

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

Application No : 18/05565/OUT

Ward:
Bickley

Address : Phoenix Lodge, 14A Woodlands Road,
Bickley, Bromley BR1 2AP

Objections: Yes

OS Grid Ref: E: 543126 N: 169382

Applicant : Mr Martyn Avery

Description of Development:

Demolition of existing dwelling and erection of a three storey building comprising 2 one bedroom and 11 two bedroom flats with associated parking, amenity space, refuse/cycle store and landscaping OUTLINE APPLICATION

Key designations:

Area of Special Residential Character
Biggin Hill Safeguarding Area
London City Airport Safeguarding
Open Space Deficiency
River Centre Line
Smoke Control SCA 10

Proposal

Outline planning permission is sought to demolish the existing two storey detached dwelling at Phoenix Lodge and erect a three storey structure comprising 2 one bedroom and 11 two bedroom flats. 5 flats will be provided on the ground and first floors, with 3 flats within the roof space. The proposed building will have a width of 34m and a length of 22m. The overall height will be 10.9m. The existing house has a height of 9.6m.

Access will be provided utilising the existing vehicle access to the site, and provision for 13 car parking spaces to the front and rear of the building. A cycle store building will also be provided to the rear of the building and a refuse store to the front. The ground floor flats will be provided with a private amenity area, with a communal amenity area at the rear of the site and a roof terrace serving one of the second floor units.

The application is accompanied by the following documents:

- Flood Risk Assessment Report
- Preliminary Ecological Appraisal
- Bat Building Assessment and Emergence Survey
- Arboricultural Report
- Energy Statement
- Financial Viability Appraisal
- Highways Access Statement
- Design and Access Statement
- Sound Insulation Testing Report

Matters reserved for later consideration relate to landscaping only. Details of access, appearance, layout and scale are to be considered at outline stage.

Location and Key Constraints

The area of Woodlands Road is characterised by large detached residential dwellings set within generously sized plots. The site falls within the Bickley Area of Special Residential Character and within Flood Zone 2 and 3.

Comments from Local Residents and Groups

Nearby owners/occupiers were notified of the application and representations received are summarised as follows:

Objections:

- Intensification of the use of the site and loss of the family home would impact harmfully on local character of the Bickley Area of Special Residential Character
- Overdevelopment of the site
- Excessive scale, height and massing
- Loss of privacy and overlooking of neighbouring properties
- Insufficient car parking and dangerous access arrangements
- Increase in parking and traffic on Woodlands Road
- Traffic noise to adjacent residential gardens
- Permission would set a damaging future precedent for further flatted schemes on Woodlands Road
- Loss of mature trees at the site would impact harmfully on the amenities of the area.
- Impact on wildlife and bird species/habitat
- The building should not significantly exceed the height of surrounding development.
- No windows should face Rosemullion and boundary detail/acoustic fencing conditions should be imposed.

Please note the above is a summary of objections received and full text is available on the Council's website.

Comments from Consultees

Drainage Officer: The submitted Flood Risk Assessment carried out "Forge Engineering Design Solutions" with Ref No. FEDS-218171 dated 31 January 2019 to incorporate permeable paving in the turning and car park areas to achieve a zero piped discharge for all events including the 1 in 100 year plus 40% climate change is acceptable subject to a condition.

Environmental Health (Pollution) Officer: A planning condition requiring compliance with the recommendations set out within the Noise Impact Assessment, along with a standard informative, are recommended.

Environment Agency – At the time of writing no comments had been received. However, in respect of the previous application the Environment Agency commented that the existing building footprint is partly within Flood Zone 3 and within Flood Zone 2. The closest distance to the River Kyd Brook is approximately 3m. As a residential dwelling the development is classed as 'more vulnerable'. Floor plans show ground

floor sleeping, which is advised against. Wherever possible, floor levels should be situated a minimum of 0.3m above the 1% with climate change flood level, determined as an outcome of the site-based FRA. If no climate change data is available then a precautionary freeboard of 600 mm above the 1% annual probability peak flood level should be used as outlined within the Bromley SFRA. Since November 2016 when the Product 4 used within the submitted FRA was produced, the climate change levels have been updated and the proposed development would be situated within the new Climate Change 35% flood outline. Therefore the EA would require a new P4, a revised FRA and Finished Floor Levels (FFL) to be raised accordingly, in line with the new modelled levels. On the basis of this advice, a revised FRA was submitted and reviewed by the Environment Agency, however the revisions did not address the principle concerns in terms of proximity to the Kyd Brook and FFLs being raised using the incorrect policy. A design change was provided that creates a larger buffer to the Kyd Brook and this is considered acceptable subject to a condition to retain this buffer.

