permissions in Bromley town centre - many of these can be subdivided into smaller units - in quantitative and qualitative terms there is an excessive level of choice for potential occupiers
- it is recognised that there is a need to provide some new stock where circumstances allow as the limited growth areas (from SME's) in certain evolving areas of employment generation will be attracted to new flexible accommodation but the issue remains that viability is compromised and new development can rarely be justified
- offices within the permitted scheme have been marketed since 2010 but in view of the lack of any interest for the accommodation the scheme as a whole is not viable
- despite extensive marketing there has additionally been no interest shown for the site as a whole
- proposed amendment to the scheme will not have any detrimental impact on the supply of employment land (and office space in particular) in the market search area either immediately or in the longer term.

The application is accompanied by a document entitled 'Employment and Training' which states that the retail unit, café and nursery / crèche within the approved scheme will support up to 59 full time jobs. Furthermore, it is expected that an average of 162 construction jobs will be generated during the 24 month construction period.

Comments from Local Residents

Nearby residents were notified of the application and representations were received, which can be summarised as follows:

- out of character / overbearing scale
- inadequate car parking
- increased demand for on-street car parking

- increased pressure on local infrastructure and services, in particular education, healthcare and transport
- loss of light to Montana Gardens properties
- café should not be a fast food outlet which would add nothing to the community and will result in increased litter.

Comments from Consultees

There are no objections from the Council's in-house drainage consultant.

There are no objections in terms of highways.

Thames Water has no objections.

There are no objections in terms of Environmental Health.

Any further responses to consultations will be reported verbally at the meeting.

Planning History

Planning permission was granted at appeal in April 2010 for a mixed use development on the whole factory site comprising basement car parking and 2 part five/ six/ seven/ eight storey blocks for use as Class B1 office accommodation (6884 sqm)/ Class A1 retail (449 sqm)/ Class A3 cafe/ restaurant (135 sqm)/ Class D1 creche (437 sqm) and 149 flats (32 one bedroom/ 78 two bedroom/ 39 three bedroom). The following are excerpts from the Inspector's report:

'The site lies within the designated Lower Sydenham business area. Under policy EMP4, only Class B uses will be permitted in such areas. The proposal for a development that includes extensive residential floorspace on the site is therefore contrary to this.

The appellant's evidence is that redevelopment of the site for employment use would not currently be viable without a residential component to facilitate this. The Council accepts this position. It provides a strong consideration in support of a mix of uses on the site that includes residential accommodation, with the Council regarding the housing gain and especially the provision of affordable housing as a substantial benefit of the scheme.

While the Council would prefer a continuation of use of the site for industrial purposes, there is no preclusion in principle against office use in business areas among the list of uses permitted by policy EMP4. Large new offices, however, are subject to the provisions of policy EMP1. Under this policy such office developments, defined as more than 2000m², are to be located on defined proposals sites or within Bromley or other identified town centres; outside these, office developments above this size will be permitted only on sites that are highly accessible by public transport and by other modes of transport.

No objection has been raised by the Council with respect to the non-public transport accessibility of the site. The appellant contends that, for office development, the site also qualifies as 'highly accessible' by public transport on the basis of the location adjacent to Lower Sydenham railway station and the proximity of bus routes. It is argued that the calculated PTAL rating of 2 (low accessibility) on its own is misleading in that this is a London-wide index which ignores catchment areas and is not use specific.

The station provides a frequent train service from Hayes towards Lewisham and central London with good potential for connections to a wide range of destinations. It would be very convenient for office workers to use and no doubt be a major factor in attracting an office occupier to the site. The appellant also demonstrates a relatively large catchment of potential employees within walking and cycling distances. However, bus services are less convenient; the stop for one service is some 100m away but others are at least 450m away. Policy T1 requires B1 developments of over 4000m² to be on sites with a PTAL rating of 3 or above. While the PTAL index is only a guide, having regard to the combined number and distance of public transport services I regard the accessibility of this site for office development as good rather than high, and consider that there is some conflict with the UDP in this respect.

