

**Application No :** 19/03683/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 12 flats with associated parking, amenity space, refuse/cycle store and landscaping. OUTLINE APPLICATION. (Amended drawings and description).

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

**Update**

The Plans Sub-Committee 2 considered the proposal on 7 November 2019 and resolved to grant planning permission subject to the completion of a Legal Agreement. In the meantime the Applicant has requested to amend the scheme sending revised plans showing:

- Provision of 12x 2-bedroom flats (in place of 1x 1-bedroom and 2x 2-bedroom flats),
- Provision of a “duplex” style flat on the ground and first floors (Flat 5),
- Removal of second floor amenity terrace(s),
- Elevational alterations corresponding to these mentioned changes,
- Revised parking layout,
- Repositioned bin store,

Since the previous Committee meeting on 7 November 2019 a previously outstanding appeal for 13 flats on the application site (18/05565/OUT) has been allowed; and this is a material planning consideration in assessing the current scheme to which appropriate weight shall be attributed. Furthermore, the conditions imposed by the Appeal Inspector to manage that permission are relevant/material considerations for the current application.

The contents of the original report are repeated below in the original format; amended/updated as necessary.

The amended proposal is referred to the Plans Sub-Committee 2 to ratify the currently proposed amendment(s).

## **Proposal**

Outline planning permission is sought for demolition of the existing two storey detached dwellinghouse known as Phoenix Lodge and to erect a three storey building comprising 12 two bedroom flats; 4 flats on the ground floor, 4 flats on the first floor, 3 flats within the roof space (second floor), and one duplex flat across the ground and first floors. The proposed building would measure approximately 35m in length/width, 22m in depth and 10.7m in maximum height. The existing house measures approximately 9.6m in maximum height.

The proposal would utilise the existing highway vehicular access and provide 15 car parking spaces (7 to the front and 8 to rear of the building). A cycle store building would be positioned to the rear of the building and a refuse store to the front. Each of the four ground floor flats and the duplex flat would have a private amenity area and there would be a communal amenity area at the rear of the site and roof terraces serving 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 Statement
- Highways Statement
- Design and Access Statement
- Planning statement

Outline planning permission is sought in this application for details of access, appearance, layout and scale. The matter(s) reserved for later consideration is landscaping.

## **Location and Key Constraints**

The application site is Phoenix Lodge, 14A Woodlands Road, Bickley, a detached two storey dwelling located on the northern side of the highway between the junctions with Bickley Park Road and Vale Road and backing on to the railway line near to Chislehurst Railway Station. The area is residential in nature and characterised by large detached residential dwellings set within generously sized plots. The site lies within the Bickley Area of Special Residential Character and Environment Agency Flood Zones 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:

- Inaccuracies in the submitted documents
- The current proposal would differ from the previously approved/allowed scheme; including additional windows/balconies,
- Intensification of the residential 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
- Additional windows would overlook neighbouring properties
- Hazardous highway access
- Insufficient car parking would overspill on Woodlands Road
- Increased traffic and parking on an unadopted road
- Increased potential flood risk and other environmental impact
- Increased traffic noise to adjacent residential gardens
- The proposal would set a damaging future precedent for other flatted schemes
- Loss of mature trees would harm visual amenities
- Impact on wildlife and bird species/habitat
- The building should not significantly exceed the height of surrounding buildings
- Windows should not face towards *Rosemullion*, Woodlands Road
- Boundary details/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: Reviewing the submitted FRA carried out by Forge Engineering Design Solutions Ltd with Ref No. FEDS-218171 Rev D. I note the Applicant's intention is to use permeable paving at the front and back of the development to mitigate the 100 year storm including a 40% allowance for climate change with zero outflow. This would be acceptable subject to a drainage 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, were previously recommended and it is considered that these conditions can be repeated.

Environment Agency: The proposed development will be acceptable if a planning condition is included requiring a scheme to be agreed to protect and enhance the 8 metre wide buffer zone around the Kyd Brook by the restoration of a natural bank to the eastern bank where it is currently a vertical wall, and suitable native planting.

Highways Officer: 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. There are 1 x 1 bed and 11 x 2 bed flats proposed together with 15 parking spaces, one for each flat and 3 visitor spaces. The property access is from a 90o 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 parking standards contained within the Local Plan shown a minimum of 1 space per 1 or 2 bed unit. The Inspector did not uphold the highway ground of refusal regarding the parking provision for the 2017 application and the parking meets the Local Plan standards. The cycle parking is too far from the main building and is not overlooked. It needs to be relocated and should accommodate 23 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.

