

SECTION '2' – Applications meriting special consideration

Application No : 16/03627/FULL1

Ward:
Chislehurst

Address : Kemnal Stables Kemnal Road
Chislehurst BR7 6LT

OS Grid Ref: E: 544638 N: 171611

Applicant : Mr T Pullen

Objections : YES

Description of Development:

Demolition of existing residential building, stables with sand schools, flood lighting and offices and the erection of 3x five bedroom houses with underground swimming pool, basement accommodation, orangery and garages.

Key designations:

Conservation Area:

Chislehurst Biggin Hill

Safeguarding Area Green

Belt

London City Airport

Safeguarding Smoke Control

SCA 16

Update

Deferral:

The application was previously heard at planning committee on the 20th October 2016. The application was deferred by Members for the following reasons:

- For the applicant and Officers to agree measurements of the existing and proposed development
- For the application to be re-considered on List 2 of a future Plans Sub-Committee

The Applicant has meanwhile made the following amendments to the scheme:

- Removal of the habitable accommodation within the roof space (removal of the dormers resulting in a decrease in the total volume of the proposed buildings of approximately 20m³)
- The re-location of the detached garages partially underground and reduction in their size (decrease of 45m³).

Floorspace and volume calculations:

Since the deferral of the application, despite extensive correspondence, Officers and the Applicant have not agreed the floor space and volume calculations for the existing and proposed development due to disagreements about what should be included in the calculations. Officers have used the same approach to measurement as for other Green Belt sites. Set out below are the two sets of

figures and the areas of disagreement:

<u>Volume</u>	Existing buildings volume	Proposed buildings volume	Difference
Officer Calculations	2538.48m ³	6663.84m ³	+162% increase
Applicant Calculations	5722.1m ³	4094m ³	-28% decrease

<u>Floorspace</u>	Existing buildings floorspace	Proposed buildings floorspace	Difference
Officer Calculations	665.07m ²	2011.8m ²	+202% increase
Applicant Calculations	1612.5m ²	2004m ²	+24.3% increase

Assessment of differences between calculations:

The main reasons behind the differences with the data are set out below. Addressing the differences between the calculations, Officers do not consider that the applicant's methodology is appropriate for the following reasons:

- *Applicant's inclusion of the open space between the existing buildings in the courtyard as existing floorspace and volume (footprint and volume calculations)*

Air or space between buildings is not part of a building for the purposes of calculating the size of that building. There are no other Green Belt decisions that Officers are aware of where space between buildings has been included in volume calculations for the purposes of comparing existing and proposed built development

- *Applicant's omission of below ground volume in new dwellings (volume calculations)*

Underground accommodation is not excluded from Green Belt policy considerations and is therefore relevant to floorspace and volume calculations. This is established in appeal decisions and the applicant has submitted no examples of cases where the excluding of underground accommodation to justify proposed development in floorspace or volume terms was accepted.

- *Applicant's inclusion of future floorspace as existing floorspace and volume 'a fallback position' (extensions not yet approved for planning) (footprint and volume calculations)*

There is no provision in Green Belt policy, and in particular under any of the bullet points in paragraph 89 of the NPPF which the applicant relies upon, for future floorspace or volume to be included in existing building calculations. In any event, none of the future floorspace has been confirmed as being possible.

In particular no drawings or formal approvals have been provided. If this is to be a credible 'fallback' position, the applicant's assumptions should be confirmed by way of planning permissions or lawful development certificates, otherwise they are of very limited weight.

The applicant's fallback position cannot be put forward as part of a justification for development under paragraph 89 (this only deals with existing and proposed development, not theoretical development) but could only be a consideration as part of a very special circumstances case.

Members are advised that the applicant's approach to calculating floorspace and volume is not consistent with other decisions either issued by the Council or at appeal.

The applicant continues to refer to bullet point 4 of paragraph 89 of the NPPF, but this is not relevant since the proposal is for the complete redevelopment of the site and not the replacement of a building.

Other Green Belt sites and recent decisions:

Below is a table of other Green Belt sites in Bromley referred to by the applicant in their submission. These are useful recent examples of similar redevelopment proposals for Green Belt sites and are a significant material planning consideration.

In these similar cases, the floorspace and volume figures were calculated in the same way as Officers' calculations above. The figures in these tables are as used in justifying the decision by the Inspector or Council. These appeal decisions are available on file:

Green Belt Redevelopment Site	Change in volume	Change in floor area	Decision
Bromley Common Liveries (14/03398/OUT)	- 17.2%	- 41.5%	Appeal Allowed (2015)
Lilly's Farm (15/01024/FULL2)	- 23.2%	- 20.1%	Appeal Allowed (2016)
Westerham Riding School (15/03077/OUT) <i>(note –included floorspace subject to an extant planning permission but not completed)</i>	- 43%	- 22%	Appeal Allowed (2016)
Warren Farm (16/01961/OUT)	Not available in report	- 48.9%	Permission Granted (2016)
Potters Farm (15/05147/FULL1)	+ 221%	+ 72%	Appeal Dismissed (2016)
Kemnal Stables	+ 162.5% (LBB figure) - 28.4% (applicant figure)	+ 202% (LBB figure) + 24.3% (applicant figure)	This application