Highways: Previous application 18/04199/OUT was for 8 x 2 bed and 1 x 3 bed flats proposed together with 11 parking spaces, one for each flat and 2 visitor spaces whereas this one is for 2 x 1 bed and 11 x 2 bed flats. Application 17/00843 was dismissed at appeal. The site has a low (2) PTAL assessment. The application is outline for access, appearance, layout and scale. Woodlands Road is recorded as an unadopted highway and the application indicates there is no change to the access arrangements. As mentioned above there are 2 x 1 bed and 11 x 2 bed flats proposed together with 13 parking spaces, one for each flat and 2 visitor spaces. The property access is from a 90° bend and parking around the bend should not be encouraged. Examining the 2011 census data, the car ownership in the area was 1.5 vehicles per household. The standards contained within the Local Plan shown a minimum of 1 space per 1 to 2 bed unit. The Inspector in the previous application did not uphold the highway ground of refusal regarding the parking provision for the previous application and so I assume there is nothing further we can say about that. The cycle parking is too far from the main building and is not overlooked. It needs to be relocated and should accommodate 24 bikes and be enclosed, lit and secure. The refuse storage shown is more than 18m from the highway, which is the maximum collection distance for flats. It also should be confirmed it is large enough for the Eurobins required. Please consult LBB Waste Service regarding refuse storage and servicing of the units.

Arboricultural Officer – The outline of the proposed replacement building is sited in the most appropriate location. This follows a similar footprint to the existing building and will have the least disruptive impact on tree constraints. The layout of the parking area may require some tweaking, however, I believe this is a matter that could be dealt with under determination of details. I can therefore recommend planning permission subject to consideration of conditions.

Natural England – no comments previously made and the Council is referred to its Standing Advice.

Network Rail – No comments received. No objections raised to the previous application subject to the development being undertaken without encroachment onto or damage to Network Rail land and infrastructure.

West Kent Badger Group – no comments received.

Waste Services – no comments received.

Policy Context

Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

The National Planning Policy Framework was published on 24th July 2018. According to paragraph 48 of the NPPF decision makers can also give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- b) 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
- c) The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF

The development plan for Bromley comprises the Bromley Local Plan (2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.

London Plan (2016)

- 3.3 Increasing Housing Supply
- 3.4 Optimising Housing Potential
- 3.5 Quality and Design of Housing Developments
- 3.8 Housing Choice
- 3.9 Mixed and Balanced Communities
- 5.1 Climate Change Mitigation
- 5.2 Minimising Carbon Dioxide Emissions
- 5.3 Sustainable Design and Construction
- 5.7 Renewable Energy
- 5.10 Urban Greening
- 5.11 Green Roofs and Development Site Environs
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage
- 5.14 Water Quality and Wastewater Infrastructure
- 5.15 Water Use and Supplies
- 5.16 Waste Self-Sufficiency
- 5.17 Waste Capacity
- 5.18 Construction, Excavation and Demolition Waste

- 5.21 Contaminated Land
- 6.3 Assessing Effects of Development on Transport Capacity
- 6.5 Funding Crossrail and Other Strategically Important Transport Infrastructure
- 6.9 Cycling
- 6.13 Parking
- 7.1 Lifetime Neighbourhoods
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.5 Public Realm
- 7.6 Architecture
- 7.8 Heritage Assets and Archaeology
- 7.14 Improving Air Quality
- 7.15 Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes.
- 7.19 Biodiversity and Access to Nature
- 7.21 Trees and Woodlands
- 8.2 Planning obligations
- 8.3 Community infrastructure levy

Bromley Local Plan:

- Policy 1 - Housing Supply
- Policy 2 – Provision of Affordable Housing
- Policy 4 - Housing Design
- Policy 30 - Parking
- Policy 31 - Relieving Congestion
- Policy 32 - Road Safety
- Policy 33 - Access for All
- Policy 37 - General Design of Development
- Policy 44 - Areas of Special Residential Character
- Policy 72 - Protected Species
- Policy 73 - Development and Trees
- Policy 74 – Conservation and Management of Trees and Woodlands
- Policy 77 - Landscape Quality and Character
- Policy 79 – Biodiversity and Access to Nature
- Policy 113 - Waste Management in New Development
- Policy 115 – Reducing Flood Risk
- Policy 116 - Sustainable Urban Drainage Systems (SUDS)
- Policy 117- Water and Wastewater Infrastructure Capacity
- Policy 119 - Noise Pollution
- Policy 120 - Air Quality
- Policy 122 - Light Pollution
- Policy 123 - Sustainable Design and Construction
- Policy 124 - Carbon Dioxide Reduction, Decentralise Energy Networks and Renewable Energy
- Policy 125: Delivery and Implementation of the Local Plan

Additional Guidance

- Housing: Supplementary Planning Guidance. (March 2016)
- Technical Housing Standards - Nationally Described Space Standard (March 2015)
- Supplementary Planning Guidance 1 - General Design Principles
- Supplementary Planning Guidance 2 - Residential Design Guidance
- Affordable Housing Supplementary Planning Document (SPD)

Planning Obligations Supplementary Planning Document (SPD)
Accessible London: Achieving an Inclusive Environment (2014)
Sustainable Design and Construction (2014)
Control of Dust and Emissions During Construction and Demolition (2014)
Providing for Children and Young People's Play and Informal Recreation (2012)

Planning History

Planning permission was granted under ref. 87/02021 for a side extension to form garage and swimming pool enclosure.

