

## **SECTION '2' – Applications meriting special consideration**

**Application No :** 16/03132/FULL1

**Ward:**  
**Bromley Town**

**Address :** 124 - 126 High Street Bromley BR1 1DW

**OS Grid Ref:** E: 540217 N: 169154

**Applicant :** Bromley JV LP

**Objections :** YES

### **Description of Development:**

Retention of basement, ground and first floor retail use (Class A1) and change of use of second floor retail use (Class A1) and third floor office use (Class B1) to residential (Class C3), including extension to third floor and construction of fourth floor extension to provide a total of 42 residential units, together with alterations to the sub-basement car park to provide 37 car parking spaces and associated external alterations including provision of additional plant.

#### Key designations:

Conservation Area: Bromley Town Centre  
Areas of Archeological Significance  
Biggin Hill Safeguarding Area  
Bromley Town Centre Area  
London City Airport Safeguarding  
Primary Shopping Frontage  
Smoke Control SCA 51

### **Proposal**

Planning permission is sought for the change of use of the 2nd floor from retail (Class A1) to residential (Class C3) and the change of use of the 3rd floor from offices (Class B1) to residential (Class C3). This will involve the conversion of the existing structure together with a 3rd floor rear extension and an extension to create a new 4th floor. The ground and first floors will remain unchanged in retail use.

A total of 42 units will be created with 22 x 1 bed, 18 x 2 bed and 2 x 3 bed units. A total of 107 habitable rooms will be created.

At 3rd floor level a new extension will be erected across the northern part of the building facing Tetty Way. A further new extension will be erected above part of the 3rd floor to create a new 4th floor. The extensions will be set back from the existing roof line. Existing roof top plant for the retail unit, that is currently adjacent to the flats at Hawksworth House in Tetty Way, will be relocated to the 4th floor closer to the front of the property.

The applicant advises that the extensions will comprise a steel frame finished in grey render to fit in with the surrounding areas.

To provide daylight and sunlight to the flats, there will be alterations to the elevations at 2nd and 3rd floor levels to alter and create additional openings. Actual windows for many units will be set back from the elevations to enable a balcony to be provided for each flat. Facing the High Street the existing windows at 2nd floor level will be removed to provide openings to the proposed balcony and windows beyond. To Tetty Way new openings will be created at 2nd floor level. In some cases lighting to new windows will be from a new opening in the roof area of the floor above so effectively lighting an enclosed courtyard for the floor below.

Pedestrian staircase and lift access to the upper floors will be from the existing High Street entrance and a lift and staircase will also be provided from the sub-basement car park off Tetty Way to all floors. A new internal escape staircase will be constructed rising from the 3rd to 4th floor. A new smaller 4th floor extension will be built to extend staircase access from the existing car park to this floor.

Vehicle access will be via Tetty Way using the existing access on the south side of the building. The access to the north will be retained to provide a dedicated access for servicing and delivery to the retained retail use on the ground and first floors.

The sub-basement of the building will be converted to provide car parking for 35 vehicles including 5 disabled spaces for the 5 wheelchair units proposed. A binstore and secure parking for 64 cycles and 4 short stay cycle spaces is also provided in this area.

The applicant has submitted the following documents to support the application: Planning and Heritage Statement, Design and Access Statement, Design and Access Statement Addendum: Impact on Landscape and Townscape, Affordable Housing and Viability Assessment, Town Centre Retail Statement and additional retail submission documents, Transport Statement, Travel Plan Statement, Construction Method Statement, Noise Impact Assessment, Plant Noise Impact Assessment, Report entitled Acoustic Screen to Churchill Theatre Roof Plant Concept Proposal, Structural Survey, Average Daylight and Room Depth Assessment and additional assessment document dated 21.10.2016, Sustainability Appraisal and Energy Statement and Statement of Community Involvement.

These documents are summarised below:

### Planning Statement

This statement seeks to describe the site and surrounding area and sets out the applicant's case in support of the proposal explaining how it addresses the development plan policy requirements and other material considerations.

This report includes a letter setting out details of marketing of the office unit on the third floor. This commenced in Jan 2016 and continued until June 2016. The agent contacted local companies and individuals from their database who they felt could be interested in the offices and advertised on websites that they subscribe to. Very limited response was received from potential office occupiers and no formal proposals have come forward.

The letter advises that the market conditions for offices have improved in 2016 with some lettings of units with high specification of accommodation and on-site parking which are generally in self-contained or multi-let office buildings. Most lettings have been 300-400 sqm with only one at 1000sqm. The application building is competing with high quality new and refurbished smaller units where there is demand. The agent strongly recommends considering alternative users including residential.

#### Design and Access Statement and Design and Access Statement Addendum: Impact on Landscape and Townscape

This statement sets out an assessment of the site and surrounding area and the rationale for the proposal. The statement confirms the amount of development proposed, means of access, car parking, refuse and cycle parking provision. The statement discusses the approach to design and scale, materials, energy and acoustic performance.

The Addendum considers that impact of the development on local townscape in the High Street and beyond Tetty Way in Church House Gardens and long distance and strategic views.

#### Affordable Housing and Viability Assessment

The applicant has submitted a viability assessment which assesses the scheme with financial outputs and inputs provided by the applicants consultant. The assessment is submitted as a tool for negotiation and concludes that the developers return falls below the typically expected accepted rate of 20%.

#### Town Centre Retail Statement and additional retail submission documents

The Town Centre Retail Statement advises that BHS is the 3rd largest retail unit in the town centre.

The report considers current retail trends in the UK, Retailer representation in Bromley Town Centre and the impact of the change of use of the second floor to residential use on the viability of the unit for future use.

In 2015 demand assessment was carried out and discussions were held with potential occupants including relocation of existing stores within the town centre. These discussions have not yielded any interest in the store as a whole.

The applicant advises that they purchased the site in 2015 and that BHS advised that they proposed to surrender the second floor in the early part of 2016.

Marketing was carried out in January 2016, on a sub-divided basis, generated interest in the ground floor for 4,000 sq ft on ground floor and basement levels. The applicant is confident that an occupier can be found for the first floor. There was no interest from retail or leisure users for second floor for retail use - the applicant considers that this area is too large to be let in conjunction with the first floor and is too distant from street level for an independent occupier. The applicant advises

that if alternative uses for the second floor retail space is not found it will remain vacant. The report finds that, in line with current trends, and due to the location and existing retail characteristics in Bromley Town Centre, it is clear that there is no demand from operators to lease this unit as a whole. The only way to retain a retail unit in the building is to downsize the retail space to meet modern requirements.

The report concludes that the loss of the second floor for retail purposes will not have an impact on the overall integrity of this large retail unit and its attractiveness to future users. This will maintain the retail character of the primary shopping frontage in line with UDP policies S1 and S10. If the unit is not downsized, the whole unit could be vacant for the foreseeable future and this would have a significant impact on the primary shopping frontage, which would be contrary to both policies.

The supplementary documents advise as follows:

- It is too early to conclude whether the retail space will be occupied by one or multiple tenants.
- This requires certainty as to the use of the upper floors.
- Most large retailers are opening stores in new development where all of their needs can be met from the outset. The applicants consultant is not aware of any department stores being delivered through the reconfiguration or refurbishment of existing units
- There has been significant interest from retailers for other BHS stores but not from traditional retailers such as John Lewis, Debenhams and House of Fraser Other occupiers have taken BIHS stores where the size meets their needs such as Wilkinson, Sports Direct, TK Maxx, Next, B&M Primark and Poundland.
- If the store is subdivided other retailers such as JD Sports, Cotswold Outdoors, Peacocks and Superdrug may be interested in taking relevant space.

### Transport Statement

The Transport Statement considers trip generation levels, parking arrangements and servicing arrangements.

The trip generation figures show that the residential units will generate 22 trips during a typical AM and PM weekday peak hour period. This level of trips is negligible and will be offset by reduced existing trips which correspond to the smaller retail floorspace. Therefore the proposal will not have an adverse impact on local transport network.

Car parking spaces are offered at 0.69 spaces per units which reflects census data for car ownership in Bromley Town Ward. On this basis it is predicted that of the 42 units proposed 29 will own cars. 37 spaces are provided which exceeds predicted demand. Therefore there will not be adverse pressure for on-street parking.

Servicing for the remaining retail floorspace can be carried out within the existing building and would not adversely impact on Tetty Way.

The site has a PTAL of 6a and is highly accessible for all modes of transport.

## Travel Plan Statement

The Travel Plan sets out measures to provide a more sustainable travel choice for future occupants of the residential accommodation proposed. The document sets out accessibility by foot, cycle, bus, rail and the presence of car club spaces in the area. The measures that the report recommends to meet the objectives of the plan include a travel information pack for all new residents, provision of cycle parking spaces, identification of a car club operating in the town centre and promotion of a car sharing website.