There is agreement that the UDP employment policies are up-to-date for the purposes of PPS4, and I have no reason to take a different view on this. Since I have found the office element not to be fully in accord with the development plan, there is a need under PPS4 to consider the office proposal against sequential and impact test requirements.

The appellant's evidence addresses the potential of alternative sites in the Borough for the type of large floorplate modern office development proposed. This concludes that there are no town centre or edge-of-centre sites that are currently available, suitable and viable for the development, including by way of mixed use development or refurbishment of existing properties. Viability constraints in particular mean that there is little prospect of new office stock being developed in the Borough in the foreseeable future. This evidence is unchallenged and reinforced by the findings of both the Council's recent GVA Grimley employment report for the Borough and the Greater London Authority's London Office Policy Review 2009, and the Council has not suggested that any other site is sequentially preferable. With respect to impact, there is no evidence that there would be any negative effects from office development of this site on town centres or in other respects identified in PPS4.

The Grimley study is relied on by both parties and is more locally focussed than general London Plan statements on office demand. The study finds that the lack of a quality office offer has been identified consistently as a significant constraint to economic development in the Borough. Under its preferred scenario a shortfall of around 120,000m² of office floorspace is calculated for the period 2006-21, split between in-centre and out-of-centre. Addressing the shortfall of large flexible office floorplates even with planned

investments in town centres is identified as a long term priority for the Borough. While in the same scenario the report also identifies an under-supply of other business space (B1c, B2) of around 28,000m², it suggests that this could be subsumed within an oversupply of warehousing/distribution space.

The Mayor's Supplementary Planning Guidance on Industrial Capacity of 2008 categorises Bromley as a Borough where there should be only a restricted transfer of industrial land to other uses, and it has relatively low amounts of such land. However, little weight can be given at present to a possible future designation of the business area as a locally significant industrial site. This possibility does not provide a basis to override the existing absence of policy protection specifically for industrial use of the site.

The site has been marketed, and there are no criticisms as to the adequacy or robustness of this process. No takers have been forthcoming, and it is undisputed that the nature and condition of the premises make them unattractive to potential occupiers. The appellant has produced viability assessments which show convincingly that redevelopment of the site for new industrial accommodation would not be viable in foreseeable market conditions. The Council suggests the possibility of lower cost sub-division for multibusiness occupation as has occurred with a neighbouring site. However, the market exposure would not have excluded such potential schemes and the appellant points to the particular physical constraints of the appeal premises that would inhibit sub-division of this type. Within this context I find the Council's evidence on turnover of premises within the business area and on the demand for space for small businesses to be of limited relevance to this site. The appellant's evidence on the availability of industrial buildings in Bromley and adjacent Lewisham indicates that there is not at present a demonstrable shortage of industrial land.

The proposal would provide for a similar quantum of business floorspace as that replaced, and the potential employment density would be higher. There would therefore be no loss of employment. Given the appellant's evidence on the shortage of new offices in accessible locations I find no reason to anticipate that the offices would not be occupied, notwithstanding the extent of vacant offices and unimplemented permissions elsewhere. There is no evidence to show that the proposal would have an adverse impact on business activities in the remainder of the business area.

Drawing all of the above together, I consider that there are strong factors favouring the proposed mix of uses such as to outweigh the degree of conflict with the development plan.'

Following the applicant's appeal against the Council's non-determination of the application a duplicate application has been received (ref. 13/03467).

The start date for the appeal is 7 November 2013 and the deadline for submission of proofs of evidence is 7 January 2014.