Potters Farm Green Belt appeal decision:

Since the application was previously considered by planning committee in October 2016, an appeal has been dismissed on a Green Belt site at Potters Farm for a

similar proposal for redevelopment of a site with dwellings. The Inspector within his report (paragraphs 18 – 20 – the full decision is appended to this report for ease of reference) stated:

“The appellant’s evidence also draws my attention to three appeal decisions. For the Bromley Common Liveries site the Inspector notes that the proposal would bring about a reduction in the footprint of the buildings on site of around 41% and a reduction in the volume of buildings of around 17%. For the Priam Lodge site, it was agreed between the parties that the proposal would result in a significant reduction in both the building footprint as well as the developed area, and a very small decrease in the volume of buildings on site. Similarly, for the Westerham Riding School site the Council has confirmed that again there would be a reduction in the level of built development on the site. Accordingly, these appeal decisions relate to schemes which are not directly comparable to that currently before me where there would be a substantial increase in amount of built development within the site.

I therefore conclude that the proposed development would have a significantly greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. As a consequence, the development would not meet the sixth criteria of the exceptions set out in paragraph 89 of the Framework and therefore would amount to inappropriate development, which by definition is harmful to the Green Belt, contrary also to UDP Policy G1, and Policy 7.16 of the London Plan (2016). I attach substantial weight to this harm.

Although this site is not undeveloped countryside and is closely related to built development, I find that the proposal would also erode the wider openness of the Green Belt and this would be at odds with the Green Belts essential characteristics of openness and permanence. In addition, the development would conflict with the defined purposes of the Green Belt as defined in paragraph 80 of the Framework, specifically to assist in safeguarding the countryside from encroachment and check unrestricted sprawl of large built-up areas”

Amendments to the scheme:

It is noted that the applicant has chosen to amend the plans to remove the roof space accommodation and re-locate the garaging partially underground. When considering the impact on openness the focus must be upon the absence of built development rather than the availability of views of, or the visibility of, any proposed development. This equally applies to all of the underground or partially underground accommodation.

The amendments have removed some of the dormer windows previously proposed however this removes only approximately 20m³ from the overall volume of the development and the height of the dwellings remains as previously proposed at 11.1m. The partial sinking of the garages has also been accompanied by a 45m³ reduction in their size. These amendments have not mitigated any of the Officers concerns regarding the proposal, in particular they do not result in a significant decrease in overall built development.

5 Year housing supply update:

In respect of 5 year housing supply, since the application was deferred an updated position was formally agreed by the Council’s Development Control Committee on 24 November 2016. The Updated Paper concluded that the Council can

demonstrate five years' worth of housing land supply and, additionally, it informs the Council's Proposed Submission Draft Local Plan.

Further representations:

Since the deferral of the application, further representations have been received from the Kemnal Residents Association objecting to the proposal for the following reasons:

- It doesn't comply with the Green Belt status of the area and would remove the 'country' activity of the riding school which is in keeping with the semi-rural character of the area
- Damage to the road for which the Association is responsible

Update Summary:

On balance, Officers do not consider that the minor amendments made to the application overcome the concerns previously raised with regard to the inappropriateness of the development within the Green Belt and the severe harm that would result to the openness of the area as a result of this development. Even if the applicant's calculations were accepted, these still show an increase in floorspace.

Members are advised that Officer calculations of floorspace are consistent with methodology and approach for other sites (there are no examples of the applicant's approach being accepted) and should be the basis of the determination of this application.

The changes made to the scheme are not significant enough to warrant any change in recommendation, and the position set out above regarding the calculations reinforces the unacceptable nature of this proposal. The previous report is therefore repeated below, amended to reflect the revised plans submitted.

Proposal

Planning permission is sought for the demolition of an existing residential building, stables with sand schools, flood lighting and offices and the erection of 3 x five bedroom detached houses each with underground swimming pool, basement accommodation, orangery and single storey two bay garages to the front.

The dwellings will be substantial two storey buildings with accommodation contained within the roof space resulting in substantial flat roof areas for each property incorporating front dormers visible from the highway. The dwellings will have a sunken garden with single storey projections connecting from the main dwelling to a two storey orangery at the rear to host swimming pools. The design of the houses is traditional in format when viewed from the highway with differing facing materials from brick to stone to render. The dwellings host varying hipped and gabled roof profiles with tall chimneys and flat roof dormers to the front. The window openings host white stucco or stone surrounds. Rear amenity area is provided in two parts, within the sunken garden immediately adjacent to the dwellings and 40m length rear gardens to the rear of the orangery. Open land will be retained to the rear of the plots.

Plot one utilises the existing access to the stables with two new vehicular

accesses introduced along Kemnal Road for the use of Plots 2 and 3.