## Construction Method Statement and Structural Survey

These 2 documents set out the outline method of construction of the building and consider the capability of the existing building to support new loading from the additional extensions and alterations to the façade to provide window openings. The report concludes that the proposed layout can be achieved with the addition of steel grillages and localised strengthening where large openings are proposed in the elevations.

## Noise Impact Assessment, Plant Noise Impact Assessment and report entitled Acoustic Screen to Churchill Theatre Roof Plant - Concept Proposal

The Plant Noise Assessment considers the impact of new heat rejection plant for the retail units that will be provided on the 4th floor, adjacent to residential units. The report assesses the preliminary noise emission based on the expected plant as final detailed design of the equipment has not been completed.

The report finds as follows:

- o It may be challenging to try and reduce the noise emissions by at least 10db background noise for the most affected residential properties, which are new north facing 4th floor flats.
- o Existing residential properties are not close enough to be adversely affected by plant noise emissions.
- o It is unlikely that the retail plant will be used at night but condensing units sometimes operate during the night.
- o Mitigation measures could include removal of western facing louvres leaving a solid wall (it is not confirmed that this will meet ventilation requirements for the plant), which would improve the plant noise impact.
- o If this is not possible the plant room may need to be enclosed.
- o The plant will have to be vibration isolated in all circumstances.
- o No impulsive or tonal characteristics are expected.

The report finds that noise control measures are likely to be needed to protect the amenities of the occupants of the proposed flats and that reasonably practical measures are available to control the impact and therefore the proposed roof top plant emissions should not be seen as a constraint to granting conditional planning permission.

The Noise Impact Assessment considers the impact of heat rejection roof top plant (the chiller units) situated on the adjacent building and which serve the Churchill Theatre.

The report concludes as follows:

- o Noise output is likely to be greatest in hot weather,
- o The highest levels of noise could be 60dB during daytime and 50dB during night time. These levels are likely to compare to incidental environmental noise levels (road, rail, air traffic) in the area. However they are above accepted target levels for dwellings.
- o To achieve acceptable target levels within the proposed units, the report recommends mitigation measures including providing trickle ventilators products (background ventilation provided with limited window opening), thermal double glazing. These will reduce acoustic performance levels to an acceptable target level.

The report entitled Acoustic Screen to Churchill Theatre Roof Plant - Concept Proposal responds to concerns raised in the Noise Impact Assessment Report about noise impact on residential units on the south side of the application site. The report proposes the erection of an acoustic screen on the north side of the chillers.

Following concerns raised by the Council's Environmental Health Officer, the applicant has submitted an addendum to the original Noise Impact Assessment, a covering letter from the noise consultant and a covering letter from the agent.

The report provides further assessment of the existing noise environment, the noise level expectations that future residents may have in a higher density town centre location and commentary on the weight that should be given to mitigation measures.

A third report has been received from the applicant entitled Noise Impact Assessment (Addendum) dated 14.02.2017, a letter from the applicants noise consultant dated 13.02.2017 and a covering letter from the agent dated 14.02.2017 have been received addressing the continued concerns of the EHO raised above and the objections raised by the Churchill Theatre.

In summary the report concludes that the

- o plant noise can be dealt with by noise control measures and a suitable condition,
- o the orientation of the existing building will protect residents from noise from loading and unloading from the theatre
- o there will be no adverse impact on the theatre from the use of balconies by residents
- o the emissions from the rooftop chillers will mask noise from other activities in this area
- o there are mitigation measures that can be provided that will protect future residents of south facing units from noise emissions

### Average Daylight and Room Depth Assessment and additional assessment document dated 21.10.2016

Two reports have been submitted to assess whether the proposed rooms meet daylight guidance in the BRE 209 Site Layout Planning for Daylight and Sunlight. The standards used are the Average Daylight Factor (AVF) and the Room Depth Criteria (RDC).

The initial report provided information on 31 rooms in 14 flats and found that 2 rooms failed the guidance threshold for ADF for living/dining/kitchens (LDK). A second report was submitted providing information for all of the flats. The 2 reports find that 11 of the total 107 rooms do not meet the Guidance threshold. These rooms are concentrated in flats 6, 7, 8, 10, 25, 27, 31 and 35.

Eight of the 107 rooms fail to meet the RDC and these rooms are in flats 2, 7, 11, 20, 22, 23, 24, 29.

Based on this assessment 89.5% pass the AVF and 92% of units pass the RDC

The applicant comments on these results as follows (summarised):

- The BRE guidance is not mandatory, should be used flexibly and in some cases, such as the application site, the higher degree of obstruction may be unavoidable.
- Changes have been made to the proposed scheme to address daylight concerns by increasing aperture openings to allow more light to the affected windows,
- It terms of sunlight, it would be unreasonable, particularly for north facing flats, for all windows to face 90 degrees of due south.
- There are constraints in dense urban locations, such as Bromley, which result in rooms often falling short of guidance figures.
- The number of units that do not fulfil the criteria is reasonable when considered in the context of the town centre location of the building and that the scheme is for refurbishment.

### Sustainability Appraisal and Energy Statement

This report assesses the requirements of Policy 5.2 and 5.7 of the London Plan in terms of meeting energy efficiency targets in terms of carbon dioxide emissions and renewable energy. The report uses the energy hierarchy in the Mayors Energy Strategy. The energy performance targets for the 11 new build dwellings consist of improving upon 2013 Building Regulations Part L 2013 baseline by 35% in line with Policy 5.2 of the London Plan. Policy BTC8 Sustainable Design and Construction of the Bromley Area Action Plan requires new major developments to achieve a reduction in carbon dioxide emissions of 20% from the incorporation of onsite renewable energy generation.

The report concludes that the combined conversion and new build scheme falls short of the London Plan requirements by 0.2tonnes CO2 per annum which attracts a carbon offset payment of £360

### Statement of Community Involvement.

The Statement advises that a letter was circulated to nearest residents on June 1st and posters fixed in high footfall areas such as the Library and entrance to the BHS itself. A public exhibition was not pursued given the nature and scale of the development. No responses have been received. The applicant followed the Planning pre-application process.

### Location

This L-shaped site is located on the west side of the High Street within the pedestrianised area of the High Street. On this frontage there are shops and the Bromley Central Library above to the south and shops to the north. To the rear the Churchill Theatre lies to the south and to the north lies adjacent to residential units at Hawksworth House and to the rear of nos. 128, 130 and WH Smith.

The building provides retail (Class A1) use on the ground, 1st and 2nd floor with access from the High Street. Via a separate frontage door, access is provided to third floor offices. To the rear there is access to a basement and sub-basement that provides storage, parking, delivery and servicing via Tetty Way.

The existing building is a similar height to adjacent buildings on either side at the front and the rear.

The site lies within the Bromley Town Centre Conservation Area and is designated Primary Shopping Frontage in the Bromley Unitary Development Plan. It is also within an Area of Archaeological Significance.

### Consultations

#### Comments from Local Residents

Nearby properties were notified and 3 representations objecting to the proposal, including representations from West Beckenham Residents Association and the Churchill Theatre, and 1 representation in support had been received at the time of writing this report. The comments received are summarised below:

- Bromley needs a department store and loss of retail floorspace on 2nd floor will result in a smaller retail unit that will be hard to let and have a negative effect on the town centre.
- Policy requires A1 units to be retained so change of use to other Class A uses may be acceptable as it keeps that Class A unit. But residential will permanently lose retail use.
- Impact on the ability of future occupants of the retail units to service the unit(s) from Tetty Way

- Possible lack of amenity through lack of natural light to some flats and the sides of buildings being boxed in by other buildings.
- Possible noise impact from plant (objector from opposite side of High Street) and flat has original sash windows which do not protect from noise from development and during construction.
- Lack of bollards outside Hawksworth House means there is on-street parking. Bollards will mean new residents must park in the internal spaces provided.
- Impact of additional cars on Tetty Way/Church Road junction and there should be no right turn here.

An objection has also been received from the Churchill Theatre which is summarised as follows:

- Impact of noise from residential balconies that could come through to the stage during quiet plays etc.
- Impact of noise from shows affecting residents above which could lead to complaints that would have an adverse impact on the operation of the theatre
- Impact of noise on residents from the overnight packing up of stage equipment which can be considerable and is a frequent occurrence
- Any restriction to loading areas at the rear of the theatre by construction vehicles could compromise frequent (usually weekly at least) loading and unloading of equipment for plays/events
- Noise from construction vehicles and operations needs careful consideration to avoid interruption during show times

### Comments from Consultees

#### Highways

The development site is located on Bromley High Street with a high PTAL rate of 6a; PTAL scores range from 1 to 6b, where 6b is the highest score and 1 is the lowest.