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, it is believed this is a matter that could be dealt with under determination of details. It is therefore recommended that planning permission may be granted 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 19th February 2019. The development plan for Bromley comprises the London Plan (March 2016) and the Bromley Local Plan (January 2019). 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 Environ
- 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

## Draft New London Plan

The ‘Intend to Publish’ version of draft London Plan (December 2019) is a material consideration in the determination of this planning application. Paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.

The draft New London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This was version of the London Plan which the Mayor intended to publish, having considered the report and recommendations of the panel of Inspectors.

The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.

After considering the ‘Intend to Publish’ Plan, on 13 March 2020 the Secretary of State for Housing, Communities and Local Government wrote to the Mayor identifying directed changes to a number of policies in the draft plan. The SoS considered these changes were necessary to address concerns regarding inconsistencies with national policy. The Mayor cannot publish the New London Plan until the directed changes have been incorporated, or until alternative changes to address identified concerns have been agreed with the SoS. This could affect the weight given to the draft plan with regard to the directed policies.

At this stage, the Council’s up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations. However, where no modifications have been directed the draft London Plan policies are capable of having significant weight (as seen in a recent SoS call-in decision in the Royal Borough of Kensington and Chelsea). Where specific draft London Plan policies have been given particular weight in the determination of this application, this is discussed in this report.

Policy GG1 Building strong and inclusive communities

Policy GG2 Making the best use of land

Policy D2 Delivering good design

Policy D4 Housing quality and standards

Policy D5 Accessible housing

Policy D6 Optimising housing density

Policy D10 Safety, security and resilience to emergency

Policy H1 Increasing housing supply

Policy H2 Small sites

Policy H12 Housing size mix

Policy G6 Biodiversity and access to nature

Policy G7 Trees and woodlands

Policy SI5 Water infrastructure

Policy SI13 Sustainable drainage

Policy T5 Cycling

Policy T6 Car parking

Policy T6.1 Residential parking

#### 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  
Planning Obligations Supplementary Planning Document  
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**

87/02021/FUL – Erection of side extension to form garage and swimming pool enclosure was granted on 28 August 1987.

90/03041/FUL – Erection of first floor side/rear extension was granted on 17 January 1991.

17/00843/OUT – Demolition of existing dwelling and erection of a three storey building comprising 8x 2-bedroom and 1x 3-bedroom flats with associated parking, amenity space, refuse/cycle store and landscaping was refused on 14 December 2017 for the following reasons:

1. 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.
2. 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.

In the subsequent appeal the Appeal Inspector concluded that the proposal would not have a detrimental impact on the Area of Special Residential Character or on highway safety. However he concluded that the site had the potential to offer suitable bat habitat and in the absence of a suitable bat survey the development had not demonstrated that it would not have a harmful impact on nature conservation. The appeal was dismissed on 24 August 2018.

18/04199/OUT – Demolition of existing dwelling and erection of a three storey building comprising 8x 2-bedroom and 1x 3-bedroom flats with associated parking, amenity space, refuse/cycle store and landscaping was granted on 27 November 2018.

18/05565/OUT – Demolition of existing dwelling and erection of a three storey building comprising 2x 1-bedroom and 11x 2-bedroom flats with associated parking, amenity space, refuse/cycle store and landscaping was refused on 28 June 2019 for the following reason:

1. The proposed development results in an increase in the number of units which would reduce the quality of the accommodation and intensify the activities associated with the development and would result in a cramped, overdevelopment of the site that would impact detrimentally on the special character, appearance and spatial standards of the Bickley Area of Special Residential Character, contrary to Policies 4, 37 and 44 of the Local Plan, Policy 3.5 of the London Plan and paragraph 127 of the National Planning Policy Framework.

In the subsequent appeal the Appeal Inspector noted the previous permission for 9 flats, and that the additional residential intensification from 9 flats to 13 flats could be reasonably comfortably accommodated within the site without material harm to the prevailing characteristics of the ASRC nor significantly increasing the size of the building, and ultimately the proposal would still retain the outward appearance of a big house set in a large plot. The Inspector did not consider that there would be additional concerns of flood risk, harm to neighbouring amenities, loss of trees, highway safety or nature conservation. The appeal was allowed on 22 January 2020 and the Inspector imposed relevant conditions to manage the development.

