

Committee Date	04.02.2021		
Address	Holwood Farm Shire Lane Keston BR2 6AA		
Application Number	20/02390/FULL1	Officer - Nicholas Trower	
Ward	Darwin		
Proposal	Change of use of part of the Holwood Farm Green Barn to Class A1 for fishmonger and changes to the car park layout (retrospective)		
Applicant	Agent		
Mr Gary Mercer	Caroline Marginson		
Yellow Barn Holwood Farm New Road Hill Keston BR2 6AB			
Reason for referral to committee	Significant Objections / Controversial	Councillor call in No	

RECOMMENDATION	Application Permitted
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<p>KEY DESIGNATIONS</p> <p>Biggin Hill Noise Contours Biggin Hill Public Safety Zone Biggin Hill Safeguarding Area Green Belt London City Airport Safeguarding Smoke Control SCA 24</p>

Land use Details	
Use Class or Use description	Floor space (GIA SQM)

Existing	Sui generis	133.3sqm
Proposed	A1	No enlargement or reduction in floor space proposed.

Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	No designated spaces – approx. 32	32 defined spaces	0
Disabled car spaces	No designated spaces	2 defined spaces	+2
Cycle	4	4	0

Electric car charging points	0
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Representation summary	<i>Site notice – displayed 11.08.2020</i> <i>Press advert – published 05.08.2020</i> <i>Neighbour letters – issued 30.07.2020</i>	
Total number of responses	201 (2 general comments also received)	
Number in support	195	
Number of objections	4	

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- Change of use would not have an unacceptable impact on the retail viability of nearby shops;
- Proposal would not harm the openness of the Green Belt and would not conflict with the purposes of including the land within it;
- No unacceptable impact would arise to neighbouring occupiers; and
- No unacceptable highways impacts would arise.

2. LOCATION

2.1 The application site comprises a detached building and car park which are situated on the eastern side of New Road, close to the junction with Shire Lane and Downe Road. The building and car park are situated within the former Holwood Farm complex and are associated with 'Yellow Barn' which contains a farm shop and café. The area is predominately rural in character and lies within the Green Belt. Yellow Barn and the adjoining properties to the north of the site are locally listed buildings.

2.2 Site Location Plan:



3. PROPOSAL

3.1 The application seeks retrospective planning permission for the change the use of the outbuilding known as the 'Green Barn' to a fishmongers (Use Class A1) and alterations to the car park layout.

3.2 The hours of operation listed in the application form for the fishmongers are as follows:-

Monday - Saturday (inclusive) - 9:00am - 18:30

Sunday and Bank Holidays - 10:00 - 17:30

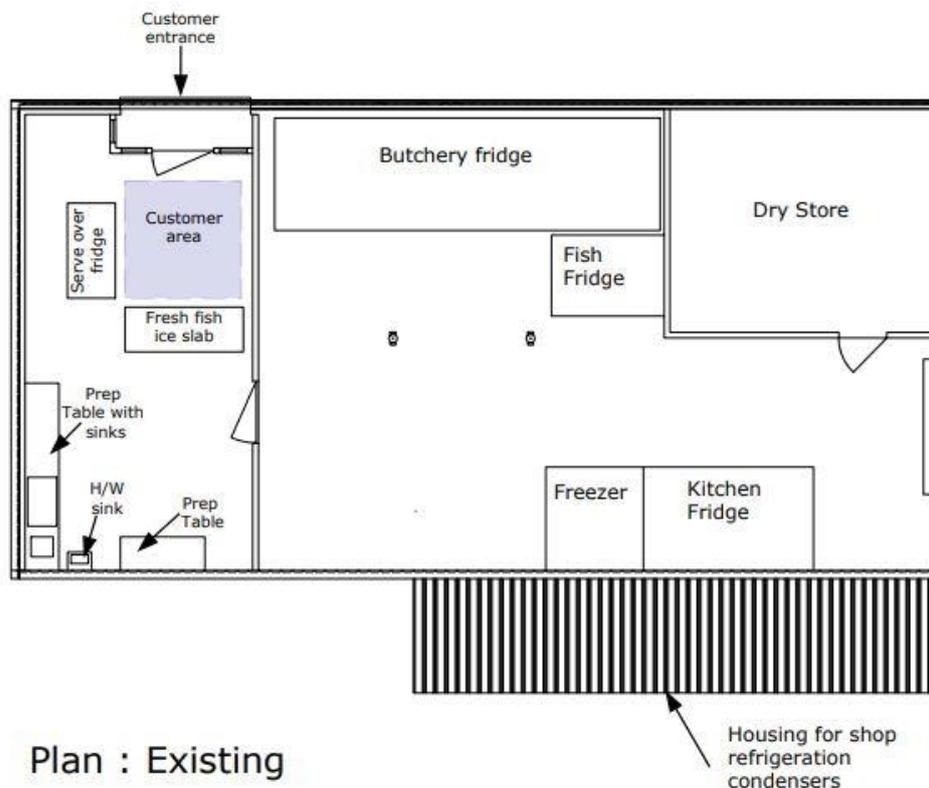
3.3 The alterations to the car park consist of lining set parking spaces, including two disabled parking bays close to the shop entrance.