The development proposals seek the conversion of 2nd and 3rd floor retail and office space at Provident House to residential use. The proposals include a roof top extension, which will also be in residential use. In total the development will provide 42 residential units. The ground and first floor levels will remain in retail use.

A breakdown of residential accommodation by type of unit is as follows:

<u>Type of unit</u>	<u>No. of units</u>
1 Bedroom Apartment	22
2 Bedroom Apartment	18
3 Bedroom Apartment	3

#### Access

The existing access arrangement would be utilised from Tetty Way leading to sub-basement car parking area.

#### Parking

Parking for the proposed residential units will be located within the existing sub-basement parking area. A total of 37 car parking spaces will be provided, of which five will be wider bays, suitable for use by blue badge holders. A total of 8 spaces (20% of spaces) will be fitted with electric vehicle charging points and a further 20% will be capable of being upgraded for future use.

Secure cycle parking will also be provided within the sub-basement area. A minimum of 64 spaces will be provided for residents and four spaces for visitors.

#### Refuse store

A refuse store for residential waste and recycling material will be provided within the sub-basement of the building adjacent to the access from Tetty Way. Refuse collection vehicles will be able to stop adjacent to the site on Tetty Way when servicing the residential units in the same way as the adjacent residential building, Hawksworth House. Therefore, it is considered that servicing activity associated with the building would not have any effect on the operation of the local highway network.

#### Impact of Development

Trip attraction has been calculated for typical morning and evening peak hour periods.

#### Trip Attraction

The development proposes the addition of 42 residential units in place of 1,199 square metres of office accommodation and 6,907 square metres of retail floor space. Total person trip rates for the proposed residential units have been generated using the 'Residential - Privately Owned Flats' category of the TRICs database using sites within Greater London. The trip rates generated are indicated in Table below

Peak Hour	All Mode Trip Rates per dwelling		
	Inbound	Outbound	Total
Morning Peak	0.104	0.449	0.553
Evening Peak	0.314	0.159	0.473
Daily Total	2.341	2.317	4.658

The trip rates displayed in the above table have been used to calculate predicted trips to and from the site based on the proposed 42 units. These trip numbers are displayed in Table below.

Peak Hour	All Mode Trips		
	Inbound	Outbound	Total
Morning Peak	4	19	23
Evening Peak	13	7	20
Daily Total	96	97	196

The above shows that the proposed residential units would generate up to 22 trips during typical AM and PM weekday peak hour periods. This level of trips is negligible and would be offset by a reduction in existing trips to the area through the reduction of retail space on site and the removal of office accommodation. As such, given the high accessibility of the site by all modes of transport, it is considered that the development proposals would not have any effect on the operation of the local transport network.

The development proposals provide car parking at a level that accords with London Plan standards and is sufficient to accommodate likely demand for parking. Therefore the development would not result in an increase in demand for on street parking in the vicinity of the site.

If minded to approve please include the following conditions with any permission:

H03 (Car Parking)

H18 (Refuse)

H22 (Cycle)

H29 (Construction Management Plan)

H33 (the agreement to include restrictions on eligibility of future occupiers of the units to apply to the Council for Residents Parking Permit).

Also the applicant should also provide the following (through a S106 legal agreement):

- Offer the first residents 2 years annual membership of a Car Club.
- Contribution of £2000 towards Parking / Traffic within the area.

A Travel Plan has been submitted and assessed and fails to meet the minimum targets to pass. The applicant has not submitted a revised Travel Plan. Therefore it is recommended that a condition requiring the submission of a Travel Plan be applied if permission is granted.

### Drainage

The Council's Drainage Officer has no comment.

### Environmental Health

#### AQMA

An Air Quality Management Assessment is requested and a condition is recommended to secure the submission of this document.

#### Noise

With regard to noise the EHO comments as follows on a Noise Impact Assessment received on 16.9.16:

The enclosed noise assessment only deals with potential noise and noise criteria for new plant that would be required to service the building. No account has been taken of existing noise levels which would impact on new proposed residents. The

background noise survey was taken from the Tetty Way side only so does not account for localised noise sources on other sides of the building.

I do have concerns over existing plant noise, in particular from plant servicing the Churchill Theatre and Central Library which would impact on the South West elevation (shown in View 1 on Massing Model 1). This plant is within a few metres of the façade and from my visit has a tonal component. I would recommend that we request a BS4142:2014 assessment of the impact of this plant on the proposed façade. There may also be other commercial plant that would impact other facades so this should be considered and reported (and if necessary assessed) in the updated acoustic assessment.

I am particularly concerned as the flats are single aspect with extremely poor outlook and so an insulation scheme that also effectively seals the flats to achieve a reasonable internal acoustic standard is going to lead to particularly poor general amenity. It may be that parts of the development are unsatisfactory in principle.

An additional document entitled Acoustic Screen to Churchill Theatre Roof Plant - Concept Proposal was received on 10.11.2016. Environmental Health comments are as follows:

I have considered the additional information. The report uses sample data rather than measured data owing to the difficulty in measuring the units at full capacity so it must be treated with some caution (although the plant noise levels used appear reasonable estimates).

The report finds that the external noise level from the chiller units will be around 60dB at the façade opposite the plant. With acoustic trickle vents and a moderate grade of glazing this can be insulated against such that the internal noise level in the properties will be acceptable.

I do take issue with some of the interpretation in the report, in particular the stated SOAEL levels. However, I do accept the proposed LOAEL target levels of 30dB internally during the daytime and 25dB internally at night and the conclusion that these levels are achievable in this development.

Having said the above I would still have concerns regarding noise in this development. The reason being that these dwellings are single aspect with very poor outlook and solely reliant on insulation in order to maintain the noise environment. If residents wish to open windows anywhere in the south-facing dwellings the internal noise level would be unacceptable whilst windows are open. The effect of this combined with borrowed light and lack of outlook will, in practice, be sealed internal spaces.

It is debateable in terms of policy justification whether relying solely on insulation to achieve reasonable internal noise levels is ever acceptable. Certainly the recent draft CIEH IOA Professional Planning Practice Guidance comes out strongly against this approach but I am unaware of the extent to which this point has been tested at appeals.

Policy 7.15 of the London Plan states Development proposals should seek to manage noise by .....d) separating new noise sensitive development from major noise sources (such as road, rail, air transport and some types of industrial development) through the use of distance, screening or internal layout - in preference to sole reliance on sound insulation and e) where it is not possible to achieve separation of noise sensitive development and noise sources, without undue impact on other sustainable development objectives, then any potential adverse effects should be controlled and mitigated through the application of good acoustic design principles;

The NPPG for noise lists some more points in relation to mitigation and acoustic design and many of the factors listed are not achieved in this development (such as layout measures and access to relatively quiet facades and amenity space).

I should also point out that at a noise level of 60dB, there will be a significant adverse effect from noise on the balcony amenity space for flats on South Elevation. WHO Community Noise guidance states

'To protect the majority of people from being seriously annoyed during the daytime, the sound pressure level on balconies, terraces and outdoor living areas should not exceed 55dB LAeq for a steady, continuous noise. To protect the majority of people from being moderately annoyed during the daytime, the outdoor sound pressure level should not exceed 50 dB LAeq. These values are based on annoyance studies, but most countries in Europe have adopted 40 dB LAeq as the maximum allowable level for new developments (Gottlob 1995). Indeed, the lower value should be considered the maximum allowable sound pressure level for all new developments whenever feasible.'

In summary the development would achieve a reasonable noise level internally but not in external amenity space. In my view despite internal noise levels the plan as proposed will provide poor acoustic amenity for the reasons stated above.

Further comment from the EHO advises:

The fundamental issue surrounds the use of mechanical ventilation to achieve a reasonable internal noise environment.

If single aspect hermetically sealed units remain unacceptable, based on the information provided, i.e. each chiller unit is assumed to be LPA1m = 75dB equating to 78dB for both units, then in the absence of detail for attenuation through any screening the level at façade of nearest noise sensitive proposed dwelling (allowing for chiller to be 6m from edge and separation distance of 4m from report) the predicted level is 58dB. Clearly this exceeds BS8233:2014 etc. (allowing 10 to 15dB through open window) for internal areas. I remain unable to determine if sufficient attenuation through screening could be achieved or in the absence of modelling the impact of reflections of hard surfaces etc. I still disagree with the load cycle not occurring when maximum natural ventilation would be required.

However if hermetically sealed dwellings are acceptable then the fixed glazing could produce the required level of attenuation.

The following information is still required by the EHO:

- In the absence of acoustic data regarding the existing plant including detail of the acoustic performance of the in situ partial screen I am unable to determine if an appropriate acoustic environment within the proposal can be achieved.
- Given the close proximity of the adjacent building there remains potential of a 'canyon' effect exasperating any potential noise issues which needs to be fully accessed.
- I do not concur with the applicant in respect the lack of necessity to provide acoustic attenuation for the plant given the intermittent plant load cycle. It remains likely the demand on the plant will coincide with hotter days in which the need for natural ventilation will be greatest.