Planning permission was granted under ref. 90/03041 for a first floor side/rear extension.

Outline planning permission was refused under ref. 17/00843 for demolition of existing dwelling and erection of a three storey building comprising 8 two bedroom and 1 three bedroom flats with associated parking, amenity space, refuse/cycle store and landscaping. The refusal grounds were as follows:

'The proposed flatted development of the site, in particular the size of the development and amount of hard surfacing would be out of character with the form and appearance of Woodlands Road and would impact detrimentally on the special character, appearance and spatial standards of the Bickley Area of Special Residential Character, contrary to Policies BE1, H7 and H10 of the Unitary Development Plan.

The proposal would fail to provide an acceptable amount of off-street car parking within this area of low accessibility to public transport and would lead to further on-street parking stress in the surrounding highway network, contrary to Policies T3 and T18 of the Unitary Development Plan, Policy 30 of the emerging Local Plan.'

The application was subsequently dismissed on appeal. The Inspector concluded that the proposal would have no detrimental impact on the character of the Area of Special Residential Character or on highway safety, however he concluded that the potential of the appeal site to support suitable habitat for bats resulted in an unacceptable application in the absence of a suitable bat survey.

18/04199/OUT - Demolition of existing dwelling and erection of a three storey building comprising 8 two bedroom and 1 three bedroom flats with associated parking, amenity space, refuse/cycle store and landscaping OUTLINE APPLICATION - Permitted

Considerations

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

- Resubmission
- Design
- Density
- Housing Issues
- Impact on Neighbouring Amenities
- Flood Risk and Drainage
- Highways and Traffic Issues
- Ecology and Trees

- Sustainability
- Planning Obligations
- CIL

Resubmission

Following the outline permission granted under ref. 18/04199, the current proposal seeks amendments to the internal configuration of the building to provide an additional 4 flats. A total of 13 flats will be provided, with a mix of one and two bedroom units. No external alterations are proposed to the permitted building, with the height, scale, footprint and external appearance all remaining as previously permitted. Additional car parking spaces have been provided to increase on-site car parking provision from 11 previously proposed spaces to 13 spaces.

Design

Policy 1 (Housing) aims to provide 11,450 additional dwellings over the plan period and this provision will be facilitated by the development or redevelopment of windfall sites. The suitability of windfall sites for housing purposes will be assessed against criteria: whether the site comprises previously developed land; the location of the site; the capacity of existing and potential infrastructure; physical and environmental constraints on the development site and the need to retain the existing land use on the site.

The NPPF sets out in paragraph 11 a presumption in favour of sustainable development. In terms of decision-making, the document states that where a development accords with a local plan, applications should be approved without delay. Where a plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

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.

Paragraph 124 of the NPPF (2019) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 of the NPPF (2019) requires Local Planning Authorities to ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). New development shall also establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

London Plan and Local Plan policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.

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

Policy 4 of the Local Plan sets out criteria to assess whether new housing developments are appropriate subject to an assessment of the impact of the proposal on the appearance/character of the surrounding area, the residential amenity of adjoining and future residential occupiers of the scheme, car parking and traffic implications, community safety and refuse arrangements.

The site is located within an Area of Special Residential Character. In this case it is considered that the principle of development is acceptable in light of the Inspector's decision. The Inspector considered that the building would have the appearance of a large house and concluded that flatted development in this part of the ASRC could not be precluded. The visual effect of the building was considered to be similar to the existing dwelling at Phoenix Lodge and therefore it was concluded that the development would be acceptable in principle.

The site falls within the Bickley Area of Special Residential Character (ASRC) where the Council will seek to preserve the special character and spatial qualities of the area. Woodlands Road is characterised by detached residential properties with only one nearby block of flats at No. 2 Denbridge Road, which was converted from a care home. The principle of a flatted scheme was previously objected to, however the Inspector's decision raised no concern in regards to the character of the area.

Density

In March 2015 the Government published The National Technical Housing Standards. This document prescribes internal space within new dwellings and is suitable for application across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. The Gross Internal Areas in this standard will not be adequate for wheelchair housing (Category 3 homes in Part M of the Building Regulations) where additional internal area is required to accommodate increased circulation and functionality to meet the needs of wheelchair households.

Policy 4 of the Local Plan sets out the requirements for new residential development to ensure a good standard of amenity. The Mayor's Housing SPG sets out guidance in respect of the standard required for all new residential accommodation to supplement London Plan policies. The standards apply to new build, conversion and change of use proposals. Part 2 of the Housing SPG deals with the quality of residential accommodation setting out standards for dwelling size, room layouts and circulation space, storage facilities, floor to ceiling heights, outlook, daylight and sunlight, external amenity space (including refuse and cycle storage facilities) as well as core and access arrangements to reflect the Government's National Technical Housing Standards.