The site itself rises significantly from the highway to the rear of the plot of between 4.5-5.5m between Kemnal Road and the rear building line. It is proposed to lower the land level significantly between 3-7m in height to reduce the impact of the development.

Location

The site measures 1.24ha in size and is located within the Chislehurst Conservation Area and the Green Belt. A livery business is located at the site with an associated dwelling.

The existing built development comprises a four bedroom, single storey dwelling with accommodation in the roofspace including dormers, and a courtyard arrangement of single storey self-livery stables with 29 boxes located around a courtyard, offices, sand schools with associated floodlighting and car parking. To the north of the site a combined vehicular and pedestrian access leads to the stables.

Mature planting is located throughout the site, including to the rear of the residential dwelling and northern most sand school. The site is bounded from Kemnal Road by a post and rail fence, with the residential dwelling and stables at a significantly higher land level than the highway. The site has a semi-rural appearance and the existing development is appropriate in its context being low key and predominantly related to the equestrian business.

Consultations

Nearby owners/occupiers were notified of the application and objections were received from local residents, the Kemnal Residents Association and the Chislehurst Society which can be summarised as follows:

- The Applicant states that they could extend the existing house by 8m which is incorrect given the dwellings location within a conservation area and is limited to 4m
- There may be double counting of floor space
- Of the buildings to be replaced, 82% are in equestrian use and 18% are in residential use. The proposed dwellings will be 100% residential use which is very different to the existing use
- The Applicants conclusion from the volume analysis is that the proposal shows a 14% reduction of effective volume compared with existing buildings however the Applicant does not use comparable metrics
- Relating the proposed floor areas to volume above ground gives an assumed average height of 2.5m. The Applicants calculation of the volume of existing buildings assumes an average height of 3m. This is applied to the actual buildings and the open yard surrounded by the stables
- The exclusion of the volume of the underground accommodation will reduce the scale of each proposed dwelling however the basement areas have extensive glazing, have views over the sunken gardens and will be in residential use therefore should be included in calculation of area and volume or proposed development.

- The data presented in table 6.7 is flawed and misleading
- The elevations as seen from Kemnal Road will be significantly higher than the existing profile presented by the stable buildings
- The proposal will reduce the sense of openness perceived over this site in the Green Belt.
- The very special circumstances presented are not very special.
- What is the basis of the assertion that the existing stable buildings cause visual harm to the green belt?
- Regrettable to see the loss of the existing equestrian activities which is contrary to policy L1
- The development is incompatible with the objectives of the Green Belt.
- The stables are an important local facility
- The northern end of Kemnal Road has always been of a rural character and should remain so as far as possible.
- Existing stables contribute to the semi-rural character of the road
- Doesn't comply with Green Belt status
- Detrimental impact upon wildlife
- Further urbanisation is not in keeping with the rural aspect of the location
- Construction will cause nuisance to neighbours
- The plans change the natural contours of the land
- Green Belt areas are a unique heritage which need to be valued
- Open spaces are vital to the wellbeing of the community
- Damage will be caused to the road as a result of construction traffic

Letters of support were submitted from local residents and a local estate agent which can be summarised as follows:

- This scheme shows how previously developed land can create new homes
- The proposal provides benefit over the existing intensive use of the land and will reduce traffic.
- The reuse of the stables will extinguish the long term nuisance of horse manure frequently deposited on this residential road and waiting vehicles
- The site is untidy and a nuisance
- The scheme offers the opportunity to increase the housing stock of this calibre. High net worth individuals need to be encouraged to live and contribute to the community in Chislehurst.

The Advisory Panel for Conservation Areas Objection - objects to the loss of the existing buildings which make a positive contribution to the Conservation Area, and building on the Green Belt. The design of the new buildings is considered inappropriate.

Highways - No objections -The proposed development is on a private road. The access and parking arrangements appear satisfactory.

Environmental Health (Housing) - No objections.

Environmental Health (Pollution) - No objections subject to conditions.

Conservation Officer – Objections - The site is within Sub-unit 15. "Kemnal Manor, Foxbury and surrounds" as mentioned in the SPG. The area has a strong rural character and is also included in the Green Belt. The existing stables are not historic but nonetheless are sensitively designed and respond to the rural context; they make a neutral contribution. The proposed development would appear taller, bulkier and more suburban in appearance which I believe would cause harm to the rural character and appearance of this part of the conservation area, with no public benefit to outweigh that harm as per para 134 NPPF.

Trees – No objections - The arboricultural submissions have addressed the tree constraints associated with the proposals. I am satisfied with the precautions detailed within the Arboricultural Method Statement (AMS) subject to conditions

Planning Considerations

The National Planning Policy Framework is a material consideration. Sections 4 'Promoting sustainable transport'; 6 'Delivering a wide choice of high quality homes'; 7 'Requiring good design'; 9 'Protecting Green Belt land'; and 10 'Meeting the challenge of climate change, flooding and coastal change' are of particular relevance.