## Considerations

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

- Resubmission
- Principle and location of development
- Density
- Housing Matters

- Design and landscaping
- Residential Amenities
- Highways and parking
- Flood Risk and Drainage
- Ecology
- Energy and Sustainability
- Planning Obligations
- CIL

### Resubmission

The current application follows the outline permission (18/04199/OUT) and the allowed outline permission (18/05565) providing the following changes:

- amendments to the internal configuration to provide a reduction from 13 flats to 12x 2-bedroom units,
- external alterations including an oriel bay to the rear of the building at first floor level and minor alterations to the sizes of some of the roof level dormers, The overall height, scale, footprint and external appearance and the 15 proposed parking spaces would remain as previously permitted/allowed.

### Principle and location of development

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 (2019) 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 an up to date local plan, applications should be approved without delay. Where a plan is out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

A planning appeal decision was issued on 26th June 2019 that has implications for the assessment of planning applications involving the provision of housing. The appeal at Land to the rear of the former Dylon International Premises, Station Approach Lower Sydenham SE26 5BQ was allowed. The Inspector concluded that the Local Planning Authority cannot support the submission that it can demonstrate a five year housing land supply having given his view on the deliverability of some Local Plan allocations and large outline planning permissions. According to paragraph 11(d) of the NPPF in the absence of a 5 year Housing Land Supply the

Council should regard the Development Plan Policies for the supply of housing including Policy 1 Housing Supply of the Bromley Local Plan as being 'out of date'.

In accordance with paragraph 11(d), for decision taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In this particular case there are no areas under protection or assets of particular importance and therefore paragraph 11 d) i. does not apply. The proposal is therefore assessed in relation to paragraph 11 d) ii.

The application site lies within an urban area where there is no objection in principle to new residential development. Furthermore, the principle of the development has already been established in the previous permissions. Indeed the previous permissions established a greater quantum of development (13 units) than that in the current proposal (12 units) and as such the current proposal would comprise a net reduction in residential intensity compared with the previous schemes. This proposal application would provide 12 residential units (net gain 11 units) and this would provide a minor contribution to the supply of housing within the Borough. This aspect of the proposal will be considered in the overall planning balance set out in the conclusion of the report having regard to the presumption in favour of sustainable development.

#### 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 40 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 Matters

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 in 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:*

The London Plan Policy 3.8 requires new housing development to offer a choice of housing types and sizes taking into account the housing requirements of different groups. The Bromley Local Plan does not set out a specific requirement of unit sizes however the London Plan encourages the provision of affordable family housing, generally defined as having three or more bedrooms. The site lies with a suburban setting with good access to open space and is therefore suitable for family housing. The proposal would provide 12x 2-bedroom flats and although some 3 bedroom units would be desirable, many of the proposed 2-bedroom units would be generously sized and capable of accommodating up to 4 persons and it would include ground floor wheelchair accessible units. 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.

#### *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. London Plan 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. London Plan 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.

As such the proposed development is liable for on-site affordable housing and contributions through Planning Obligation. Bromley Local Plan Policy 2 requires 35% affordable housing (on a habitable room basis) and London Plan Policy 3.11 requires 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 Financial Viability Assessment in the previous application confirmed that the development would be financially unviable and that it therefore could not sustain on-site affordable housing and the Council's independent review concurred with the Assessment's conclusion. However the Viability Assessment concluded that the development could support a £65,527 sum as a commuted payment in lieu of on-site affordable housing to be provided off-site elsewhere. This was not sufficient to enable the provision of affordable housing on site.

The Financial Viability Assessment has been updated on the current application; stating that the reduced number of units in the current scheme would further reduce the financial viability of the development and that the previously agreed financial contribution can no longer be offered and this is confirmed by the Council's independent review.

*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.

Bromley Local Plan Policy 4 sets out the requirements for new residential development to ensure a good standard of amenity for the future occupants. 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 regard 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 paragraph 3.5, Table 3.3 and the Mayor's Housing Supplementary Planning Guidance outline the minimum requirements for new dwellings. The London Plan states that the minimum size of a 2-bedroom 4-person (2b4p) single storey unit should be 70 sqm and a 2-bedroom 4-person (2b4p) 2 storey unit should be 79 sqm; both with a minimum of 2sqm of built in storage. The submitted plans confirm that the proposed single storey units would measure between 89sqm and 101sqm and the 2 storey (duplex unit) would measure at least 98sqm and this would comply with the requirements of the Technical Space Standards

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 4 of the 12 flats provided with a single aspect. However all of these flats would be generously sized and 2 of these 4 flats would have a south facing outlook and therefore will receive acceptable levels of sunlight.