The London Plan makes clear that ninety percent of new housing should meet Building Regulation requirement M4 (2) 'accessible and adaptable dwellings' and ten per cent of new housing should meet Building Regulation requirement M4 (3) 'wheelchair user

dwellings', i.e. is designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users. The relevant category of Building Control Compliance should be secured by planning conditions.

With regard to the density of the proposed development, Table 3.2 of Policy 3.4 (Optimising Housing Potential) of the London Plan (2015) gives an indicative level of density for new housing developments. In this instance, the proposal represents a density of 43 dwellings per hectare with the table giving a suggested level of between 35-65 dwellings per hectare in suburban areas with a PTAL rating of 2. The proposals would therefore result in a density that would be within the recommended density for the site and would be acceptable in regards to density.

Housing Issues

To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups on the community; identify the size, type, tenure and range of housing that is required in particular locations; and where they have identified that affordable housing is needed, set policies for meeting this on site, unless off-site provision can be robustly justified.

Unit type/size:

London Plan policy requires new housing development to offer a range of housing choices in terms of the mix of housing sizes and types taking into account the housing requirements of different groups. Policies within the Bromley Local Plan do not set a prescriptive breakdown in terms of unit sizes however the priority in the London Plan is for the provision of affordable family housing, generally defined as having three or more bedrooms. The site's size and location in a suburban setting with good access to open space make it suitable for the provision of family housing. The applicant is proposing a mix of 1 and 2 bedroom flats. While some 3 bedroom units would be desirable, a number of the 2 bedroom units are large enough to accommodate 4 people and include a ground floor wheelchair unit. On balance, the mix of units proposed would provide a range of housing choice taking into account the requirements of different groups and are considered acceptable in this instance.

The London Plan paragraph 3.5, details outlined in Table 3.3 and the Mayor's Housing Supplementary Planning Guidance outline the minimum requirements for new dwellings. The London Plan suggests that the minimum size of a one bedroom two person flat should be 50 sq.m and a two bedroom four person flat should be 70 sq.m. The submitted plans indicate a floor area of between 52 sq.m and 98 sq.m for each flat and therefore the units are considered to comply with the requirements of the Technical Space Standards.

Affordable Housing:

Affordable housing will be sought on sites capable of providing 11 dwellings or more, a site area of 0.4ha or on sites providing over 1000 square metres of residential floorspace. The London Plan, at policy 3.8, states that Londoners should have a genuine choice of homes that they can afford and which meet their requirements for different sizes and types of dwellings in the highest quality environments. Policy 3.12 requires the maximum reasonable amount of affordable housing to be sought on schemes having regard to current and future requirements at local and regional levels and the London Plan's target of an average of at least 17,000 more affordable homes

per year in London. Development proposals are required to create mixed and balanced communities with the size and type of affordable housing being determined by the specific circumstances of individual sites.

The development is considered liable for the provision of affordable housing on site and contributions by way of planning obligations. Policy 2 of the Local Plan requires 35% affordable housing (on a habitable room basis) to be provided with policy 3.11 of the London Plan requiring 60% affordable rented and 40% intermediate provision. A lower provision of affordable housing can only be accepted where it is demonstrated that the viability of the scheme cannot support policy compliant provision.

The applicant has submitted a Financial Viability Assessment that outlines that the development would be financially unviable and that affordable housing could not be provided. The Council has undertaken an independent review of this assessment and this position has been corroborated by the appointed consultant. The viability assessment concludes that the development can support a £65,527 sum as a commuted payment in lieu of affordable housing to be contributed for off-site provision. This would not be sufficient to enable the provision of affordable housing on site.

Standard of living accommodation:

In March 2015 the Government published The National Technical Housing Standards. This document prescribes internal space within new dwellings and is suitable for application across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. The Gross Internal Areas in this standard will not be adequate for wheelchair housing (Category 3 homes in Part M of the Building Regulations) where additional internal area is required to accommodate increased circulation and functionality to meet the needs of wheelchair households.

Policy 4 sets out the requirements for new residential development to ensure a good standard of amenity. The Mayor's Housing SPG sets out guidance in respect of the standard required for all new residential accommodation to supplement London Plan policies. The standards apply to new build, conversion and change of use proposals. Part 2 of the Housing SPG deals with the quality of residential accommodation setting out standards for dwelling size, room layouts and circulation space, storage facilities, floor to ceiling heights, outlook, daylight and sunlight, external amenity space (including refuse and cycle storage facilities) as well as core and access arrangements to reflect the Governments National Technical Housing Standards.

The London Plan makes clear that ninety percent of new housing should meet Building Regulation requirement M4 (2) 'accessible and adaptable dwellings' and ten per cent of new housing should meet Building Regulation requirement M4 (3) 'wheelchair user dwellings', i.e. is designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users. The relevant category of Building Control Compliance should be secured by planning conditions.