London Plan 2015:

- 2.6 Outer London: Vision and Strategy
- 2.7 Outer London Economy
- 2.8 Outer London: Transport
- 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
- 5.1 Climate change mitigation
- 5.2 Minimising Carbon Dioxide Emissions
- 5.3 Sustainable Design and Construction
- 5.7 Renewable Energy
- 5.10 Urban Greening
- 5.11 Green Roofs and Development Site Environs
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage
- 6.3 Assessing Effects of Development on Transport Capacity
- 6.9 Cycling
- 6.13 Parking
- 7.1 Lifetime Neighbourhoods
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.5 Public Realm
- 7.6 Architecture
- 7.8 Heritage Assets and Archaeology

- 7.16 Green Belt
- 8.3 Community Infrastructure Levy

Housing: Supplementary Planning Guidance.

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

- BE1 Design of New Development
- BE11 Conservation Areas
- ER10 Light pollution
- G1 The Green Belt
- L3 Horses, stabling and riding facilities
- NE7 Development and Trees
- H1 Housing Supply
- H7 Housing Density and Design
- H9 Side Space
- T1 Transport Demand
- T2 Assessment of Transport Effects
- T3 Parking
- T6 Pedestrians
- T7 Cyclists
- T16 Traffic Management and Sensitive Environments
- T18 Road Safety

Supplementary Planning Guidance 1: General Design Principles
Supplementary Planning Guidance 2: Residential Design Guidance

The Council is preparing a Local Plan and commenced a period of consultation on its proposed submission draft of the Local Plan on November 14th 2016 which closed on December 31st 2016 (under The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended). An updated Local Development Scheme was submitted to Development Control Committee on November 24th 2016 and Executive Committee on November 30th 2016, indicating the submission of the draft Local Plan to the Secretary of State in the early part of 2017. The weight attached to the draft policies increases as the Local Plan process advances.

The most relevant draft Local Plan policies include:

- Draft Policy 1 – Housing Supply
- Draft Policy 4 – Housing Design
- Draft Policy 30 – Parking
- Draft Policy 32 – Highways Safety
- Draft Policy 33 – Access for All
- Draft Policy 37 – General Design of Development
- Draft Policy 41 – Conservation Areas
- Draft Policy 43 – Trees In Conservation Areas
- Draft policy 49 – The Green Belt
- Draft Policy 73 – Development and Trees
- Draft Policy 116 – Sustainable Urban Drainage Systems (SUDS)
- Draft Policy 123 – Sustainable Design and Construction

Green Belt policies are particularly relevant to this application:

Chapter 9 of the National Planning Policy Framework (NPPF) 2012 is a material planning consideration. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

The National Planning Practice Guidance details that the NPPF is clear that local planning authorities should, through their Local Plans, meet objectively assessed needs unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted. Such policies include those relating to sites protected, as in this case as land designated as Green Belt.

Policy 7.16 of the London Plan gives the strongest protection to London's Green Belt in accordance with national guidance. Inappropriate development should be refused except in very special circumstances and development will be supported if it is appropriate and helps secure the objectives of improving the Green Belt as set out in national guidance; such improvements are likely to help human health, biodiversity and improve overall quality of life.

Policy G1 of the UDP states that within the Green Belt permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. In this regard the policy does accord with the NPPF and is a material consideration.

The NPPF notes at Paragraph 87 that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 89 notes that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt subject to certain exceptions. Paragraph 89 states that the replacement of a building, provided that the new building is in the same use and not materials larger than the one it replaces is appropriate development in the Green Belt". Paragraph 89 also allows for "limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

NPPF Paragraph 90 states that: "Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are: mineral extraction; engineering operations; local transport infrastructure which can demonstrate a requirement for a Green Belt location; the re-use of buildings provided that the buildings are of permanent and substantial construction; and development brought forward under a Community Right to Build Order".

Planning History

87/00049/FUL - Four detached single storey buildings comprising stables, tack room, toilets, rest room, store and garage – Refused and allowed at appeal.

Conclusions

Green Belt

The main Green Belt issues for consideration are: the appropriateness of this development in the Green Belt; its impact on the openness of the Green Belt and the purpose of including land within it; and whether, if the development is inappropriate in the Green Belt, the harm by reason of inappropriateness or any other harm, would be outweighed by other considerations so as to amount to very special circumstances.

Green Belt – Whether the development is appropriate:

The applicant presents a confused argument to justify the proposal in Green Belt policy terms which argues that the proposal is appropriate development under both bullet points 4 and 6 of paragraph 89 of the NPPF. These are:

- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and*
- *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

With regard to bullet point 4, this refers to the replacement of a building and does not facilitate a cumulative calculation. It is clear that each individual proposed building is larger than any existing building at the site and therefore larger than the building it replaces. The applicant has provided calculations in relation to the existing dwelling which result from possible but unconfirmed permitted development rights and a 10% increase in the existing dwelling. However, bullet point 4 only relates to an existing building and not a theoretically extended building, and it would not be possible to use bullet point 4 to justify this proposal in the manner suggested. Since all of the proposed buildings are significantly larger than the existing buildings, the proposal cannot be considered appropriate development under bullet point 4.