3.4 The application was supported by the following documents:

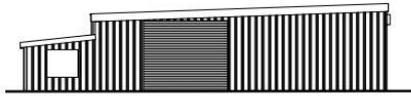
- Design and access statement
- Swept path analysis

3.5 Plans and elevations:

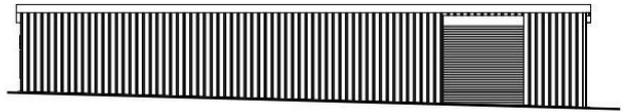
3.5.1 Green Barn floor plans following change of use



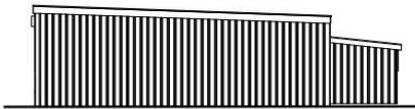
3.5.2 Green Barn elevations following change of use



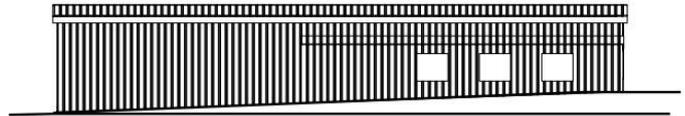
North Elevation



West Elevation

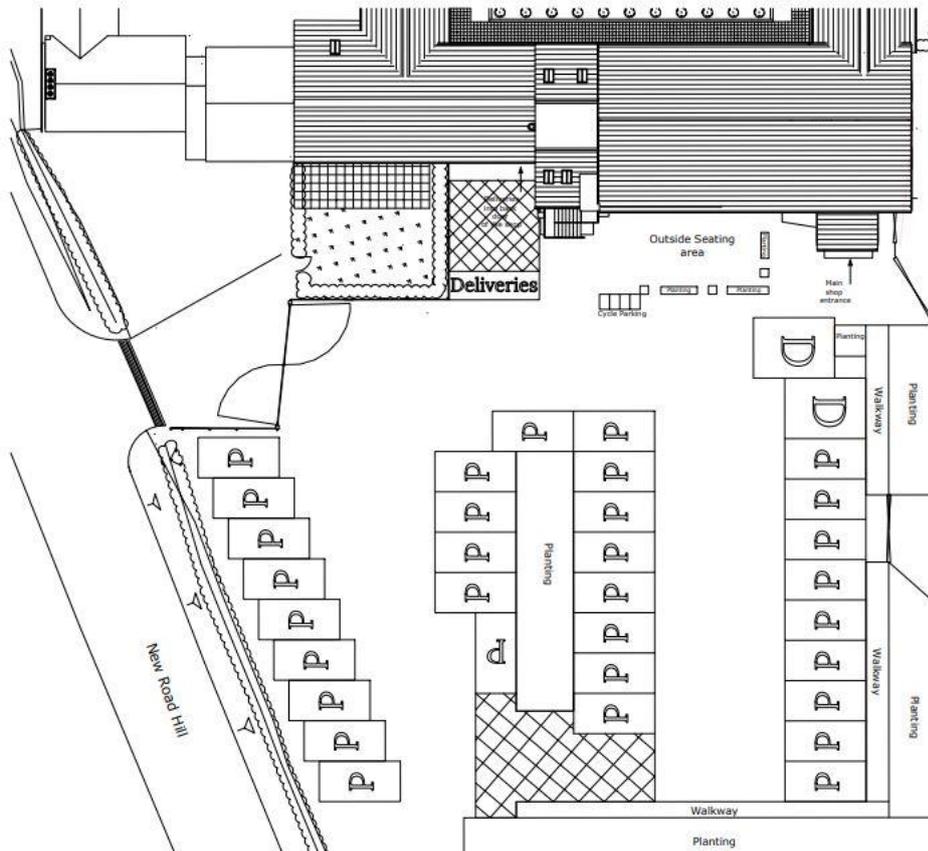


South Elevation



East Elevation

3.5.3 Car park layout following works



4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history relating to the application site is summarised as follows:
- 4.2 10/01251/FULL1 - Conversion of farm buildings into 1 four bedroom dwelling with office and 2 three bedroom dwellings with 6 car parking spaces, plus the conversion of a barn into a farm shop (Class A1) and 20 car parking spaces with associated landscaping and enclosures. Demolition of large Atcost barn and hay barn - Application Permitted.
- 4.3 11/02342/ADV - 1 non-illuminated hanging sign at New Road Hill and 1 Non-illuminated hanging sign at Shire Lane - Advertisement Consent Granted.
- 4.4 15/03635/FULL3 - Conversion and enlargement of existing farm building into butchery counter and butcher preparation room; addition of mezzanine floor to existing coffee shop to be converted to Class A3 (Restaurant) Use, conversion of remainder of the building into 3 bedroom dwelling; and associated elevational alterations and provision of extended fire escape staircase - Application Permitted.
- 4.5 16/02897/RECON - Removal of condition 3 and 10 of planning permission reference 15/03635/FULL3 concerning the removal of all permitted development rights and the restriction of the A3 use (Restaurant and Cafe) solely in connection with Holwood Farm Shop Ltd - Approved.
- 4.6 17/00588/RECON - Removal of Condition 7 of planning permission reference 16/02897 which stipulates: "The commercial premises referred to as 'Yellow Barn' in this application shall be used as a ground floor farm shop incorporating a butchery and green grocery and ancillary first floor restaurant, and for no other purpose (including any other purpose in Classes A1 or A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The development shall not be carried out otherwise than in complete accordance with the plans set out in Drawing No PROP-01, Rev 3 of application reference 15/03635/FULL3 - unless otherwise agreed in writing by the Local Planning Authority." - Application Refused/Appeal Allowed.