The Housing SPG advises that affordable dwellings (where the Council has nomination rights) should be provided as wheelchair accessible homes (that are readily usable by a wheelchair user at the point of completion). Affordable wheelchair units will additionally be required to comply with South East London Housing Partnership (SELHP) standards.

With regards to Part M4(2) (accessible and adaptable dwellings), for blocks of four storeys or less, the London Plan advises that Boroughs should seek to ensure that dwellings accessed above or below the entrance storey have step-free access. The plans indicate that a lift will be provided at all levels. The relevant category of Building Regulation will therefore need to be secured through a planning condition for the remaining units, which the applicant has confirmed will meet Part M4(2).

The London Plan Housing SPG says that developments should minimise the number of single aspect dwellings. Single aspect dwellings that are north facing, or exposed to noise levels above which significant adverse effects on health and quality of life occur, or which contain three or more bedrooms should be avoided. The proposal will provide suitable bedroom sizes, living areas and natural light, with only 2 of the 13 flats provided with single aspect. These two flats will have a south facing outlook and therefore will receive acceptable levels of sunlight and will have an outlook onto the front private garden areas.

The proposed development will be sited in close proximity to the railway track to the north of the site. This will impact on the amenities of the future occupants. The application has been submitted accompanied by a Sound Insulation Testing Report. No objections raised subject to a condition that the recommendations of the Acoustic Assessment prepared by Falcon Energy Ltd (Report Ref 13896) are implemented.

Amenity Space:

All units must benefit from private amenity space which must comply with the requirements set out in the SPG. A minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant. Dwellings on upper floors should all have access to a terrace, roof garden, winter garden, courtyard garden or balcony. For all new residential developments generating more than 10 children (as determined by the application of child occupancy assessments) suitable play space should be provided as part of the development scheme.

The 5 ground floor flats will all be provided with private garden areas, with the upper floor flats provided with small balconies and a roof terrace. All flats would also have access to the communal amenity area at the rear of the site. Whilst some of the upper floor balconies would be small, these have previously been considered acceptable by the Inspector and under the previous application ref. 18/04199 in light of the communal amenity area provision. The quality and amount of amenity space which would be provided as part of the development is therefore considered acceptable and, overall, it is considered that the development would provide a satisfactory form of living accommodation for future occupants.

Impact on Neighbouring Amenities

Policy 37 of the Local Plan seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

The site is located to the north of the nearest residential house at Rosemullion. Due to the siting and orientation of Rosemullion, it is not considered that there would be a harmful impact on the amenities of this property. Rosemullion is sited on higher ground than Phoenix Lodge and the proposed balconies are not considered to result in a loss of privacy. A landscaping condition could be imposed to ensure adequate additional

boundary vegetation where necessary. To the west of the site, Skogly is separated from the site of the proposed block by a considerable distance. The provision of 13 flats, utilising the existing vehicle access to the site, would introduce additional noise and disturbance as a result of vehicle traffic, however this is not considered to be significantly harmful.

Flood Risk and Drainage

Policy 5.12 of the London Plan requires development proposals to comply with the flood risk assessment and management requirements set out in the NPPF and the associated technical Guidance on flood risk over the lifetime of the development. Policy 115 of the Emerging Plan requires developers to work with the Environment Agency to deliver a reduction in flood risk compared with the existing situation.

The site lies within Flood Zone 2 and 3 and the Kyd Brook runs through the western part of the site. The application has been submitted accompanied by a Flood Risk Assessment.

The Environment Agency has previously commented that the existing building footprint is partly within Flood Zone 3 and within Flood Zone 2. The closest distance to the River Kyd Brook is approximately 3m. As a residential dwelling the development is classed as 'more vulnerable'. Floor plans show ground floor sleeping, which is advised against. Wherever possible, floor levels should be situated a minimum of 0.3m above the 1% with climate change flood level, determined as an outcome of the site-based FRA. If no climate change data is available then a precautionary freeboard of 600 mm above the 1% annual probability peak flood level should be used as outlined within the Bromley SFRA. Since November 2016 when the Product 4 used within the submitted FRA was produced, the climate change levels have been updated and the proposed development would be situated within the new Climate Change 35% flood outline. Therefore the EA would require a new P4, a revised FRA and Finished Floor Levels (FFL) to be raised accordingly, in line with the new modelled levels. On the basis of this advice, a revised FRA was submitted and reviewed by the Environment Agency, however the revisions did not address the principle concerns in terms of proximity to the Kyd Brook and FFLs being raised using the incorrect policy. A design change had been provided that creates a larger buffer to the Kyd Brook and this is considered acceptable subject to a condition to retain this buffer.

Impact on Highway Safety

The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. The NPPF clearly states that transport issues should be considered from the earliest stage of both plan making and when formulating development proposals and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The NPPF states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed

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

In light of the recent appeal decision, it is considered that the car parking provision, access arrangements and on site turning areas are acceptable. Conditions have been recommended by the highways engineer in regards to cycle and refuse storage.