With regard to bullet point 6 it is claimed that the site comprises previously developed land. The application site can be considered 'previously developed land' (PDL) as defined in the glossary of the NPPF, however it is important to note that this does not automatically mean that any development on PDL is appropriate or acceptable in the Green Belt. The only relevance of land being PDL in Green Belt terms is that it would fall to be considered under the exception in bullet point 6 of paragraph 89 in the list of new development which may be appropriate. It would need to then meet the further tests set out in that bullet point. The full test under this bullet point is that the limited infilling or complete redevelopment of such land can be appropriate development in the Green Belt "*provided it does not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*"

The applicant provides calculations to attempt to demonstrate that the proposed development meets the aims of bullet point 6 with regard to not having a greater impact on openness than the existing development. These calculations are not presented in this report as the manner in which these volumes have been calculated is not considered acceptable. The volume of the existing stable buildings includes the volume of the external courtyard and has been calculated

using a single height of 3 metres. This is not sufficiently accurate and it is not acceptable to include the space between buildings within a calculation of building volume. Additionally the volume of the proposed buildings does not include any underground volume and there is no basis in policy which supports this approach. Had the applicant provided accurate calculations it would appear from the information available that these would show that the volume of the proposed buildings will exceed that of the existing buildings, and on that basis alone it would be possible to conclude that the proposal would have a greater impact on the Green Belt than the existing development, failing to meet the requirements of bullet point 6.

Furthermore in addition to an increase in the volume of development, the proposal would result in an increase in the floor area of buildings according to the applicant's calculations. On the basis of existing buildings which could be replaced, the gross floor area will increase from 1,448sqm to 2296sqm. From the applicant's calculations it is not possible to establish the total area of the site covered in built development as the footprint of the proposed dwellings is not provided separately, so a comparison of existing and proposed building footprint is not possible.

With regard to hard surfaces there would be a decrease in these, according to the applicant's calculations, of around 400sqm not taking into account the equestrian riding surfaces and around 3450sqm including these. This is a positive change but must be considered as part of the overall proposal. Clearly changes to surfacing are relevant to openness but have a far less significant impact on it than buildings.

Therefore although there would be a decrease in hard surfaces at the site, there would be an increase in built footprint and volume. On a simple assessment this would indicate greater harm to openness than the existing development.

Notwithstanding the information above, the approach to considering openness on the basis of simple calculation of floor areas, volume or footprint is not set out in any policy and is too simplistic an approach to solely rely upon. In order to make a full assessment other matters such as the height, layout, character and materials of existing and proposed development can also assist in determining whether there is a greater impact on openness. In this case the overall height of the development at the site will increase to 2 storeys (with roofspace accommodation) and over 11 metres high, along with the obvious increase in built development presented to the road. Compared to the existing low key rural mainly equestrian buildings the proposal will result in an urbanised form of development which by virtue of its size, location and design will clearly have a greater impact on openness than the existing development.

Furthermore for the above reasons the proposal will fail to safeguard the countryside from encroachment thus conflicting with one of the purposes of including land within the Green Belt.

The proposal will therefore not be acceptable with regard to paragraph 89 bullet point 6 as it will have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development, and would therefore be inappropriate development in the Green Belt.

Green Belt - Very Special Circumstances

As well as a case for appropriate development in the Green Belt (on previously developed land) the applicant has also made a case for very special circumstances

(VSC) to justify inappropriate development as an alternate argument. Members will be aware that very special circumstances is a very high policy test and relies upon these clearly outweighing the harm caused to openness by a proposal.

The first VSC put forward is that the proposed development would provide family sized accommodation in a sustainable and accessible location, with good links to local amenities. The Applicant also states that the dwelling is similar in size and form to that the Council permitted at Brookside, the adjoining property. This is discussed further below, however as it involved benefits to the Green Belt which are not considered to be present here it is not of particular relevance and would not be a very special circumstance.

Housing is a priority use for all London Boroughs and the Development Plan welcomes the provision of small scale infill development provided that it is designed to complement the character of surrounding developments, the design and layout make suitable residential accommodation, and it provides for garden and amenity space. The National Planning Policy Framework (NPPF) states in Paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development, as per the points raised by the Applicant.

The NPPF sets out in paragraph 14 a presumption in favour of sustainable development. In terms of decision-making, the document states that where a development accords with a local plan, applications should be approved without delay. Where a plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

Policy 3.4 Optimising housing potential of the London Plan seeks to optimise housing potential, taking into account local context and character, the design principles and public transport capacity.

While these policies are considered to be pertinent to the justification for sustainable development on the site and support the application, compliance with them would not outweigh the harm identified above and the circumstances presented as being very special in relation to sustainable accommodation are not very special as to warrant an exception to Green Belt policy.

Whilst it is not explicitly mentioned within the planning statement, the Council was found to have an absent five year housing land supply within a recent appeal decision. Nevertheless, the Planning Practice Guidance, Housing and economic land availability assessment, paragraph 34 specifies that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt.