- 4.7 20/02391/FULL1 - Part change of use of Green Barn to provide take-away tea & coffee facilities, use of a grassed area to rear of Green Barn for outside customer seating, relocation of pergola to grassed area, addition of fencing, provision of cycle parking, reuse of storage container for 'Click and Collect' facilities and addition of 4 car parking spaces - Currently under consideration.

5. CONSULTATION SUMMARY

A) Statutory

Highways: No technical highways objections.

Environmental Health: No objection.

- Please note that internal observations, when not statutory, will only be addressed in the body of the report to avoid repetition.

B) Adjoining Occupiers

Noise and Disturbance (paras 7.4.1-7.4.7):

- Increase in noise and disturbance.
- Increase in waste issues and associated smells from the fishmongers.
- It is unreasonable to extend the current opening hours.
- The proposed operating hours are not acceptable, staff currently arrive earlier than the opening time which causes a lot of noise and disturbance.
- Noise from the fridges is inconvenient.
- The waste storage bins are unsightly and continually overflowing causing issues with vermin and waste being blown in neighbouring gardens.
- The intensified activities of the farm shop have disturbed the enjoyment of our home and garden.
- No consideration for impact on adjoining neighbours.

Harmful Visual Impact (paras 7.3.1-7.3.5):

- Overdevelopment of the site.
- Staff currently park to the rear of the barn where they are visible and interrupt views of the green belt.

Privacy and Overlooking (paras 7.4.1-7.4.7):

- Direct overlooking from the café on the mezzanine floor into neighbouring property.
- Boundary fencing should be erected to screen the barn from neighbouring properties.

Parking (paras 7.5.1-7.5.5):

- Increase in traffic from customers and deliveries.
- Ongoing issues with carpark including customers parking where there are no spaces such as the delivery areas.

Other Matters (paras 7.4.1-7.4.7):

- Unneighbourly behaviour from the owners.
- None of the six main employees are local.
- Drainage system is not designed to take this additional use.

In support:

- Allows the fishmonger to trade despite bad weather.
- Improves hygiene.
- Does not detract from local environment.