An objection has been received from the Churchill Theatre who raise concerns about the transfer of noise to and from the theatre and the subsequent impact on future residents and the operation of the theatre (summarised above).

A third report has been received from the applicant entitled Noise Impact Assessment (Addendum) dated 14.02.2017, a letter from the applicants noise consultant dated 13.02.2017 and a covering letter from the agent dated 14.02.2017 have been received addressing the continued concerns of the EHO raised above and the objections raised by the Churchill Theatre.

Further comments from the Environmental Health Officer are summarised as follows:

- There has been some misinterpretation of the new British Standard in terms of adverse effects and I am increasingly seeing the new BS4142 used to try to justify acoustic standards that have been widely refused for many years in urban areas to prevent cumulative impacts where multiple applications from various plant sources are expected over time.
- The acoustic report remains unclear as to whether louvres will be required in the western elevation of the proposed plant housing adjacent to residential windows although it is reported it would be ideal not to have louvres. In the absence of further detail of the final arrangement I am unable to determine if the proposal would not lead to an unacceptable loss of amenity to existing residents.
- Use of balconies as non amenity areas - it is inevitable that residents will use the balconies for amenity purposes. Given the predicted noise levels for the balcony areas reported at para 7.4 will be between the LOAEL and SOAEL detail of appropriate mitigation measures in line with the above policy should be submitted.
- In the absence of further detail regards Theatre building fabric or assessment of the likely impact of behavioural noise from occupiers on the balcony I am

unable to determine if the proposal would not lead to an unacceptable loss of amenity.

In the absence of further acoustic assessment I am unable to determine if the noise from loading/unloading activities particularly late at night from the Theatre would lead to an unacceptable loss of amenity to future occupiers within the proposed development.

In summary, the Council's Environmental Health Officer considers that in the absence of further detail there is insufficient information to comment in detail on the above objections and on this basis he has no alternative but to recommend refusal.

### Thames Water

TW do not raise any objections in terms of surface water and sewerage infrastructure subject to informatives regarding surface water attenuation, protection of sewers, water pressure, main water crossing under the site.

### Secure by Design

The Metropolitan Police Crime Prevention Design Adviser raises the following points for early consideration;

1. The impact of 37 private residents using the basement car park (Accessed by Tetty Way off Church Road) given the daily amount of commercial vehicular traffic already using this narrow (Service) road.

2. The anti-social behaviour with Churchill Theatre Gardens - Youths in large groups are known to use Tetty way to access the park to smoke drugs. Night time economy users are known to use Tetty Way as an emergency urinal. This 'undesireable' footfall will now potentially collide with residential footfall with potential for additional crime types and reports.

He concludes that should this application proceed, it should be able to achieve the security requirements of Secured by Design with the guidance of Secured by Design New Homes 2014/16 , and the adoption of these standards will help to reduce the opportunity for crime, creating a safer, more secure and sustainable environment. A Secure by Design condition is recommended with the wording as such that the development should follow the principles of Secure by Design.

### Advisory Panel for Conservation Areas (APCA)

No objections raised.

### Conservation Officer

From a heritage and design point of view the proposal would not be visually harmful to the conservation area and if minded to recommend permission a materials condition is suggested.

## **Planning Considerations**

In determining planning applications, the starting point is the development plan and any other material considerations that are relevant. The adopted development plan in this case includes the Bromley Unitary Development Plan (UDP) (2006) and the London Plan (March 2015). Relevant policies and guidance in the form of the National Planning Policy Framework (NPPF), National Planning Policy Guidance (NPPG) as well as other guidance and relevant legislation, must also be taken into account.

1. The application falls to be determined in accordance with the following Unitary Development Plan policies:

H1 Housing Supply  
H2 Affordable Housing  
H3 Affordable Housing - payment in lieu  
H7 Housing Density and Design  
H12 Conversion of Non-Residential Buildings to Residential Use  
T1 Transport Demand  
T2 Assessment of Transport Effects  
T3 Parking  
T6 Pedestrians  
T7 Cyclists  
T17 Servicing of Premises  
BE1 Design of New Developments  
BE11 Conservation Areas  
S1 Primary frontages  
S10 Non-retail uses in shopping area  
EMP3 Office Development  
IMP 1 Planning Obligations  
Planning Obligations SPD  
Affordable Housing SPD  
Bromley's Proposed Submission Draft Local Plan:

The final consultation for the emerging Local Plan was completed on December 31st 2016. It is expected that the Examination in Public will commence in 2017. The weight attached to the draft policies increases as the Local Plan process advances. These documents are a material consideration and weight may be given to relevant policies as set out in the NPPF paragraph 216 which states:

"From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given)
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."

Current draft Policies relevant to this application include:

Policy 1 Housing Supply  
Policy 2 Provision of Affordable Housing  
Policy 4 Housing Design  
Policy 30 Parking  
Policy 31 Relieving Congestion  
Policy 37 General Design of Development  
Policy 41 Conservation Areas  
Policy 84 Business Improvement Areas (BIA)  
Policy 92 Metropolitan and Major Town Centres  
Policy 97 Change of Use of Upper Floors  
Policy 116 Sustainable Urban Drainage Systems  
Policy 119 Noise Pollution  
Policy 120 Air Quality  
Policy 123 Sustainable design and construction  
Policy 124 Carbon reduction, decentralised energy networks and renewable energy  
Policy 125 Delivery and implementation of the Local Plan

The most relevant policies in the Bromley Town Centre Area Action Plan (2010) (BTCAAP) include the following:

BTC 1 Mixed Use Developments  
BTC 2 Residential Development  
BTC 5 Office Development  
BTC 8 Sustainable Design and Construction  
BTC 11 Drainage  
BTC 13 Combined Heat and Power  
BTC 16 Noise  
BTC 17 Design Quality  
BTC 18 Public Realm  
BTC 24 Walking and Cycling  
BTC 25 Parking  
BTC 32 Public Realm Improvements

In strategic terms the most relevant London Plan 2015 policies include:

2.6 Outer London: vision and strategy  
2.7 Outer London: Economy  
2.15 Town Centres  
3.3 Increasing housing supply  
3.4 Optimising housing potential  
3.5 Quality and design of housing developments  
3.8 Housing choice  
3.11 Affordable Housing Targets  
3.12 Negotiating affordable housing in individual private residential schemes and mixed use schemes  
5.2 Minimising carbon dioxide emissions

5.3 Sustainable design and construction  
5.6 Decentralised energy in development proposals  
5.7 Renewable energy  
5.8 Innovative energy technologies  
5.9 Overheating and cooling  
5.10 Urban Greening  
5.11 Green roofs and development site environs  
6.9 Cycling  
6.13 Parking  
7.2 An inclusive environment  
7.3 Designing out crime  
7.4 Local character  
7.6 Architecture  
7.8 Heritage assets and archaeology

Mayors Housing Supplementary Planning Guidance 2016  
Housing Standards: Minor Alterations to the London Plan 2016  
Parking Standards: Minor Alterations to the London Plan 2016

### National Policy

The National Planning Policy Framework 2012 (NPPF) and Guidance is relevant.

Para14 Achieving sustainable development  
Para 17 Core planning principles  
Para 23 Ensuring vitality in town centres  
Paras 47-51 Delivering a wide choice of high quality homes  
Paras 29 - 41: Promoting sustainable transport  
Paras 56 - 66: Requiring Good Design  
Paras 93-103: Meeting the challenge of climate change & flooding  
Paras 109-125: Conserving and enhancing the natural environment  
Paras 188-195: Pre-application engagement  
Paras 196-197: Determining applications  
Paras 203-206: Planning conditions and obligations  
Paras 215: consistency of local plans with NPPF

### Planning History

The site has been the subject of numerous previous relevant applications as follows:

DC/75/1270: Four storey block comprising retail store and offices with basement stockroom and sub-basement car parking area. Approved 24.6.1975.

DC/76/1816: 3 storey rear extension to building under construction. Approved 8.4.1976

DC/77/2232: Further rear extension to 3rd floors level of building under construction. Refused 29.6.1978.

## Conclusions

It is considered that the main planning issues relating to the proposed scheme are as follows:

- Principle of Development
- Affordable Housing
- Scale, Siting, Massing and Appearance and Impact on Heritage Assets
- Standard of Accommodation and Amenity Space
- Impact on Neighbour Amenity
- Highways and Traffic Matters (including Cycle Parking and Refuse)
- Other technical matters

### Principle of Development

The application proposes the change of use of retail and office floorspace to residential use and, as such, the following policies are relevant:

Policy S1 which states that in primary frontages...the Council will only permit changes of uses from retail (Class A1) to other uses where the proposal would :

- (i) not harm the retail character of the shopping frontage;
- (ii) generate significant pedestrian visits during shopping hours;
- (iii) complement the shopping function of the town centre;
- (iv) not create a concentration of similar uses; and
- (v) have no adverse impact on residential amenity.