The second VSC presented is that the development would preserve the character and appearance of the Chislehurst Conservation Area. This will be discussed further within the report where it is considered that the development would harm the character and setting of the rural sub-area of Chislehurst Conservation Area and is not considered to represent a very special circumstance in any event being a normal policy requirement.

Thirdly, the Applicant states that the proposal would result in the removal of unattractive buildings which currently cause visual harm to the Green Belt. These matters are subjective, and Officers disagree with these assertions considering that the stables and equestrian use of the main part of the site are sensitively designed and respond to the rural context. The proposed development would appear taller, bulkier and more suburban in appearance which would cause harm to the rural character and appearance of this part of the conservation area, with no public benefit to outweigh that harm as per para 134 NPPF.

Fourthly the Applicant states that the new planting and landscaping would enhance the sylvan character of the area in contrast to the detriment that the hardstanding's of the yard area presently give rise too. Whilst some landscaping may soften the impact of the scheme when viewed from the highway, this alone is not considered so very special to warrant permission being granted. The impact of the garaging within close proximity to the highway along with the new boundary treatments and three separate driveways, is considered to harm the character of the Conservation Area to a far more detrimental degree introducing a more urbanised form of development closer to the highway than the existing grassed paddock and low level trees that currently bound the site to the front.

Finally, the Applicant states that substantial weight should be given to the fall-back position that the replacement of the existing Toppers Oak with an appropriately enlarged dwelling is appropriate development. Whilst the replacement of Toppers Oak could be considered appropriate should a suitable application for its replacement be submitted, plans to this effect have not been forthcoming and there is no planning history to support this.

Considering all of the very special circumstances individually and collectively it is not accepted that the suggested very special circumstances cited above clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm. Even if very special circumstances in relation to housing supply issues could be demonstrated, paragraph 14 of the NPPF (and paragraph 34 of the PPG) specifies that this should not apply to instances where land is protected.

Green Belt – Applicant's further submission

The applicant's agent in correspondence of 26th September 2016 has made reference to a number of matters which are addressed below.

Other sites within the Green Belt are referred to where planning permission has been granted with reference to bullet point 6 of paragraph 89 of the NPPF. These are Lilly's Farm, Westerham Riding School, Warren Farm and Bromley Common Liveries. In each of these cases the site was considered previously developed land and either the Council or an Inspector found there was no greater effect on openness resulting from the proposed development than the existing situation at the site, thus making the proposal acceptable under bullet point 6. In each case there was a reduction in volume and footprint of built development and the circumstances of this in each case were found to result in no greater harm to openness, taking into account the overall assessment of whether openness was improved (this being not only a calculation of volume and / or footprint).

The Applicant states that the property at Brookside to the south has been granted permission for a large dwelling which sets a precedent for the replacement of Toppers Oak. Notwithstanding that the replacement dwelling at Brookside was allowed in 2000 when none of the current Green Belt policies were in place, the proposal involved the demolition of a total of 963sqm of built development including a collection of buildings to the rear of the existing dwelling, and the construction of 610sqm of replacement development in a single dwelling. The proposal overall was considered to represent an improvement to Green Belt openness and following amendments to the scheme to reduce it Members accepted that the overall benefit to the Green Belt represented very special circumstances. A subsequent proposal for a larger dwelling was refused on Green Belt grounds (02/03733). In the current application it is proposed to demolish a total of 1,448sqm and to construct 2296sqm. Comparing the two schemes if you took a similar approach to that taken at Brookside it would justify under half the floorspace currently proposed. The Brookside permission if anything supports refusal of this application on the Green Belt grounds suggested.

None of the cases mentioned provides any specific justification for the current proposal and each case must be considered on its own merits with regard to current policies, and with particular regard to the policy tests being relied upon by the applicant, comparing the existing and proposed situation to decide whether there is a greater impact on openness or not. The decisions in these cases do not in any way undermine the recommendation for this application which is robust and clear cut.

The agent has also made reference to court cases and regard has been had to those mentioned in the writing of this report. There are no court cases mentioned which would undermine the approach set out in this report.

It is stated that a more intense form of development could take place at this site than that proposed, however there is no alternate planning permission or lawful development certificate in existence to support this, and this is therefore not a fact that can be relied upon in determining this application.

Also mentioned is a High Court challenge by the Council in relation to the Bromley Common Liveries site. The main point of that challenge related to whether the principle of change of use of land to residential would *in itself* make development inappropriate in the Green Belt. The Court found that it would not, however this is not a point that the Council has argued in any case subsequent to this decision (including in this application), and it is therefore not relevant in that regard.

It is particularly important to note that whilst previous decisions by Inspectors or the Council can be useful in considering proposals in the Green Belt, care must be taken to ensure that all applications are determined on their particular merits, and this is especially true when considering how a specific site and proposal may affect the openness of the Green Belt.

The current proposal is poorly justified both in terms of policy arguments put forward and in terms of attempts to relate the proposal to other decisions.