Ecology and Trees

The application is accompanied by a Preliminary Ecological Appraisal and Bat Building Assessment and emergence survey. These documents conclude that the site has a moderate ecological value with the development likely to have some potential impact on badgers, birds and bats. It is recommended that the brook and woodland area at the site is protected and further biodiversity enhancement measures are also recommended. The surveys conclude that the main building at Phoenix Lodge may have potential for bat roosting and an emergence survey should be carried out prior to commencement of the development.

Following the Inspector's decision, a re-entry survey was carried out prior to dawn on the 28th August 2018 in fair weather by two qualified surveyors on opposite sides of the building. Pipistrelle bats were recorded foraging and commuting in the area, however no re-entry into Phoenix Lodge was recorded. Whilst ideally the site would be surveyed at dawn and dusk on several consecutive days, when adding this evidence to the previously recorded lack of evidence of bats using the building and the lack of evidence recorded internally or externally, it may be reasonably concluded that the building is not being used by bats for roosting in the summer months. It is therefore considered that the demolition of the building would not impact on protected species habitat.

The Preliminary Ecological Appraisal outlines a list of recommendations for biodiversity enhancements. In light of the moderate ecological value of the site as a whole, coupled with the recording of foraging and commuting bats at the site, it is considered reasonable to impose a condition for such details to be submitted for Council approval and implementation thereafter.

Energy and Sustainability

The NPPF requires Local Planning Authorities to adopt proactive strategies to mitigate and adapt to climate change. London Plan and Draft Local Plan Policies advocate the need for sustainable development. All new development should address climate change and reduce carbon emissions. For major development proposals there are a number of London Plan requirements in respect of energy assessments, reduction of carbon emissions, sustainable design and construction, decentralised and renewable energy. Major developments are expected to prepare an energy strategy based upon the Mayors energy hierarchy adopting lean, clean, green principles.

In accordance with the energy hierarchy in policy 5.2 of the London Plan, updated following the implementation of the 2013 Building Regulations (see the Mayor's guidance: Energy Planning (guidance on preparing energy assessments (2015))), developments should provide a reduction in expected carbon dioxide emissions through the use of on-site renewable energy generation, where feasible. The strategy shall include measures to allow the development to achieve a reduction in carbon dioxide emissions of 35% above that required by the 2013 Building Regulations. The development should also achieve a reduction in carbon dioxide emissions of at least 20% from on-site renewable energy generation.

Policy 5.3 Sustainable Design and Construction of the London Plan states that the highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new developments and to adapt to the

effects of climate change over their lifetime. Policy 5.2 Minimising Carbon Dioxide Emissions of the London Plan states that development should make the fullest contribution to minimising carbon dioxide emissions in accordance with the hierarchy; Be Lean: use less energy; Be clean: supply energy efficiently and Be green: use renewable energy.

The submitted Energy Statement provides the following break-down in regards to a payment-in-lieu figure for Carbon Offsetting.

- On site regulated carbon dioxide emissions (Building Regs 2013 Compliant Development) = 14.98 tCO₂ per annum
- Proposed on site reduction of carbon emissions from energy demand/CHP/renewables = 5.26 tCO₂ per annum
- On site shortfall = 9.72 tCO₂ per annum
- **Payment-in-lieu** amount calculated as 9.72 (tCO₂) x £60 (per tCO₂) x 30 (years) = **£17,496**

This figure is agreed by the Council and will form part of the legal agreement should permission be granted.

Planning obligations

The National Planning Policy Framework (NPPF) states that in dealing with planning applications, local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. It further states that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. The NPPF also sets out that planning obligations should only be secured when they meet the following three tests:

- (a) Necessary to make the development acceptable
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

Paragraph 122 of the Community Infrastructure Levy Regulations (April 2010) puts the above three tests on a statutory basis, making it illegal to secure a planning obligation unless it meets the three tests. From 5th April 2015, it is necessary to link Education, Health and similar proposals to specific projects in the Borough to ensure that pooling regulations are complied with.

Policy 125 and the Council's Planning Obligations SPD state 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 application has been submitted making no provision for affordable housing. Following an independent review of the Financial Viability Assessment provided by the applicant, a commuted sum has been reached to the total of **£65,527** in lieu of the provision of on-site affordable housing. Whilst Policy 2 requires affordable housing to be provided on site unless exceptional circumstances can be demonstrated, in this case the provision of even a single affordable unit on site would compromise the financial

viability of the proposal and therefore it may be considered that a commuted sum is acceptable in this instance.

In addition, the development as proposed would give rise to the following contributions which the applicant has agreed, as principle Heads of Terms, to pay should the application be considered acceptable overall:

Health: £11,000.00

Education: £ 34,439.80

Carbon Off-Setting: £17,496.00

CIL

The Mayor of London's CIL is a material consideration. CIL is not payable on this outline application and the applicant has completed the relevant form.