Policy S10 which states that in retail frontages the Council will not normally permit uses that do not offer a service frontage to visitors unless:

- (i) there has been long term vacancy and a lack of demand for a retail or service use can be proven; and
- (ii) the proposed use is in premises where it would not undermine the retail viability of the centre.

Policy EMP 3 which states that the conversion or redevelopment of offices for other uses will be permitted only where:

- (i) it can be demonstrated that there is no local shortage of office floorspace and there is evidence of long term vacancy despite marketing of the premises; and
- (ii) there is no likely loss of employment resulting from the proposal.

The floorspace of the existing building is as follows:

Basement and sub-basement ancillary	3414
Ground, 1st and 2nd floor retail	6907
Third floor	1199
Ancillary plant	<u>257</u>
Total retail, office and ancillary floorspace	11777 sqm

The proposed development will comprise the following floorspace:

Sub-basement - ancillary parking for residential	1738
Basement - retained for retail	1676
Ground and 1st floor retail	4572
Second floor residential	2335
Third floor retail conversion	1199
Third floor new build residential floorspace (approx.)	284
Fourth floor new build residential floorspace (approx.)	<u>784</u>
	12588 sqm

The applicant advises that the site was bought by their client in December 2015. The BHS store ceased trading on August 27th 2016 and the applicant advises that the 3rd floor offices had been vacant for over 1 year (in June 2016).

#### Change of Use from retail to residential

The UDP policies support changes of use of retail units in Primary Shopping Frontages under specific circumstances. The applicant advises that the closure of the BHS store will leave a vacant building in the centre of the primary frontage which is not desirable. The priority for the applicant is to attract a new retailer for the site. They seek to demonstrate that there is no demand for a retail unit of the size of BHS and as such, the 2nd floor will remain vacant due to its remote access from the High Street and therefore the only option is to convert this floor to residential use.

The Retail Impact Assessment describes current trends for stores that are smaller than the application site with little or no interest in larger units, apart from much larger units in new retail development. In relation to the 2nd floor, BHS failed to attract footfall to this level and it was largely occupied by an ancillary restaurant due its layout and poor access arrangement to this floor. The report concludes that the only way to attract a viable new retail tenant is to reduce the size of the retail unit.

In terms of Policy S1 it is considered that:

- (i) the change of use will not harm the retail character of the shopping frontage - it is not proposed to change the use of the ground or first floor from retail use and the ground floor frontage will remain intact as it is now. Access to the upper floors will be via the existing access to Provident House and will not require the reduction in the extent of the shopping frontage.
- (ii) the proposal will not generate significant pedestrian visits during shopping hours - the proposed 42 flats will not generate sufficient movement to be detrimental to the primary frontage area.
- (iii) the proposed use would complement the shopping function by bringing residents into the town centre which will add activity to this part of the High Street
- (iv) the proposed use would not create a concentration of similar uses
- (v) the proposed development would not have an impact on residential amenity of existing residential properties in the area.

In terms of Policy S10 it is considered that:

(i) and (ii) whilst the retail element of the premises has not had long term vacancy, the upper floor of the former BHS store has been underused for some time and the floorspace has contributed little. In terms of finding a new tenant for the ground, first and second floor, the applicant advises that the larger department stores are looking for premises much larger than BHS (John Lewis, House of Fraser and M&S) and tenancies are for these new stores in new built developments. Examples of new department stores opening in Metropolitan Centres such as Bromley are limited to new development in centres such as Croydon and Shepherds Bush.

The applicant advises that there has been demand for BHS stores by smaller retailers such as Next, TK Maxx and Sports Direct who require less floorspace.

In terms of demand for the BHS store, the Retail Impact Assessment advises that discussions have taken place with tenants already in Bromley and other tenants in a gap analysis done by the applicants retail consultant and there has not been any interest in the store as a whole up to April 2016. A marketing exercise started in January 2016 to ascertain interest on the basis of a sub-divided store and this yielded interest from a number of occupiers looking for units up to 3700 sqm over the ground and basement with separate interest on the first floor. They have yet to clarify interest in the 2nd floor and advise that this is too large to let in conjunction with the 1st floor and too distant from street level for an independent occupier. The advice concludes that market testing has proved that there is no tenant demand for the premises in their current form and no retail or leisure demand for the 2nd floor in any form.

Based on the information provided by the applicant it is considered that there is little demand for a retail or service use at 2nd floor level. The loss of this retail space would not undermine the retail viability of the centre as there appear to be other users that are prepared to take floorspace within the smaller store as a subdivided store.

On this basis, it is considered that the proposal meets the requirements of Policies S1 and S10 of the UDP.

#### Change of use from offices to residential

In respect of Policy EMP3 and subsections (i) and (ii), the applicant has submitted evidence that the office floorspace on the 3rd floor has been marketed from January 2016 until the application was submitted in June 2016. The sales agent confirms that there has only been interest from alternative users. Initial advice from potential occupants is that the office is in a poor location and condition and requires extensive refurbishment. No formal proposals have been forthcoming for the office floorspace.

Successful office lettings have been completed in the town centre but these have been for high specification space either self-contained or multi-let with access to car parking. Office space is available (as at June 2016) in the town centre within 29 London Road, Wren Court and Northside House.

In terms of the change of use from office to residential, marketing of the unit has taken place, albeit for a limited timeframe, and there has been little or no interest for the continued use of the floorspace for offices. The agents for the applicant make a strong recommendation that the applicant considers alternative use, for example, residential use in the absence of any formal expressions of interest from potential tenants. The applicant has advised that the property would be suitable to change use from offices to residential under the provisions that allow such a change of use under Part O of the Town and Country Planning (General Permitted Development) Order 2016 but have not pursued this option in the hope that this application will be supported by the Council.

In summary the NPPF, in paragraph 22 encourages planning policies to avoid long term protection of sites allocated for employment use where there is no reasonable prospect of the site being used for that purpose. It is considered that the marketing undertaken to date, the lack of prospect of the 2nd floor being used for retail purposes and the indication that there is retail interest in the remaining floors is sufficient to meet the requirements of policies S1, S10 and EMP3.

#### Affordable Housing and housing related S106 planning contributions

Policy H2 of the UDP seeks the provision of affordable housing for schemes of 11 units or more. The policy requires the provision of 35% habitable rooms to be provided for affordable housing. Policy H3 sets out circumstances when a payment in lieu of site provision of affordable housing may be acceptable. London Plan Policy 3.12 recognises that viability is a factor in determining the level of affordable housing provision.

The applicant advises that the proposed scheme is unable to meet the policy requirement in the UDP and has submitted an affordable housing and viability assessment which assesses the level of contribution to affordable housing that the scheme can deliver. This document has been independently checked by a consultant appointed by the Council.

The report finds that there will be a deficit below the accepted developer's profit level and, as such, the scheme cannot support the inclusion of on-site affordable housing.

The applicants submission did not include an allowance for health and education contributions and should these be incorporated into the viability assessment this would further erode the developer profit and increase the non-viability of the scheme.

#### Scale, Siting, Massing and Appearance and Impact on Heritage Assets

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.

The NPPF requires Local Planning Authorities to undertake a design critique of planning proposals to ensure that developments would function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Proposals must establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses and support local facilities and transport networks. Developments are required to respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. New development must create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and are visually attractive as a result of good architecture and appropriate landscaping.

UDP Policies BE1 and H7 and London Plan Policies 3.5, 7.4 and 7.6 set out specific policy requirements relating to the standard of residential development that is expected in the borough. In addition Policy BE11 sets out standards expected for development in a conservation area. These policies refer to the design of new development, the standard that the development is expected to meet and the impact on the amenities of future occupants of the development and occupants of nearby properties.

For the part of the development facing the High Street, the existing building forms part of a group of buildings which range in height from 3-5 storeys and are characteristic of this part of the High Street and the Conservation Area.

To the High Street, the enclosure of a new staircase will be the only visible new build element of the scheme. The extension will be set against the taller part of the Central Library and, subject to the use of complementary materials for the extension it is considered that the extension will be acceptable.

The other change to the appearance of the front of the building will be the removal of the existing window frames at second floor level facing the High Street. Apertures will remain forming a covered balcony for these flats. Subject to a sensitive treatment of the remaining apertures, it is considered that the alterations will be acceptable.