The proposed development will be sited in close proximity to the railway track to the north of the site. However the Sound Insulation Testing Report submitted on the previous scheme confirmed there would be no significant harm or noise disturbance to the future occupants providing that the development is carried out in accordance with the recommendations of the report and this could be managed by condition.

*Amenity Space:*

All units should benefit from private amenity space in accordance with the SPG; a minimum of 5sqm of private outdoor space for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant. Dwellings on upper floors should 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 would have private garden areas, some of the first floor units would have balconies and others would have Juliet balconies. All the upper floor units would have access to the communal amenity area at the rear of the site. Although some of the first floor balconies would be small, these have previously been considered acceptable by the Inspector in light of the provision of a communal amenity area. Furthermore given that the proposed flats would exceed the minimum internal space standard; providing a more generous living space within the flats themselves, this could be concluded to supplement the outdoor amenity space. On this basis on balance the amount and quality of amenity space provided by the proposal would be acceptable and, overall, it is considered that the development would provide a satisfactory form of living accommodation for future occupants.

### Design and landscaping

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 application site lies 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, although there is a block of flats nearby at No. 2 Denbridge Road, which was converted from a care home. Although the Council previously raised concern over the principle of flatted development in the area the Appeal Inspector considered that the building would have the appearance of a large house (in keeping with the prevailing development character in the area) and concluded that it would not have an adverse impact on the character of the area and that that flatted development in this part of the ASRC could not be harmful or precluded. Furthermore, the Inspector considered that the proposed building would have a similar appearance to the existing dwelling at Phoenix Lodge and would not detract from the character and appearance of the site and its setting. The current proposal would have a similar visual impact to the previous scheme(s) and there would be no additional harm in this respect.

Given the location and size of the proposed building; not significantly dissimilar to the existing building, the proposal would retain the majority of the existing mature trees on the site that contribute towards the character and appearance of the site and its setting in this part of the ASRC. This could be managed by tree protection and arboricultural method statement, through planning condition. New planting would be provided in landscaping scheme managed through the Reserved Matters.

### Residential Amenities

Bromley Local Plan Policy 37 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 application site lies to the northeast of the nearest residential dwelling *Rosemullion*, Woodlands Road. Rosemullion is also positioned on higher ground than the application site. Given the siting and orientation of Rosemullion and the position, size and height of the proposed building it would not have a harmful impact on the residential amenities through overshadowing or overbearing effect.

The main outlook would continue to be to the north and south, and notwithstanding the proposed balconies to the south/front elevation, it would not lead to significantly harmful overlooking to Rosemullion.

The neighbouring property to the west *Skogly*, Woodlands Road, is well separated from the proposed building (approximately 25m) and it is set further forward and as such the proposal would not have a significantly harmful impact on the amenities of Skogly. The other neighbouring dwellings in Vale Road would be positioned a substantial distance from the proposed building (approximately 60m) and the proposal would not have a significantly harmful impact on the amenities of those neighbouring occupants. Indeed the revised scheme would remove some of the previously proposed roof terraces/balconies thereby further reducing the effects of overlooking and noise.

Although the proposal would increase the number of residential units compared with the existing single dwelling the principle of flatted development, and the associated activity, traffic and general noise effects etc. has already been established and accepted and indeed the current proposal would reduce the number of approved units from 13 to 12 and would provide an improvement in this respect.

Although new development should not rely upon planting/landscaping to overcome amenity impacts as it should be acceptable in its own right (and it is concluded to be so in this case), the proposal would provide new landscaping to soften the overall appearance of the development and this would be managed through the Reserved Matters.

#### Highways and parking

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.

The 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.

Given the Inspector's conclusions on the previous appeal scheme(s) the proposed highway access and, car parking provision and turning areas in the current scheme

would be acceptable. Furthermore there is no objection from the Council's Highway Department, subject to the recommended condition(s).

### 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. Bromley Local Plan Policy 115 requires developers to work with the Environment Agency to deliver a reduction in flood risk compared with the existing situation.