- Enhancement to products sold on site.
- Difficult to find the service elsewhere.
- The business supports the community.
- Provides a service not offered in the farm shop.
- No detrimental impact on the Green Belt.
- Car park lines are excellent for safety.
- Visual aspect of building is improved.
- Business employs local people.
- Valuable resource during the pandemic.
- The business is sustainable with fish caught off the coast and therefore travelling a short distance and not flown into the country.
- The business provides a safe place to visit with social distancing measures in place.
- The lines within the car park make the best use of the space and avoids requiring customers to park in the road.
- Better use of the site compared with the stall and its previous position.
- The barn is in keeping with the local environment.
- The business does not cause additional traffic problems.
- The fishmongers allows the wider business to grow and diversify.
- The wider business provides employment for many young people.
- The business is a benefit to the local economy.
- The alteration to the car park ensures a more orderly ingress and egress from the site.

Please note that the above is a summary of representations received and that the full text can be found on the Council's website.

6. POLICIES AND GUIDANCE

- 6.1 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.
- 6.2 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.
- 6.3 The development plan for Bromley comprises the London Plan (March 2016) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.
- 6.4 An updated 'Intend to Publish' version of draft London Plan – entitled Publication London Plan December 2020 - was published on 21 December 2020. This version of the draft plan includes changes made by the Mayor in response to a number of Directed Changes made by the SoS in March and December 2020. The relevant

documents are available on the Mayor's website - <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/publication-london-plan>

- 6.5 The draft new London Plan (December 2020) 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.
- 6.6 The draft New London Plan is at a very advanced stage; in a Written Ministerial Statement dated 15/12/2020, the SoS indicated that he expects to agree the London Plan with the Mayor early in the new year (early 2021).
- 6.7 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.
- 6.8 Prior to issuing further Directed Changes in December 2020, the SoS (in two SoS call-in appeals in the Royal Borough of Kensington and Chelsea, appeal ref: APP/C5690/W/18/3205926; and the London Borough of Hounslow, appeal ref: APP/G6100/V/19/3226914) had established that the draft London Plan policies are capable of having significant weight where they weren't subject to Directed Changes.
- 6.9 Considering this information against paragraph 48 of the NPPF, the draft new London Plan (December 2020 'Intend to Publish' version) is considered to have very significant weight where there are no Directed Changes to policies; and significant weight where there are Directed Changes to policies. Taking this into account, the draft new London Plan policies should be used to determine this planning application, alongside policies in the adopted Local Plan and adopted London Plan. Where there is conflict between the policies in the draft new London Plan and the policies in the adopted Development Plan, the draft new London Plan should generally be given primacy although this may vary from case to case.
- 6.10 Upon adoption of the new London Plan, it will become the most up-to-date Development Plan Document for the London Borough of Bromley, and therefore, in accordance with section 38(5) of the Planning and Compulsory Purchase Act 2004, "if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.
- 6.11 The application falls to be determined in accordance with the following policies:

6.12 National Policy Framework 2019

6.13 The London Plan

2.7 - Outer London: Economy

5.1 - Climate Change Mitigation

5.2 - Minimising Carbon Dioxide Emissions

5.3 - Sustainable Design and Construction
5.7 - Renewable Energy
5.12 - Flood Risk Management
5.13 - Sustainable Drainage
6.3 - Assessing Effects of Development on Transport Capacity
6.9 - Cycling
6.13 - Parking
7.2 - An Inclusive Environment
7.3 - Designing Out Crime
7.4 - Local character
7.6 - Architecture
7.14 - Improving Air Quality
7.15 - Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes
7.16 - Green Belt
8.3 - Community Infrastructure Levy

6.14 Draft London Plan

GG1 - Building Strong and Inclusive Communities
GG2 - Making the Best Use of Land
GG5 - Growing a Good Economy
D1 - London's Form, Character and Capacity for Growth
D4 - Delivering Good Design
D5 - Inclusive Design
D14 - Noise
E2 - Providing Suitable Business Space
G2 - London's Green Belt
SI1 - Improving Air Quality
SI2 - Minimising Greenhouse Gas Emissions
SI7 - Reducing Waste and Supporting the Circular Economy
SI8 - Waste capacity and Net Waste Self-Sufficiency
SI12 - Flood Risk Management
SI13 - Sustainable Drainage
T4 - Assessing and Mitigating Transport Impacts
T5 - Cycling
T6 - Car Parking
T6.5 - Non-Residential Disabled Parking
T7 - Deliveries, Servicing and Construction

6.14 Bromley Local Plan 2019

30 - Parking
31 - Relieving Congestion
32 - Road Safety
33 - Access for All
37 - General Design of Development
49 - Green Belt
63 - Development Related to Farm Diversification
77 - Landscape Quality and Character