With regard to the new 3rd floor extension, this will continue the existing 3rd floor structure and will be set against the top floor of the existing development at Hawksworth House to the north. The height and design of the extension and the indicative materials also reflect the design of this part of Hawksworth House. The overall appearance of this element of the scheme will complement the existing scale, massing and siting of existing buildings when viewed from Tetty Way (very limited views) and from longer distances in Queens House Gardens.

The additional 4th floor will be taller than buildings to the north and south but it will be set well back from the rear elevation of the existing building. The long distance view will set the extension against the much taller Central Library building. The extension will be relatively narrow and the use of a lightweight steel structure with

muted cladding means that its appearance will match Hawksworth House which will minimise its impact on the character and appearance of the area.

In summary, it is considered that the proposed extension will be of proportionate scale with sensitive siting away from the boundaries, such that it will preserve the appearance of the conservation area and will not detract from the appearance of the building or the High Street in general.

### Standard of Accommodation and Amenity Space

Part 2 of the London Plan Housing SPG (March 2016) sets out detailed guidance for achieving a high quality design for all new development that will ensure that the needs of all Londoners are met at different stages of life. The standards that development must meet relate to unit size and layout, private and communal open space, designing out crime, circulation within the building and within individual units, wheelchair units, car parking, cycle parking, refuse and recycling facilities, privacy and dual aspect units. Other London Plan policies also provide guidance on noise, daylight and sunlight, floor to ceiling heights, air quality, climate change and mitigation, water supply, flooding and ecology.

In terms of density, the London Plan Density Matrix is the most up to date policy advice for calculating the level of density in a development. For centrally located sites with a PTAL 6a rating, the overall density range is 650-1100 habitable rooms per hectare. For mixed use development the SPG advises that it may be appropriate to reduce the size of the site by an amount equivalent to the proportion of floorspace allocated for non-residential uses in order to seek an accurate density calculation. It should be noted that density is not the only factor when considering the acceptability of a proposed development and massing, scale and other particular characteristics of the scheme should also be taken into account.

In this instance the applicant advises that the site area is 0.226 hectares. The proportion of commercial to residential proposed is 50:50 respectively. On this basis the density calculation could be based on a site area of 0.11 ha. The number of habitable rooms proposed is 107. The resultant density of the development would be 972 habitable rooms per hectare which is within the matrix guidance.

New developments should provide a range of housing choices in terms of mix of housing sizes and types. The development proposes the provision of units with a mix of sizes namely 12 x 1 bed units, 18 x 2 bed units and 2 x 3 bed units and it is considered that this mix is acceptable.

In terms of playspace, the SPG seeks on-site provision for development which will generate occupancy by 10 or more children. The development comprises 18x2 bed flats and 2x3 bed flats all of which are capable of accommodating children, even taking account of the town centre location of the site. There is no play space provision on the site. Each unit has a balcony and the site is in very close proximity to Churchill House Gardens and Martins Recreation Ground which provide facilities for children's play.

The main entrance to the development will be from the High Street which will provides level access to the upper floors via lifts that will serve all floors. In addition a further lift and staircase access will be provided from the sub-basement car park to all floors.

In terms of space standards all units are required to meet nationally described space standards and London Plan standards in Policy 3.5 are based on the national standards. Minor layout amendments made during the processing of the application are reflected in the accommodation schedule to ensure that all of the units meet the minimum size requirements and many of the flats exceed the approved standards.

All new housing is required to meet the standards set out in Policy 3.8 which seeks 90% of all new housing to meet Building Regulations 2010 M4 (2) and 10% to achieve Building Regulations 2010 M4(3) for wheelchair accessible dwellings. The applicant advises that 5 units will be provided for disabled users but the actual units have not been identified at this stage. Relevant conditions to ensure these flats meet Part M4(3) and that the remainder meet Part M4(2) can be applied.

In terms of private open space, the SPG seeks the provision of 5sqm for 1-2 person dwellings and an additional 1sqm for each subsequent person. The balcony depth for all balconies should be 1.5m. For larger 2 bed units (4 persons) 7 sqm should be provided and for 3 bed units (6 persons) the requirement is 9 sqm. Only 1 unit is less than the minimum requirements for overall space but the great majority exceed the minimum space. Most of the balconies are less than 1.5m in depth. It will be possible to provide privacy screening to protect the privacy of new residents from each other and the privacy of the occupants of the nearest units in Hawksworth House.

Part of the SPG considers aspects of the development that will contribute to the quality of daily life in the home so that the home becomes a comfortable place of retreat. The key aspects in this respect are privacy (referred to above), dual aspect, noise, floor to ceiling heights, daylight and sunlight, air quality, climate change and environmental performance in terms of sustainable design and construction.

### Dual Aspect

The SPG seeks to minimise the number of single aspect units and advise that single aspect units that are north facing, or exposed to noise levels above which adverse effects on health or quality of life occur or which contain 3 bedrooms or more should be avoided.

The SPG refers to the benefits of dual aspect in terms of better daylight, a greater chance of direct sunlight, natural cross ventilation and a greater capacity to avoid overheating without relying on mechanical intervention, mitigating pollution, offering a choice of views, access to a quiet side of the building, greater flexibility in the use of rooms. The SPG goes on to state that north facing single aspect dwellings should be avoided wherever possible.

The SPG does recognise that where the outlook and orientation are favourable and care is taken to mitigate against overheating without mechanical ventilation, single aspect units may be possible.

Of the proposed 42 units, 36 are single aspect. Of these 8 units are wholly north facing. There are also a number of units, mainly on the second floor, where the outlook and aspect from habitable rooms is significantly hampered by structures outside the site.

In respect of this application, there are a significant number of single aspect units that have a poor outlook. In other cases there are single aspect units where there are concerns about the impact from noise generating sources and the units may need to be mechanically ventilated and their outlook is also poor.

It is considered that the development is not able to support good quality single aspect units and the quality of the environment for future occupants will be significantly reduced and impaired. Whether there is a single factor or multiple factors it is not possible to conclude that the single aspect units provide outlook and orientation that is favourable for numerous units. It should be noted that this aspect of the development is not only considered unacceptable in its own right but also in the context of concerns about the quality of other aspects of the development discussed elsewhere in this report.

### Daylight and Sunlight

In terms of daylight and sunlight, the applicant has submitted studies which consider the compliance of the development with BRE guidelines in terms of daylight and sunlight to habitable rooms. The London Plan encourages local authorities not to apply daylight and sunlight standards rigidly without careful considering the location and context and standards experienced by comparable housing typologies in London.

The application site is in a Metropolitan town centre in outer London. There has been significant development approved in the town centre, some under construction and some still with planning permission but not commenced.

In response to initial concerns raised by the Council during the application process, the applicant submitted revised plans and elevations increasing the size of window openings. The comments below relate to this updated information.

In terms of sunlight, none of the north facing rooms will receive direct sunlight to any of the habitable rooms and sunlight to rooms that have their aspect hampered by structures adjacent to the site will be limited. The applicant does not provide detailed evidence of the exact units that will not pass sunlight but it is estimated from the submitted plans that a minimum of 8 of the 42 units will not receive direct sunlight to any habitable rooms.

In terms of daylight, a total of 15 flats are below the BRE guidelines for Average Daylight Factor (ADF) and Room Depth Criteria. In 3 flats all of the habitable rooms fully fail the ADF and a further 5 partly fail the ADF - in each of these units the Living/Dining and Kitchen fail the guidelines. For Room Depth Criteria, 6 units fail to meet the standards for the Living/Dining and Kitchen. Most of these are different units to those that fail the ADF guidelines.

In a covering letter the applicant points out that overall 83% of the flats pass the daylight standard which is very high given the constraints of the building and location. The applicant advises that the results for the 3rd and 4th floor units are positive for any dense city centre development and they consider that the daylight standards should not be applied too rigorously as they are designed for guidance only. No comment is made for units on the 2nd floor.

In response, there are numerous units in the development that do not benefit from adequate daylight and due to their north facing aspect they also do not receive sunlight. It is noted that the development involves the conversion of a large building in a constrained environment. However it is considered that the configuration and number of the flats proposed leads to a development where there are a significant number of units that will not provide adequate accommodation standard of accommodation in terms of daylight and sunlight.

It should be noted that this aspect of the development is not only considered unacceptable in its own right but also in the context of concerns about the quality of other aspects of the development discussed elsewhere in this report.

### Noise

This section of the Housing SPG refers to noise from the street and adjoining properties. Also limiting noise through the placement of rooms within the building to limit the impact of external noise on bedrooms and living rooms is encouraged. The Guidance also advises that there should be consideration of noise in the placement of private external areas. This approach is supported by Policy 7.15 of the London Plan.