The site lies within EA Flood Zones 2 and 3 (highest risk) and the Kyd Brook runs through the western part of the site however the application contains a Flood Risk Assessment. Notwithstanding this the Environment Agency requests a scheme to protect and enhance the 8 metre wide buffer zone around the Kyd Brook by the restoration of a natural bank to the eastern bank where it is currently a vertical wall, and suitable native planting to provide ecological enhancements along the buffer zone and recommends that this could be managed by planning condition. There is no objection from the Council's Drainage Engineer subject to a drainage condition.

### Ecology

The application is accompanied by a Preliminary Ecological Appraisal and Bat Building Assessment and Emergence Survey; concluding that the site has a moderate ecological value and the proposed development is 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 existing Phoenix Lodge may have potential for bat roosting and an emergence survey should be carried out prior to the commencement of the development.

Following the Inspector's appeal decision, a re-entry survey was carried out prior to dawn on the 28 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 for a payment-in-lieu for Carbon Offsetting:

- On site regulated carbon dioxide emissions (Building Regs 2013 Compliant Development) = 14.19 tCO<sub>2</sub> per annum
- Proposed on-site reduction of carbon emissions from energy demand/CHP/renewables = 4.99 tCO<sub>2</sub> per annum
- On site shortfall = 9.2 tCO<sub>2</sub> per annum
- **Payment-in-lieu** amount calculated as 9.2 (tCO<sub>2</sub>) x £60 (per tCO<sub>2</sub>) x 30 (years) = £16,562.

This figure is agreed by the Council and will form part of a legal agreement in the event that planning permission is 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 5 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.

As mentioned above the proposal would not provide on-site affordable housing. Following an independent review of the submitted Financial Viability Assessment, no commuted sum is offered in lieu of on-site affordable housing. Although Bromley Local Plan 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 currently proposed (revised) development would require the following financial contributions agreed by the Applicant, as principle Heads of Terms, should the application be considered acceptable overall:

**Health:** £7464.00

**Education:** £36,955.21

**Carbon Off-Setting:** £16,562.00

#### CIL

The Mayor of London's CIL is a material consideration. CIL is not payable on this outline application (as CIL is charged at the Reserved Matters stage) and the Applicant has completed the relevant form.

#### **Conclusion**

Having had regard to the above and in context to the recent appeal decisions, the currently proposed development would be acceptable as it would not impact detrimentally on the character and appearance of this part of the Bickley Area of Special Residential Character. 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.

The Council's independent review of the submitted Financial Viability Assessment concluded that a financial contribution towards off-site affordable housing in lieu of on-site affordable housing (due to lack of viability) would be acceptable in this particular case.

For these reasons it is recommended that planning permission is granted subject to the recommended conditions. However as mentioned above, the latest appeal decision 18/05565/OUT is the most recent decision and up-to-date than the Council's previous report to Committee on 7 November 2019, significant weight is attributed to it and the conditions imposed therein, and on this basis those conditions are recommended to manage the currently proposed development.

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.

**as amended by documents received on 30.10.2019**

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

**and the following conditions:**

- 1      **Details of landscaping, (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.**

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

- 2      **Application for approval of the reserved matter shall be made to the local planning authority not later than 3 years from the date of this permission.**

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

- 3      **The development hereby permitted shall take place not later than 2 years from the date of approval of the reserved matter to be approved.**

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

- 4      **The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:**

**site location plan 19-495-01, existing block plan 19-495-02, site survey 19-495-03, existing demolition layout 19-495-04, existing floor plans 19-495-19, existing elevations 19-495-20, proposed site layout plan 19-021-PL050 Rev B, proposed ground floor plan 19-021-PL100 Rev B, proposed first floor plan 19-021-PL105 Rev A, proposed second floor plan 19-021-PL110 Rev B, proposed roof plan 19-021-PL115 Rev B, proposed front elevation 19-021-PL125 Rev B, proposed east side elevation 19-021-PL130 Rev B, proposed**

rear elevation 19-021-PL135 Rev B, proposed west side elevation 19-021-PL140 Rev B,  
Highway overview Technical Note 1 by Motion dated 6th September 2019,  
Energy statement by Bryenergy Services dated September 2019,  
Accommodation schedule by Chartwell Land and New Homes Ltd (undated),  
Bat Building assessment and Emergence Survey by Arbeco dated 31 August 2018,  
Preliminary Ecological Appraisal (reference ARB738) by Arbeco dated 8 December 2016,  
Tree report (reference J53.50) by Broad Oak Tree Consultants Ltd dated 19 December 2016,  
Design and Access statement by Addo Designs Ltd dated September 2019,  
Planning Statement (reference JA/CL/16/379) by Robinson Escott Planning LLP dated 10 September 2019,  
Flood Risk Assessment Development in Flood Zones 2 and 3 (reference 218171 Revision D) prepared by Forge Engineering Design Solutions (undated),  
Financial Viability Assessment by Turner Morum dated 18th September 2019.  
Reason: In the interests of visual and residential amenity in order to comply with Policy 37 of the Bromley Local Plan 2019..