Planning Considerations

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

UDP:

- T1 Transport Demand
- T2 Assessment of Transport Effects
- T3 Parking
- T5 Access for People with Restricted Mobility
- T6 Pedestrians
- T7 Cyclists
- T15 Traffic Management
- T18 Road Safety
- H1 Housing Supply
- H2 Affordable Housing
- H7 Housing Density and Design
- NE7 Development and trees
- BE1 Design of New Development
- BE2 Mixed Use Development
- BE10 Locally Listed Buildings
- BE17 High Buildings and the Skyline
- NE7 Development and Trees
- G6 Land adjoining Green Belt or Metropolitan Open Land
- EMP1 Office Development
- EMP2 Office Development
- EMP4 Business Areas
- S7 Retail and Leisure Development
- C2 Community Facilities and Development
- C3 Access to buildings for people with disabilities
- ER7 Contaminated Land
- ER9 Ventilation
- IMP1 Planning Obligations

London Plan:

- 2.6 Outer London: Vision and Strategy
- 2.7 Outer London: Economy
- 3.3 Increasing Housing Supply
- 3.4 Optimising Housing Potential
- 3.5 Quality and Design of Housing Developments
- 3.6 Children and Young Peoples Play and Informal Recreation Facilities
- 3.8 Housing Choice
- 3.9 Mixed and Balanced Communities
- 3.11 Affordable Housing Targets
- 3.13 Affordable Housing Thresholds
- 4.1 Developing London's Economy
- 4.4 Managing Industrial Land and Premises
- 4.12 Improving Opportunities for All
- 5.2 Minimising Carbon Dioxide Emissions

- 5.3 Sustainable Design and Construction
- 5.6 Decentralised Energy in Development Proposals
- 5.7 Renewable Energy
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage
- 6.1 Strategic Approach
- 6.3 Assessing the Effects of Development on Transport Capacity
- 6.9 Cycling
- 6.10 Walking
- 6.13 Parking
- 7.1 Building London's Neighbourhoods and Communities
- 7.2 An Inclusive Environment
- 7.3 Designing out Crime
- 7.4 Local Character
- 7.5 Public Realm
- 7.6 Architecture
- 7.8 Heritage Assets and Archaeology
- 7.14 Improving Air Quality
- 7.15 Reducing Noise and Enhancing Soundscapes
- 8.2 Planning Obligations
- 8.3 Community Infrastructure Levy.

Policy EMP4 of the Unitary Development Plan states that designated business areas are only suitable for Class B1, B2 and B8 use. The subtext at Paragraph 10.18 of the UDP states that 'the Business Areas consist largely of land with established light industrial and warehousing uses. The Council wishes to safeguard a supply of such land in the Borough to provide for the growth and development of business and industry. Consequently, proposals in the Business Areas for uses not within Use Classes B1 to B8 will not normally be permitted.'

London Plan Policy 4.4 is concerned with the management of industrial land. It states that a rigorous approach should be taken in the management of land to ensure there is sufficient stock of both land and premises to ensure the future needs of different types of industrial and related uses is met in different parts of London. The release of surplus industrial land will only be allowed where this is compatible with these requirements and where such a release contributes to local planning objectives such as housing, social infrastructure or town centre renewal. Bromley is ranked as being restricted in terms of the transfer of industrial land to other uses due to having low levels of industrial land relative to demand. Boroughs within this category are encouraged to have a more resilient approach to such changes of use.

The National Planning Policy Framework states at paragraph 22 that:

'Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should

be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.'

The London Borough of Bromley Retail, Office, Industry and Leisure Study (March 2012) prepared by DTZ identifies a significant requirement for office space (121,000m²) driven by business services and financial services.

The London Borough of Bromley Economic Development and Employment Land Study (January 2010) states that 'the employment data suggest that there will be a need in the longer term for additional office Floorspace'.

The following healthcare and education infrastructure contributions would be sought in accordance with the Council's Planning Obligations SPD:

Education

Pre-School:	£17,830.42
Primary:	£72,908.56
Secondary:	£66,813.45
Further Education:	£37,565.06

Total: £195,117.49

Health

Total: £76,970.00

Education and Healthcare £272,087.49

Nil affordable housing is proposed within the scheme and the applicant is proposing a contribution of £183,515 (including monitoring and legal fees) towards education infrastructure only. The proposal is therefore not in compliance with the Council's policies regarding affordable housing and planning obligations. The applicants have submitted a financial viability appraisal to seek to demonstrate that any provision of affordable housing and additional planning obligations would render the development unviable. Officers subsequently commissioned external expert advice from consultants to review the appraisal. Their report advises that there are fundamental differences of opinion in regard to the costs, values and viability of this site. In particular there is disagreement regarding the capital value of the development, the marketing/disposal costs and the finance costs. The advice received is that the scheme could viably support a larger Section 106 financial contribution and up to 25% on site affordable housing across the scheme as a whole.