It is also relevant to take account of the guidance from the World Health Organisation (WHO) on Community Noise which states that:

'To protect the majority of people from being seriously annoyed during the daytime, the sound pressure level on balconies, terraces and outdoor living areas should not exceed 55dB LAeq for a steady, continuous noise. To protect the majority of people from being moderately annoyed during the daytime, the outdoor sound pressure level should not exceed 50 dB LAeq. These values are based on annoyance studies, but most countries in Europe have adopted 40 dB LAeq as the maximum allowable level for new developments (Gottlob 1995). Indeed, the lower value should be considered the maximum allowable sound pressure level for all new developments whenever feasible.'

Following concerns raised by the Council's Environmental Health Officer to the original Plant Noise Impact Assessment, the subsequent Noise Impact

Assessment and a mitigation report, the applicant has submitted an addendum to the original Noise Impact Assessment, a covering letter from their noise consultant and a covering letter from the agent. This latest report takes each aspect of noise generation and provides further information and commentary and asserts that the proposal meets current planning and environmental policy guidance. The comments below take account of contents of the submitted reports.

For this site the main sensitive receptors for noise will be existing residential and commercial neighbours and future occupant of the flats. The noise sources identified relate to:

- the rooftop chiller units that serve the Churchill Theatre
- noise transfer to and from activities relating to the Theatre, and
- noise from the relocation of an existing plant room to the 4th floor.

#### Noise from the chiller units

In terms of external noise generation, there are noise sources at the rear that are of particular concern for future occupants of the proposed flats that are in the south facing elevation - these are from the chiller units on the theatre and from the external activities relating to the operation of the theatre.

The first source of noise generation relates to two heat rejection units (chiller units) that are located on the roof of the Churchill Theatre which is immediately to the south of the development. The total number of flats that could be affected is eleven over 3 floors. The 4 proposed flats on the second floor facing south would have habitable rooms approximately 6.5m from the chiller units and on the 3rd and 4th floors the separation would be approximately 10m. Balconies would be closer to the chiller units by approximately 1m.

The Noise Impact Assessment and Addendum conclude that with suitable acoustic properties for proposed windows and the provision of trickle ventilation will ensure that the internal target for acoustic levels in residential properties, as set out in the BS4142: 2014: Methods of rating and assessing commercial and industrial noise, can be achieved. However the targets for external noise when a window to a habitable room is opened or when the balcony for these flats is used are not met. The applicant advises that air conditioning for affected units will mitigate the need to open windows for ventilation and the internal environment will be permanently protected from external noise.

In terms of the impact on the balconies, the applicant consider that the outdoor private amenity areas should not be viewed as areas for private amenity and they are provided for drying clothes, growing herbs, having a cigarette etc. Even if they are large enough for having a BBQ or sitting out, the applicant advises that non-compliance with established standards is acceptable if reasonably practicable mitigation measures cannot be provided.

Despite this assertion, the applicant has submitted a report suggesting the screening of the chiller units with an acoustic screen which would help attenuate the noise levels emanating from the chiller units.

The Council's Environmental Health Officer has reviewed the submitted documents and advises that, in the first instance, dealing with attenuation of the noise emission at source is preferable and the provision of a screen may be acceptable. However he considers that the information submitted with the Noise Impact Assessment and Addendum does not include sufficient acoustic detail to fully assess the benefit arising from the screen. In addition, given the close proximity of the neighbouring buildings, the potential canyon effect of the noise from the chiller units should be considered and it is likely that the demand on the plant will coincide on the hotter days when the need for natural ventilation for the flats and the use of the balcony is greatest.

### Noise relating to the Churchill Theatre

An objection has recently been received from the Churchill Theatre as follows:

- Impact of noise from residential balconies that could come through to the stage during quiet plays etc.
- Impact of noise from shows which could lead to complaints that would have an adverse impact on the operation of the theatre
- Impact of noise on residents from the overnight packing up of stage equipment which is a frequent occurrence
- Any restriction to loading areas at the rear of the theatre by construction vehicles
- Noise from construction vehicles and operations during show times

The Addendum report addresses these issues and relies on the arguments that if the worst source of noise (chiller units) is assessed and found acceptable, then all secondary noise sources will, by default, be acceptable. The applicant considers that noise events from conversation on the balconies is unlikely to exceed current noise levels from the chillers and the use of music for parties on the balconies is unlikely to occur.

The Addendum report advises that impact of noise from loading and unloading equipment in the loading bay will be minimised by the screening offered by the existing building and there is no need to quantitatively assess this aspect.

In terms of the impact during construction the Addendum report considers that this can be dealt with as part of a Construction Management Plan.

### Noise from Plant that is to be relocated

The Addendum report reiterates that the plant noise may be deemed excessive outside the nearby residential windows of the closest flats and there should not be any openings in the western elevation. This may mitigate sufficiently if the louvres can be dispensed with from an air circulation point of view.

In response to the above the following comments are relevant:

- It is not agreed that the proposed balconies are not designed for amenity use. They provide the only access for residents of this development to private outdoor space and this should be protected against noise levels that could prevent the use of the balconies for amenity purposes.
- The provision of air conditioning to remove the need for natural ventilation from opening windows, does not resolve the problem of the use of the balcony referred to above and is not a desirable feature of the development. No details of the ventilation units or the impact of their operation has been provided.
- No further details of the acoustic screening for the chiller units has been provided so it is still not possible to advise whether the screens will provide the noise mitigation suggested.
- The impact of the reasonable use of the balconies on the Churchill has not been fully assessed and, on the evidence presented, it is not possible to conclude that there will not be an adverse impact on the operation of the theatre when balconies are in use and vice versa.
- The assertion that the noise from the chiller units will mask noise from other noise sources in relation to the impact on the Churchill Theatre is not accepted and does not take account of times when the chillers are not working or there is sporadic loud noise from moving heavy equipment at unsociable hours. It is considered reasonable to assess the impact of the development on an existing business to minimise adverse impact that may affect its ability to undertake its operations.
- The applicants suggestion that a condition requiring plant noise to be 5dB below the background ambient noise levels is unacceptable and the Council's EHO requires this threshold to be raised to 10dB given the location of the site in an urban environment and the likelihood of gradually rising background noise levels over time.
- No details are provided to assess whether the removal of openings in the western elevation of the proposed 4th floor plant room will be acceptable from an operational point of view. Therefore, it is not possible to conclude that the proposed plant room, which is in very close proximity, will not have an adverse impact on the amenity of the occupants of these flats. It is not considered that the application of a condition where there is significant uncertainty is appropriate.

Therefore, it is considered that the south facing units and the units adjacent to the proposed new plant room on the 4th floor are likely to be vulnerable to noise external noise sources that are on and adjacent to the site. The applicant has sought to address the matter with some quantitative information together with commentary on the relevance of the Council's concerns in terms of policy guidance in this respect.

There is disagreement between the Council and the applicant on both counts and it is concluded that there is insufficient and acceptable justification and detailed information about mitigation measures to overcome concerns about the resultant quality of living conditions for future residents. It should be noted that this aspect of the development is not only considered unacceptable in its own right but also in the context of concerns about the quality of other aspects of the development discussed elsewhere in this report.

## Outlook and prospect

It is also relevant to consider the outlook resulting from the creation of new residential units in this development. On the south elevation, the new openings to provide windows and balconies for the 4 proposed flats will result in an outlook which will be of the north facing wall of the Churchill Theatre and the chiller units on the roof top. This will be approximately 5.6m from the new windows for the flats. Due to the enclosed nature of the new balconies the view is not softened by alternative views of the sky or other features so the only view for all of the habitable rooms of these flats will be of this unappealing elevation.

At 3rd and 4th floor levels the elevation wall and the chiller units will be less visible from the windows of the flats and there will be greater views of the sky and features beyond the Churchill Theatre elevation.

For north and east facing flats at second floor level, the newly created windows and balconies will directly face the side and rear wall of an extension to the WH Smith store on the High Street. The existing building is 3.7m from new east facing windows (2.5m to the edge of the balconies) and 8.1m to the north facing windows (4.5m to the edge of the balconies). For these units there may be broken views of other features beyond and some skyline but this will be limited.

With regard to the view for 3rd and 4th floor flats, flat 26 will look directly at a brick wall with a separation distance of approximately 12m and there will be views of over the rooftops of existing commercial properties and greater views of the sky.

The Housing SPG refers to outlook in several parts of the section entitled Home as a place of retreat. This relates to the quality of the proposal under consideration. There are parts of the development which benefit from a favourable outlook but the units described above do not enjoy this benefit and this compromises the acceptability of these units.

It should be noted that this aspect of the development is not only considered unacceptable in its own right but also in the context of concerns about the quality of other aspects of the development discussed elsewhere in this report.