- 5 None of the apartments hereby permitted shall be occupied until the Council has confirmed in writing that the approved surface water drainage scheme has been satisfactorily implemented. The agreed surface drainage arrangements shall thereafter be maintained for the lifetime of the development.  
Reason: In order to ensure that a satisfactory means of surface water drainage, to reduce the risk of flooding can be achieved before development intensifies on site and to comply with the Policy 5.13 of the London Plan and Policies 115, 116 and 117 of the Bromley Local Plan 2019.
- 6 Apart from demolition and site clearance the development hereby allowed shall not commence until details of the proposed slab levels of the building and the existing site levels shall have been submitted to and approved in writing by the local planning authority. The development shall thereafter be completed in accordance with these approved details.  
Reason: 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 2019.
- 7 Prior to commencement above slab level of the development hereby allowed, details 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, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.  
Reason: In the interest of the appearance of the building and the visual amenities of the area and to comply with Policy 37 of the Bromley Local Plan 2019.
- 8 None of the flats hereby allowed shall be occupied until cycle and refuse bins storage, electric car charging points and external lighting have been

provided in accordance with details that shall have had the prior written agreement of the local planning authority. The cycle and refuse bins storage, electric car charging points and external lighting shall thereafter be retained as agreed.

- 9 None of the apartments hereby permitted shall be occupied until the Council has confirmed in writing that the approved access, car parking and manoeuvring areas have been satisfactorily implemented. These access, car parking and manoeuvring areas shall thereafter be retained and kept available for these purposes for the lifetime of the development.  
Reason: 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, and to comply with Policy 30 of the Bromley Local Plan 2019.
- 10 Prior to commencement above slab level of the development hereby allowed, details of the criteria set out in Building Regulations M4(2) accessible and adaptable dwellings for the units identified in the application as non-wheelchair units and in Building Regulations M4(3) wheelchair user dwellings for the unit identified in the application as a wheelchair unit, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.  
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.
- 11 No site clearance, preparatory work or demolition shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.  
Reason: 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 Policy 37, 73 and 74 of the Bromley Local Plan and pursuant to section 197 of the Town and Country Planning Act 1990.
- 12 None of the apartments hereby permitted shall be occupied until reasonable measures have been taken to repair any damage to Woodlands Road from construction traffic associated with the development hereby allowed, in accordance with terms that shall have had the prior written agreement of the local planning authority.  
Reason: 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 32 of the Bromley Local Plan 2019.

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.
- 2 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.
- 3 Please note that any development that is likely to cause an increase in flood risk to other areas will need to consider the use of floodplain compensation to mitigate for this. From the current details it would indicate the area of the new building will be larger than the previous existing building, however the footprint is not encroaching within flood zone 3 supported by site specific topographic levels. As the proposed building is not impacted within the modelled 1in100year plus climate change extent it should not result in an increased impact. We are pleased that flood resilient measures have been considered for the development. Flood resilient design techniques can help minimise the impact of flooding to the development. Further information on flood resilience can be found on the following link [http://www.planningportal.gov.uk/uploads/br/flood\\_performance.pdf](http://www.planningportal.gov.uk/uploads/br/flood_performance.pdf). We would strongly recommend that occupants register with the Environment Agency's flood warning service, 'FloodLine', so that they may prepare themselves in case of a flood event. This can be done by calling 0345 988 1188 to register Please be aware that the Kyd Brook is a designated 'main river' and under the Environmental Permitting Regulations (England and Wales) 2016, any activity in, over, under or within 8 metres of the river would require a flood risk activity permit (<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>). To apply for a flood risk activity permit we recommend you contact one of our Flood and Coastal Risk Management Officers at the following email address: PSO.SELondon&NKent@environment-agency.gov.uk.