Planning permission is being sought on the neighbouring Maybrey Works site for a part 5, part 7 storey building with 4,122m² of Use Class B1 floorspace on the ground floor with 147 residential units above with new access arrangements, provision of 183 car parking spaces at basement level and landscaping, refuse and

recycling facilities (ref. 13/01815). It can be noted that business floorspace is considered viable on this neighbouring site.

Conclusions

Apart from the introduction of balconies to the rear elevation of Block A03 facing into the site and the appearance of the building remains otherwise unchanged from the approved scheme. The revised scheme can therefore be considered acceptable in terms of its impact on character and there will be no unduly harmful impacts on the residential amenities of the occupants of nearby residential dwellings. The main issues to be considered in this case are as follows:

- acceptability of nil affordable housing and £43,087.49 shortfall in terms of healthcare and education infrastructure contributions
- acceptability of 74 residential units in place of the approved office floorspace, i.e. the loss of employment land.

The advice received by the Council from the independent consultants Colliers International indicates a significant difference of opinion regarding the viability information submitted by the applicant. On this basis it is considered that the applicant has not adequately demonstrated that the scheme is unable to support affordable housing provision and a policy compliant healthcare and education infrastructure financial contribution. It is therefore recommended that the appeal is contested on this ground.

The applicant has advised that they may submit an updated Financial Viability Assessment before the appeal and therefore a further report to a planning committee may follow for Members to consider the revised information.

The site is a designated business area within the Unitary Development Plan. The previous planning permission was granted on the basis that there were significant material planning considerations to outweigh the non-compliance with Policy EMP4 which requires only B1, B2 and B8 uses in business areas. The Inspector placed considerable weight on the office accommodation and stated that he found 'no reason to anticipate that the offices would not be occupied, notwithstanding the extent of vacant offices and unimplemented permissions elsewhere'. The applicant has submitted a report which states that there is no longer any demand for the office accommodation. It therefore appears that the office market has been very volatile in the period since planning permission was granted and it may be short sighted and premature to allow the loss of the office floorspace when demand could recover in the medium to long term.

The proposal conflicts with the Council's aim to safeguard a supply of land in the Borough to provide for the growth and development of business and industry. The findings of the DTZ (2013), GVA study (2010) and the Mayor of London's projections for job creation in the Borough emphasise the importance of ensuring a supply of business sites to meet future need. The Council's evidence base points strongly to a need for office floorspace in the Borough to accommodate the GLA's forecasted employment growth. The DTZ (2012) study clearly states that there is "a significant requirement for office space (121,000m²) driven by business services

and financial services". Significant weight can therefore be placed on the retention of office floorspace on site.

The UK economy has recently been in recession and is currently characterised by sluggish growth. If residential development of the site is permitted then the business opportunities offered by the site will be lost permanently. It is Council policy to safeguard a supply of business land for the future growth and development of business industry. Retaining existing commercial sites within the Borough has significant sustainable development advantages in terms of providing both local employment opportunities and local services.

It is recommended that the appeal is also contested on grounds that the scheme does not provide Use Class B1, B2 or B8 floorspace and there are no material planning considerations that outweigh non-compliance with Policy EMP4 of the Unitary Development Plan.