Conservation Area and Local Character

In terms of visual amenity, the existing site forms part of a ribbon development with Uplands to the north and Brookside to the south on the western side of Kemnal road, heading out into open Green Belt land to the north. The site has a rural character, indicative of this part of the Chislehurst Conservation Area. The site is made up of several single storey buildings of a traditional rural character, which blend well with the verdant and pleasant surroundings. Whilst it is noted that the site is to be lowered in order to mitigate the prominence of the height of the dwellings, when viewed from the road, the dwellings will appear highly intrusive exacerbated by the considerable height and detached garaging within close proximity to the roadway.

The character and appearance of this sub-unit of the conservation area is essentially a rural character, described in the Chislehurst Conservation Area SPG as being "predominantly rural land in a diversity of tenures and activities... the land remains predominantly open, providing a largely rural atmosphere along the eastern boundary of the Conservation Area". The rural character of this part of Chislehurst is considered to provide an important buffer along the eastern part of the Conservation Area, and makes an important contribution to the context and setting for the remainder of the Conservation Area. The presence of rural activities and agriculture greatly enhances the sense of adjacency to the countryside, which is present throughout the Conservation Area.

The existing stables are not of particular historic interest, but nonetheless are sensitively designed and respond to the semi-rural context. The proposal will introduce an urban form into an area where it predominantly does not exist. The design of the development is considered jarring with the semi-rural, verdant setting and the function therein is not rural and is essentially of a suburban character that currently does not exist at this location. This is exacerbated by the number and size of units proposed. The design of the dwellings fails to address the general character of the sub area as outlined within the SPG.

There are objections raised by both the Advisory Panel for Conservation Areas and the Conservation Officer. The application proposal will fail to preserve or enhance the character and appearance of the Conservation Area and due to its scale, nature and design will be generally harmful to the predominantly semi-rural location.

Density

Policy 3.4 in the London Plan seeks to ensure that development proposals achieve the optimum housing density compatible with local context, the design principles in Chapter 7 of the plan, and with public transport capacity. Table 3.2 (Sustainable residential quality) identifies appropriate residential density ranges related to a site's setting (assessed in terms of its location, existing building form and massing) and public transport accessibility (PTAL).

The site has a PTAL rating of 1a (the lowest on a scale of 1a-6) and is considered a suburban setting for the purposes of this calculation. In accordance with Table 3.2, the recommended density range for the site would be 35-55 dwellings per hectare. The proposed development would have a density of 2.41 dwellings per hectare. The proposed development would therefore sit below these ranges.

A numerical calculation of density is only one aspect in assessing the acceptability of a residential development. Policy 3.4 is clear that in optimising housing potential, developments should take account of local context and character, design principles and public transport capacity. Subject to more detailed consideration of the design and layout of the scheme and the quality of residential accommodation proposed, the proposed residential density is deemed acceptable.

Design, Siting and Layout.

Design is a key consideration in the planning process. Good design is an important aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Policies 3.4 and 3.5 of the London Plan reflect the same principles. Policy 3.4 specifies that Boroughs should take into account local context and character, the design principles (in Chapter 7 of the Plan) and public transport capacity; development should also optimise housing output for different types of location within the relevant density range. This reflects paragraph 58 of the National Planning Policy Framework, which requires development to respond to local character and context and optimise the potential of sites.

Policy H7 of the UDP set out a number of criteria for the design of new development. With regard to local character and appearance development should be imaginative and attractive to look at, should complement the scale, form, layout and materials of adjacent buildings and areas. Development should not detract from the existing street scene and/or landscape and should respect important views, skylines, landmarks or landscape features. Space about buildings should provide opportunities to create attractive settings with hard or soft landscaping and relationships with existing buildings should allow for adequate daylight and sunlight to penetrate in and between buildings.

Policy BE1 of the UDP requires new extensions to complement the scale, form, layout and materials of adjacent buildings and areas, and seeks to protect the amenities of neighbouring properties.

Policy BE11 of the UDP requires new development in conservation areas to respect or complement the layout, scale, form and materials of existing buildings and spaces.

Policy H9 requires that new residential development for a proposal of two or more storeys in height a minimum of 1m side space from the side boundary is

maintained and where higher standards of separation already exist within residential areas. Proposals will be expected to provide a more generous side space.

Notwithstanding that the principle of the development is not deemed acceptable for this site as detailed above, it has been expressed in the submission documents that the scale and siting of the new development has been carefully considered in relation to the existing house and neighbouring properties. The appearance of the dwellings provide visual variety with different finishes and detailing to each property.

The layout proposed is for detached large monolithic executive homes as opposed to a more sensitively designed residential form that would be akin to neighbouring uses and the semi-rural character of its surroundings. Therefore, it is not considered that the proposal seeks to be wholly representative of the surrounding pattern of development. The appearance of the dwellings in conjunction with the orangery and detached garaging would appear obtrusive, out of character and incongruent when viewed from the highway, and to a lesser extent but still visible to the rear, as opposed to seeking a more sensitive level of development for the location and the sensitive adjoining land uses, namely open Green Belt that would also have a lesser effect on openness.