- 83 - Non-Designated Employment Land
- 96 - Neighbourhood Centres, Local Parades and Individual Shops
- 115 - Reducing Flood Risk
- 116 - Sustainable Urban Drainage Systems (SUDS)
- 117 - Water and Wastewater Infrastructure Capacity
- 119 - Noise Pollution
- 120 - Air Quality
- 122 - Light Pollution
- 123 - Sustainable Design and Construction
- 124 - Carbon Dioxide Reduction, Decentralise Energy Networks and Renewable Energy
- 125 - Delivery and Implementation of the Local Plan

6.16 Bromley Supplementary Guidance

Supplementary Planning Guidance 1 - General Design Principles

7. ASSESSMENT

7.1 Principle – Acceptable

- 7.1.1 The application seeks retrospective planning permission for the change the use of the outbuilding known as the 'Green Barn' to a fishmongers (Use Class A1) and alterations to the car park layout. The fishmongers previously operated out of a marquee on the site and has now set up a more permanent base within the Green Barn. It is noted that there is an existing café/restaurant use operating out of the farm shop in Yellow Barn. The alterations to the car park layout include the provision of identified parking spaces and delivery zones.
- 7.1.2 Local Plan Policy 96 encourages new local shops and services (including farm shops) which serve the local community. Local Plan Policy 63 expects farm diversification schemes to be well-conceived and consistent in scale to their rural and Green Belt locations. The policy seeks to ensure that proposals preserve the openness of the Green Belt and do not conflict with the purposes of including land in it. The policy also sets out that there should be no harm to the retail viability of nearby shops or to existing rural business.
- 7.1.3 Paragraph 146 of the NPPF is reflected in Local Plan Policy 49 which states that certain forms of development are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. One form of development which is not inappropriate includes the re-use of buildings provided that the buildings are of permanent and substantial construction.
- 7.1.4 The proposal would make efficient use of the existing building and involves the relocation of a fishmongers which has previously operated from within the site and which provides a local service. In addition it is not considered that the proposed change of use would result in harm to the retail viability of nearby shops or to existing rural businesses given its location.

7.1.5 It is considered that the proposed change of use would be acceptable in principle subject to an assessment of the developments impact on the Green Belt, neighbouring amenity, and parking and highway safety.

7.2 Green Belt – Acceptable

7.2.1 Paragraphs 133 - 147 of the NPPF sets out the Government's intention for Green Belt. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

7.2.2 The Green Belt is intended to serve five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

7.2.3 Paragraphs 143 - 147 deal specifically with development proposals in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

7.2.4 As set out in para 143 of the NPPF, where a proposal is inappropriate development in the Green Belt, it is by definition harmful and should not be approved except in very special circumstances. Para 144 of the NPPF advises that LPAs should give substantial weight to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

7.2.5 Therefore, the harm in principle to the Green Belt remains even if there is no further harm to openness because of the development. Openness is an essential characteristic of the Green Belt and is different from visual impact. Openness is about freedom from built form. Even if there is absence of harm to openness, there can be harm in principle to the Green Belt from inappropriate development.

7.2.6 Paragraphs 146 states certain forms of development are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. Two forms are the re-use of buildings provided that the building is of a permanent and substantial construction and the material change in use of land.

7.2.7 Bromley Local Plan Policies provide the same level of protection to Green Belt as the NPPF.

- 7.2.8 The existing structure has been in place for a number of years and prior to being occupied by the fishmongers was used for other agricultural purposes relating to the farm. Alterations have taken place to ensure that the structure remains suitable for its continued use however these do not appear to have been required as a result of the building not being structurally sound, nor does it appear that significant re-building has taken place. It is not considered that the building is of any historic value which would warrant the retention of its previous appearance.
- 7.2.9 It is possible that the traffic generated by the continued use of the barn could increase to such a degree that it starts to have a material impact on the openness and purpose of the Green Belt due to the intensification of the use. A condition included with any planning permission requiring the submission of a travel plan would provide a degree of control over traffic generated by the use. This control would work to minimise the traffic impact as a result of any future intensification of the use.
- 7.2.10 It is therefore considered that, subject to this condition, the proposed use of the barn as a fishmongers would continue to preserve the openness of the Green Belt and would not conflict with the purposes of including the land in the Green Belt. Taking this into account it is considered that the proposed development would not be inappropriate development in the Green Belt as outline by paragraph 145 of the NPPF.

7.3 Design – Acceptable

- 7.3.1 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.
- 7.3.2 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.
- 7.3.3 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.