Conclusion

Having had regard to the above it is considered that the development in the manner proposed is acceptable in that it would not impact detrimentally on the character and appearance of this part of the Bickley Area of Special Residential Character in light of the Inspector's decision. The proposal would provide a suitable number of car parking spaces to serve the development, would not impact detrimentally on the amenities of neighbouring properties and would not impact detrimentally on trees or ecology subject to appropriate conditions. The lack of affordable housing has also been found to be acceptable in light of the independent assessment of the submitted Financial Viability Assessment.

Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: PERMISSION SUBJECT TO THE PRIOR COMPLETION OF A LEGAL AGREEMENT

and the following conditions:

1 (i) Details relating to the

shall be submitted to and approved by the Local Planning Authority before any development is commenced.

(ii) Application for approval of the details referred to in paragraph (i) above must be made not later than the expiration of three years beginning with the date of this decision notice.

(iii) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the details referred to in paragraph (i) above, or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: As required by Section 92 of the Town and Country Planning Act 1990.

- 2** The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.

Reason: In order to comply with Policy 37 of the Bromley Local Plan and in the interests of visual and residential amenity.

- 3** i) Prior to commencement of above ground works details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- 1.** A scaled plan showing all existing vegetation to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home grown stock (where possible) and no invasive species;
- 2.** Proposed hardstanding and boundary treatment;
- 3.** A schedule detailing sizes and numbers of all proposed trees/plants;
- 4.** Sufficient specification to endure successful establishment and survival of new planting.

(ii) There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.

(iii) Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details

Reason: In order to comply with Policies 37, 73 and 74 of the Bromley Local Plan to secure a visually satisfactory setting for the development and to protect neighbouring amenity.

- 4** The surface water drainage scheme hereby permitted shall be implemented in full accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The following plan/report shall be complied with:

- Flood Risk Assessment carried out by "Forge Engineering Design Solutions" with Ref No. FEDS-218171 dated 31 January 2019.
- "Proposed Site Plan" DRW No. FEDS-216098-002 Rev P2.
- MicroDrainage Calculations.

Reason: In order to comply with Policy 5.13 of the London Plan and to reduce the impact of flooding both to and from the proposed development and third parties.

- 5** Prior to commencement of development (excluding demolition) details of the proposed slab levels of the building(s) and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority . The development shall be completed strictly in accordance with the approved levels.

Reason: Required prior to commencement in order to ensure that a satisfactory form of development can be undertaken on the site in the interest of visual amenity and to comply with Policy 37 of the Bromley Local Plan.

- 6 (a) Prior to commencement of above ground works, details (including samples) of the materials to be used for the external surfaces of the building which shall include roof cladding, wall facing materials and cladding, window glass, door and window frames, decorative features, rainwater goods and paving where appropriate shall be submitted to and approved in writing by the Local Planning Authority.**

(b) The works shall be carried out in accordance with the approved details.

Reason: In order to comply with Policy 37 of the Bromley Local Plan and in the interest of the appearance of the building and the visual amenities of the area.

- 7 (a) Details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works**

(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

Reason: In order to comply with Policy 37 of the Bromley Local Plan and in order to provide adequate refuse storage facilities in a location which is acceptable from the residential and visual amenity aspects.

- 8 (a) Details of arrangements for bicycle parking (including covered storage facilities where appropriate) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works**

(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

Reason: In order to comply with Policy 33 of the Bromley Local Plan and Policy 6.9 of the London Plan and in order to provide adequate bicycle parking facilities at the site in the interest of reducing reliance on private car transport.

- 9 (a) Details of a scheme to light the access drive and car parking areas hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of above ground works.**

(b) The approved scheme shall be self-certified to accord with BS 5489 - 1:2003

(c) The lighting scheme as shall be implemented in full accordance with details submitted under Part (a) before the development is first occupied and the lighting shall be permanently retained thereafter.

Reason: In order to comply with Policy 30 of the Bromley Local Plan in the interest of visual amenity and the safety of occupiers of and visitors to the development.

- 10 Before commencement of the use of the land or building hereby permitted parking spaces and/or garages and turning space shall be completed in accordance with the details as set out in this planning permission and thereafter shall be kept available for such use and no permitted development whether permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.**

Reason: In order to comply with Policy 30 of the Bromley Local Plan and to avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety.

- 11 While the development hereby permitted is being carried out a suitable hardstanding shall be provided with wash-down facilities for cleaning the wheels of vehicles and any accidental accumulation of mud of the highway caused by such vehicles shall be removed without delay and in no circumstances be left behind at the end of the working day.**

Reason: In the interest of pedestrian and vehicular safety and in order to comply with Policy 30 of the Bromley Local Plan.

- 12 (a) Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a survey of the condition of the road shall be submitted to and agreed in writing by the Local Planning Authority.**

(b) Any damage caused to the surface of the road during the construction phase of the development shall be reinstated to a standard at least commensurate with its condition prior to the commencement of the development (as evidenced in details submitted to satisfy part (a)) prior to first occupation of the development hereby approved.