## Impact on Neighbour Amenity

The relevant UDP policy relating to the impact of development on the amenity of the residents of adjoining residential properties is Policy BE1: Design of New Development. In addition to the site coverage, height and massing, which have been discussed previously in this report, it is necessary to assess the impact of overlooking that may result in the loss of privacy, and the potential loss of daylight and sunlight to fully understand the impact of the proposed development on the amenity of occupants of adjoining residential properties.

The building is primarily surrounded by commercial buildings with the Churchill Theatre to the south, the High Street and the rear of commercial properties to the east and the open space at Church House Gardens to the west. To the north, the rear part of the site abuts the side elevation of the residential building at

Hawksworth House. Although the proposed extension and its amenity area will be set back off the boundary, it would be prudent to secure the provision of a solid screen between the 2 balconies at this point to protect the privacy of existing and future tenants.

The impact of the development on daylight and sunlight for existing residents nearby is considered to be minimal. The proposed 3rd floor rear extension is set back from the rear elevation of the building which continues to allow adequate daylight and sunlight to the top floor flats of the adjacent Hawksworth House.

On this basis it is considered that the development would not diminish the existing amenity enjoyed by residents of adjacent residential units.

#### Highways and Traffic Matters (including Cycle Parking and Refuse)

In policy terms, the relevant UDP policies are T2 (transport effects), T3 (parking) and T18 (road safety). The London Plan policy 6.13 seeks provision for car parking and charging electric vehicles and policy 6.9 seeks suitable provision for cyclists. These up to date policies seek to ensure that the projected level of traffic generation will not have an adverse impact on the surrounding road network, that the level of proposed car parking is sufficient to minimise any impact on nearby streets from off-site parking, that the provision of cycle parking is sufficient to meet the London Plan and that the layout of the vehicle access provides safe access to and from the site.

The applicant has assessed the predicted traffic generation for the development and found that, based on census information relating to car ownership of 0.69 spaces per unit in the ward, it is likely that there will be 23 car movements in the AM peak and 20 in the PM peak. The Highways Officer advises that this is negligible and would be offset by a reduction in traffic generation from previous retail and office use. Given the highly accessible location of the building (PTAL 6a, where 1 is the lowest accessibility) it is considered that the development would not have any impact on the operation of the local transport network.

In terms of car parking, the UDP seeks 1 car parking space per unit for flats. For 42 units the development should provide 42 spaces. The development provides 37 spaces, including 5 disabled spaces. As advised above the applicant advises that the car ownership for this ward amounts to 0.69 spaces per dwelling. This equates to 29 spaces required for the 42 units proposed. The development proposes 37 spaces which would exceed this requirements. The figures above equate to 0.88 spaces per unit. It should be noted that other development in the town centre at St Marks Square and the Old Town Hall provide 0.5 spaces per market unit and the provision on this site would exceed that level of provision.

The applicant advises that there will be 20% provision of spaces with electric vehicle charging points (EVCP). The London Plan seeks 1 in 5 spaces (both active and passive) to be provided with ECVP.

The London Plan seeks 1 cycle parking space per 1 bed unit and 2 spaces for all other units. The applicant is providing a minimum of 64 secure spaces in the sub-basement area, which meets the London Plan requirements.

Should planning permission be granted for this scheme, the Highways Officer has recommended conditions relating to car parking, cycle parking, refuse collection facilities, a Construction Management Plan and restriction of car parking permits for future residents.

In addition the Highways Officer seeks the following through the signing of a S106 agreement

- Twelve months free membership to a car club scheme in the town centre
- £2,000 towards parking/traffic measures in the area.

On this basis it is considered that the proposed development will meet UDP and London Plan policy requirements in terms of traffic generation, car and cycle parking, refuse provision and EVCP and, as such, is acceptable on highways and traffic grounds.

### Summary

The proposal seeks the part change of use of this vacant retail unit within Bromley Town Centre from retail use to residential use. The ground floor and first floor will remain in retail use and the 2nd floor retail would change to residential, the offices on the 2nd floor would change to residential and a new 3rd floor extension and 4th floor would provide further residential units.

It is considered that the principle of the changes of use of existing floorspace are acceptable taking account of submissions regarding the loss of office and retail floorspace and lack of interest for tenancies for these parts of the building.

However there are significant concerns about the quality of the proposed flats in terms of their standard of accommodation that can be offered to future occupants of the units. In particular there are concerns about daylight, outlook, dual aspect and the impact from noise generating sources both within and outside the site. The applicant has submitted additional information to address concerns raised but this has not overcome these concerns. It is the individual and cumulative impact of these shortcomings that leads to this proposal being unacceptable and recommended for refusal.

### **Other Technical Matters**

#### Sustainability and Energy

The applicant has submitted an Energy Statement which sets out measures to meet London Plan policies 5.2: Minimising carbon dioxide emissions and Policy 5.7: Renewable Energy.

The report considers the new build and conversion elements separately and concludes as follows:

- The new build element achieves a 34% reduction in carbon dioxide emissions
- The units in the converted element of the scheme achieve 4% reduction in carbon dioxide emissions.
- In terms of reducing carbon emissions through the use of renewable energy, the scheme can achieve 34% through the use of 150 sqm of solar Photovoltaic panels
- There is a shortfall of 0.2 tonnes CO<sub>2</sub> per annum to meet the 35% reduction in CO<sub>2</sub> as required within Policy 5.2 of the London Plan for new major development. This may result in a carbon offset payment equivalent to £360, using the price of £60 per tonne of CO<sub>2</sub> per year for a 30 year period, as recommended by the Mayor's Sustainable Design and Construction SPG.

The payment of the CO<sub>2</sub> offset will need to be secured by a S106 legal agreement.

On this basis it is considered that the requirements of Policies 5.2 and 5.7 of the London Plan can be met.

#### Drainage and Sustainable Urban Drainage Systems

The site lies within Flood Zone 1. The applicant advises that a new internal waste drainage system will be installed within the building to connect to the existing main sewers. There will be no overall additional surface water run-off that needs to be catered for by the existing drainage system. The building is not in a high risk flood zone and the proposals will not increase risk of flooding on site or elsewhere. On this basis the applicant has not submitted a Flood Risk Assessment.

The Council's Drainage Officer has no comments on the proposals and Thames Water have not raised any objection on surface water or sewerage capacity resulting from the proposal.

As such it is considered that the provision outlined by the applicant is acceptable in this respect.

#### Mayoral Community Infrastructure Levy

The development will be liable for Mayoral CIL and a relevant informative should be applied to the application accordingly.

#### Environmental Impact Assessment

The development does not meet the criteria for the requirement of EIA scoping under the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015.

#### S106 planning contributions

Policy IMP1 (Planning Obligations) and the Council's Planning Obligations SPD states that the Council will, where appropriate, enter into legal agreements with developers, and seek the attainment of planning obligations in accordance with Government Guidance.

The following contributions have been identified

- Twelve months free membership to a car club scheme in the town centre
- £2,000 towards parking/traffic measures in the area.
- Carbon offset payment of £360

### **Overall conclusion**

This planning application is seeking changes to the use and appearance of one of the largest retail units in the primary shopping frontage of Bromley High Street.

The proposal will involve the loss of existing retail and office floorspace and change of use of this floorspace to residential flats. In terms of the principle of the development the change of use is found to be acceptable and the principle of the provision of residential flats is found to be acceptable.

However in order for the development to be acceptable, it is necessary to provide a scheme that meets policy requirements in terms of the standard of accommodation to be provided, the impact on neighbours and other technical aspects such as highways, sustainability and energy, impact of noise sources and drainage.

In terms of the standard of accommodation to be provided, it is considered that there are a number of units that do not reach one or more of the requirements of the London Plan in terms of single aspect flats, poor quality outlook, lack of daylight and sunlight, noise transfer from outside sources and external use of balconies. It is recognised that the site offers challenges due to its existing properties such as considerable floorplate size and depth of each floor. However the extent to which some of the flats fail to secure high quality units is a significant cause for concern. It is also recognised that the applicant has suggested mitigation measures but the details have not been sufficient to overcome concerns that the mitigation measures might not be effective.

It is this combination of shortcomings that result from the extent of development proposed that prejudice the ability of this particular development to provide a satisfactory standard quality of accommodation and amenity and a place of retreat for future residents that is a reasonable objective for a housing development in Bromley Town Centre.

Background papers referred to during the production of this report comprise all correspondence on file ref: 16/03132, excluding exempt information.

**RECOMMENDATION: APPLICATION BE REFUSED**

The reasons for refusal are:

- 1 The development, by reason of the poor standard of residential accommodation proposed for future occupiers in terms of daylight, aspect, outlook and prospect and noise intrusion, is unacceptable and contrary to Policies BE1 and H12 of the UDP and Policies 3.5 and 7.15 of the London Plan 2016 and the Mayors Housing Supplementary Planning Guidance (2016).**