- 7.3.4 London Plan and Bromley Local Plan policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.
- 7.3.5 No alterations are proposed to the existing structure. It is noted from the representations received that the structure has been altered in the past to provide roller shutters, windows and doors and that there is a temporary sign to the front. The design of the building is not considered to be at odds with 'Yellow Barn' or the other locally listed buildings to the north. It is not considered that the building detracts from the setting of these locally listed buildings or impacts on their character, appearance or special local interest. It is not considered that the barn has a detrimental impact on the wider area or detracts from its rural setting.

7.4 Neighbouring Amenity - Acceptable

- 7.4.1 Policy 37 of the Bromley 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.
- 7.4.2 The closest neighbouring properties are situated to the north-west of the application site with a separation distance of approximately 15m. No alterations are proposed to Green Barn and it is not considered that the existing structure has a detrimental impact on neighbouring amenities in terms of overshadowing, loss of light or overbearing impact.
- 7.4.3 It is considered that in order to protect the visual and residential amenities of the area a condition should be included as part of any planning permission which limits the hours of operation of the proposed fishmongers to between 9:00-17:00 (Tuesday-Saturday inclusive) and 10:00-16:00 (Sunday) which are the opening hours currently operated by the farm shop. Subject to the limitation of opening hours it is not considered that the proposed use would result in an unacceptable level of noise outside of that which might be expected in this location.
- 7.4.4 Representations have been received raising concerns about the refuse arrangements for the fishmongers. Details of the proposed arrangements for refuse collection, including information on containment structures and location, can be secured by planning condition and would not warrant a reason for refusal.
- 7.4.5 It is considered that a condition should be included, in the event planning permission is granted, which prevents a change of use from occurring through permitted development rights. This will ensure that the proposed building and use does not result in a more intensive form of development or the introduction of activities that might impact on neighbouring amenity.
- 7.4.6 Representations have been received which relate to the operation of the farm shop itself, the relationship between the applicants and neighbouring residents, as well as issues with overlooking from the café. In addition representations have been received which relate to proposals under a separate planning application. These matters, while

important, do not relate to the development proposed under this application and it is therefore not possible to address them as part of this decision process.

- 7.4.7 In addition to the above representations were received raising concerns about the capacity of the drainage system and whether those employed by the fishmongers were local residents. These concerns would fall outside the planning decision making process for this application.

7.5 Highways - Acceptable

- 7.5.1 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 development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 7.5.2 London Plan and Bromley Local Plan Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking standards within the London Plan and Bromley Local Plan should be used as a basis for assessment.
- 7.5.3 The site has a PTAL level of 1b (the rating runs from 0-6b where 0 is the very poor and 6b is excellent). In terms of parking provision to the site benefits from a car park which has recently been altered to identify set parking spaces and an area for deliveries. The car park contains 34 spaces, including two designated for use by disabled people. A Swept Path Analysis has been submitted demonstrating that vehicles can manoeuvre safely and efficiently within, in and out of parking bays and the site.
- 7.5.4 Based on the information submitted the Council's Highways Officer has not raised an objection to the proposed development. It is therefore considered that, on balance, the proposal is generally in accordance with Policies 6.9 and 6.13 of the London Plan and would not lead to parking which is inconvenient to other road users or be prejudicial to road safety.
- 7.5.5 Representations have been received raising concerns about traffic and parking implications arising from increased visits to the site. In addition concerns have been raised with regards to staff parking practices and disturbance caused from delivery vehicles. A condition can be included with any permission requiring the submission of a travel plan to assist in minimising the traffic impact of the proposed use. The travel plan should also set out the location of staff parking for the Green Barn as well as details on deliveries to the fishmongers.

8. CONCLUSION

- 8.1 Having had regard to the above it is considered that the proposed development is acceptable in that it would not result in a significant loss of amenity to local residents nor impact detrimentally on the character of the area. The proposed would not result in a loss of openness or cause harm to the visual amenities of the Green Belt and

the rural landscape in the locality. The proposal would not lead to parking inconvenient to other road users and would not be prejudicial to road safety.

- 8.2 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 following conditions:

- 1. Retain in accordance with plans**
- 2. Details for storage of refuse and recyclable materials**
- 3. Travel plan submission**
- 4. Hours of operation**
- 5. Restriction of Green Barn use**
- 6. Implementation of car parking details**

Any other planning condition(s) considered necessary by the Assistant Director of Planning.