Whilst it is appreciated that the land level reduction would in some way mitigate the size and scale of the dwellings when viewed from the rear, this would make little visual difference when viewed from Kemnal Road, appearing as three stark, bulky, imposing properties exacerbated by the opening up of the frontage of the site and the introduction of the detached garages in the exposed frontages and black iron railings. Whilst the design of the dwellings as standalone properties may be akin to other dwellings found within the Chislehurst area, little has been done in order to ensure that the dwellings appear in keeping with their semi-rural surroundings. It is considered that the developments suburban appearance causes harm to the semi-rural character and appearance of the locality as well as the Conservation Area as set out above.

Standard of Residential Accommodation

Policy 3.5 of the London Plan and the Housing SPG (2016) states the minimum internal floorspace required for residential units on the basis of the level of occupancy that could be reasonably expected within each unit should comply with Nationally Described Housing Standards (2015).

The nationally described space standard requires various sizes of internal areas in relation to the number of persons and bedrooms provided in each unit. On this basis, the floorspace provision for all of the units is compliant with the required standards and is considered acceptable.

The shape and room size within the three dwellings is considered satisfactory. None of the rooms would have a particularly convoluted shape which would limit their specific use.

In terms of amenity space the depth of the rear gardens and the size and scale of the sunken gardens are of sufficient proportion to provide a usable space for the purposes of a family dwelling house.

In accordance with Standard 11 of Housing: Supplementary Planning Guidance. (March 2016) of the London Plan 90% of all new dwellings should meet building regulation M4(2) 'accessible and adaptable dwellings'. No information has been supplied in this regard. It is recommended that compliance with this standard could have been secured by condition had permission been recommended otherwise.

Impact on Adjoining Properties

Policy BE1 of the UDP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

In terms of outlook, the fenestration arrangement will provide front, flank and rear outlook. The site is flanked by residential dwellings however the proposed development does not encroach any further forward of the front or rear elevation of Uplands and is set away from the dwelling at Brookside. Given the location of the neighbouring properties, the existing layout and the level of planting along the boundaries it is considered that the dwellings will not result in loss of privacy or overlooking of adjacent properties.

Traffic

London Plan and UDP Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking standards within the UDP and London Plan should be used as a basis for assessment.

The site is located in an area with a PTAL rate of 1A (on a scale of 1 - 6, where 6 is the most accessible). Adequate parking is indicated on site for each dwelling.

This part of Kemnal Road is private, therefore no objections by the Council's highways team have been made. Should permission be forthcoming, given the sites location and the narrow width of the road way it is considered pertinent that a construction management plan be submitted prior to the commencement of development on the site.

Sustainability and Energy

Policy 5.3 Sustainable Design and Construction of the London Plan states that the highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new developments and to adapt to the effects of climate change over their lifetime. Policy 5.2 Minimising Carbon Dioxide Emissions of the London Plan states that development should make the fullest contribution to minimising carbon dioxide emissions in accordance

with the hierarchy; Be Lean: use less energy; Be clean: supply energy efficiently and Be green: use renewable energy.

An informative is recommended with any approval to ensure that the development strives to achieve these objectives.

Landscaping

An indicative landscaping layout has been submitted that details the areas given over to garden for external amenity for future occupiers and the boundary treatments proposed of which the unacceptability of that proposed has been previously discussed. Notwithstanding this full detail of hard and soft landscaping and boundary treatment could have been secured by condition had permission been recommended otherwise.

Community Infrastructure Levy

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

Summary

The proposed development is clearly inappropriate development within the Green Belt for which no very special circumstances exist to outweigh the resultant harm. A substantial and harmful loss of openness would result from the proposed development. No acceptable justification has been provided for this unacceptable proposal.

The proposal would result in an unacceptable form of development within this part of Chislehurst Conservation Area, failing to preserve its character and appearance and prejudicial to the semi-rural character and setting of the surrounding locality.

Although the proposal would provide additional dwellings in the context of a currently uncertain five year housing land supply, the severe harm that would be caused to the Green Belt and Conservation Area identified above would outweigh the limited contribution this proposal would make to the housing supply and any other benefits of the development.

Background papers referred to during production of this report comprise all correspondence on the file ref(s) 16/03627/FULL1 as set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: APPLICATION BE REFUSED

The reasons for refusal are:

- 1 The proposal is inappropriate development which in principle and by reason of its size, location, design and siting would have a harmful impact upon the openness and character of the Green Belt and the purposes of including land within it, and for which no very special**

circumstances are considered to exist to clearly outweigh the harm to the Green Belt contrary to Policy G1 of the Unitary Development Plan, Policy 7.16 of the London Plan and the National Planning Policy Framework (2012).

- 2 The proposal, by reason of its design, scale and urban character would be at odds with the identified semi-rural character and landscape qualities of the conservation sub-area which contributes to the character and appearance of the Chislehurst Conservation Area and the proposal would therefore fail to either preserve or enhance the character and appearance of the Conservation Area and the character of the area in general, contrary to Policies BE1, BE11 of the Unitary Development Plan.**