Reason: Required prior to commencement of development to satisfy the Local Planning Authority that adequate protection of the road can be secured in the interest of pedestrian and vehicular safety and to comply with Policy 30 of the Bromley Local Plan.

- 13 Whilst the development hereby permitted is being carried out, provision shall be made to accommodate operatives and construction vehicles off-loading, parking and turning within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority and such provision shall remain available for such uses to the satisfaction of the Local Planning Authority throughout the course of development.**

Reason: In the interests of pedestrian and vehicular safety and the amenities of the area and to accord with Policy 30 of the Bromley Local Plan.

- 14 (i) Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.**

Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage.**
- b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.**
- c) Details of construction within the RPA or that may impact on the retained trees.**
- d) A full specification for the installation of boundary treatment works.**
- e) A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.**
- f) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.**
- g) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.**
- h) A specification for scaffolding and ground protection within tree protection zones.**
- i) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.**
- j) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires**
- k) Boundary treatments within the RPA**
- l) Methodology and detailed assessment of root pruning**
- m) Arboricultural supervision and inspection by a suitably qualified tree specialist**
- n) Reporting of inspection and supervision**
- o) Methods to improve the rooting environment for retained and proposed trees and landscaping**
- p) Veteran and ancient tree protection and management**

(ii) The development thereafter shall be implemented in strict accordance with the approved details.

Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be

damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policies 37, 73 and 74 of the Bromley Local Plan.

- 15 The recommendations outlined within the Preliminary Ecological Appraisal, including the suggested biodiversity enhancements including bat boxes, shall be incorporated into the permission hereby granted. Details of biodiversity enhancements shall be submitted to and approved in writing by the Local Planning authority and shall be included within construction works and permanently retained at the site thereafter.

Reason: In order to comply with Policies 72 and 73 of the Bromley Local Plan and in order to preserve and enhance the biodiversity value of the site.

- 16 The development hereby permitted shall be carried out in complete accordance with the Energy Statement by BRY Energy (Feb 2017) (as amended) including the provision of Photovoltaic panels on the roof of the building in accordance with the details hereby approved unless otherwise agreed in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation and shall be retained thereafter in operational working order.

Reason: In the interest of the visual amenities of the area and in order to seek to achieve compliance with the Mayor of London's Climate Change Mitigation and Energy Strategy and to comply with Policy 37 of the Bromley Local Plan and Policies 5.2, 5.3 and 5.7 of the London Plan.

- 17 The development hereby permitted shall be built in accordance with the criteria set out in Building Regulations M4(3) 'wheelchair user dwellings' for the units identified in the application as non-wheelchair units and shall be permanently retained thereafter.

Reason: To comply with Policy 3.8 of the London Plan 2015 and the Mayors Housing Supplementary Planning Guidance 2016 and to ensure that the development provides a high standard of accommodation in the interests of the amenities of future occupants.

- 18 Before any part of the development hereby permitted is first occupied electric car charging points shall be provided to a minimum of 20% of car parking spaces with passive provision of electric charging capacity provided to an additional 20% of spaces.

Reason: In order to minimise the effect of the development on local air quality in line with Policies 6.13 and 7.14 of the London Plan.

- 19 The recommendations of the Sound Insulation Report, report reference 13896, prepared by Falcon Energy Ltd shall be implemented before the first occupation of the development and permanently retained at the site thereafter.

Reason: In order to comply with Policy 119 of the Bromley Local Plan and in the interest of the amenities of future occupiers.

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(i) Prior to commencement of above ground works details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

1) A scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home grown stock (where possible) and no invasive species

2) location, type and materials to be used for hard landscaping including specifications, where applicable for:

- a) permeable paving
- b) tree pit design
- c) underground modular systems
- d) Sustainable urban drainage integration
- e) use within tree Root Protection Areas (RPAs)

3) A schedule detailing sizes and numbers/densities of all proposed trees/plants

4) Specifications for operations associated with plant establishment and maintenance that are compliant with best practice and

5) Full details of retained and proposed boundary treatments

(ii) There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.

(iii) Unless required by a separate landscape management condition, all soft landscaping shall have a written five year maintenance programme following planting.

(iiii) Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details

Reason: In order to comply with Policies 37, 73 and 74 of the Bromley Local Plan to secure a visually satisfactory setting for the development and to protect neighbouring amenity.

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An 8m buffer to the eastern side of the Kyd Brook river shall be provided on completion of the development hereby and permanently retained as such thereafter.

Reason: In order to comply with Policy 115 of the Bromley Local Plan and in the interest of flood risk reduction at the site.

You are further informed that :

- 1 Before works commence, the Applicant is advised to contact the Pollution Team of Environmental Health & Trading Standards regarding compliance with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990. The Applicant should also ensure compliance with the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2008 which is available on the Bromley web site.**

If during the works on site any suspected contamination is encountered, Environmental Health should be contacted immediately. The contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Authority for approval in writing.