RECOMMENDATION: RESOLVE TO CONTEST APPEAL

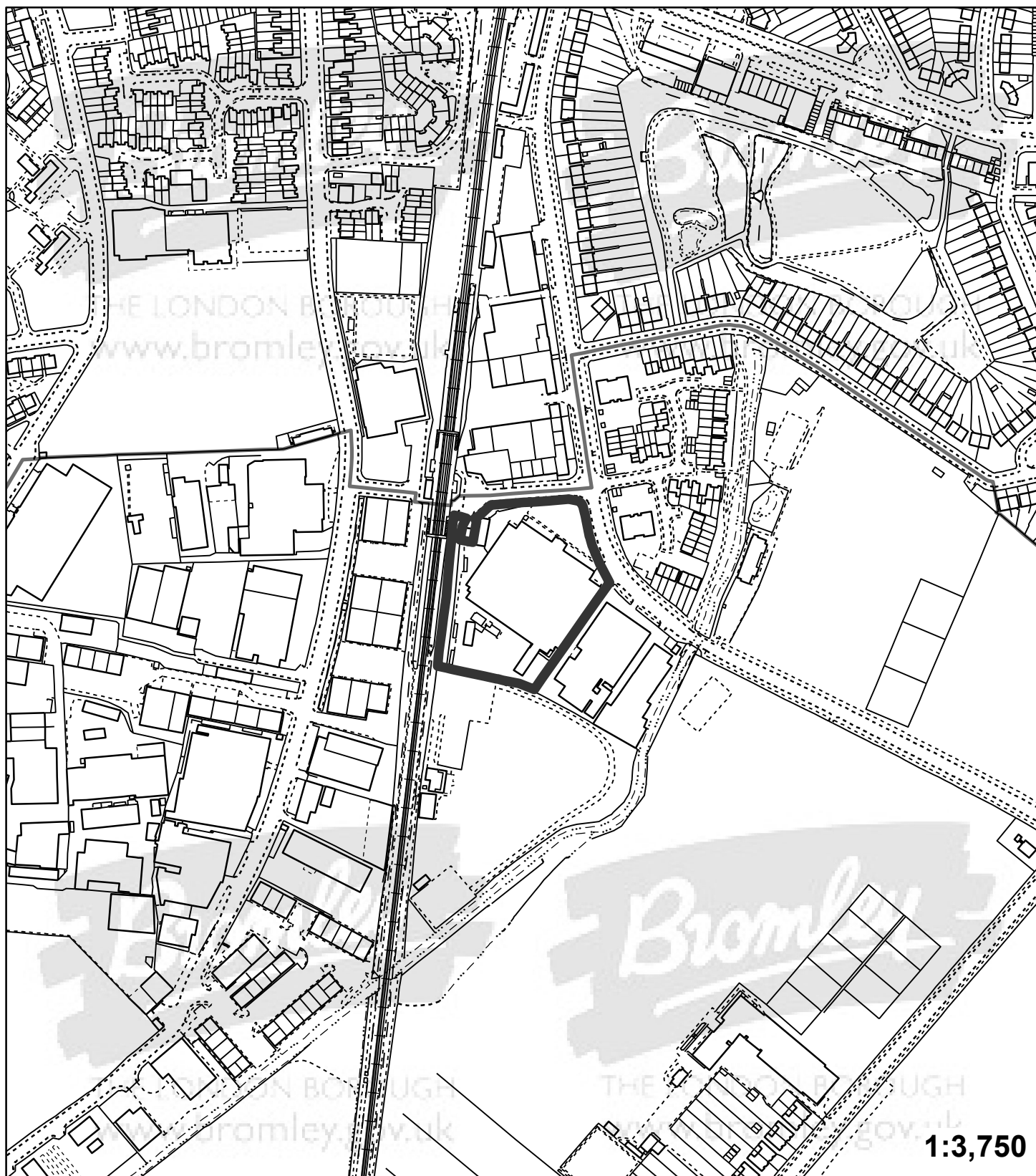
Grounds for contesting the Appeal are as follows:

- 1 The proposal would give rise to a requirement for affordable housing and a financial contribution towards education provision. Inadequate evidence has been submitted to demonstrate that the development cannot support affordable housing provision and a sufficient healthcare and education infrastructure contribution contrary to Policies H2 and IMP1 of the Unitary Development Plan and Policy 8.2 of the London Plan.'
- 2 The site is located in a Business Area in the Unitary Development Plan and the proposal would be contrary to Policy EMP4 of the Unitary Development Plan as it does not provide Use Class B1, B2 or B8 floorspace and furthermore there is insufficient evidence to demonstrate that this cannot be provided.

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