

Committee Date	17 th February 2022	Agenda Item:
Address	Land At Junction With South Eden Park Road And Bucknall Way Beckenham	
Application number	19/01543/RECON2	Officer Claire Brew
Ward	Kelsey and Eden Park	
Proposal (Summary)	Application under section 73 of the Town and Country Planning Act 1990 to vary conditions 2 and 32 of permission 19/01543/RECON for residential development comprising erection of 6 x four storey buildings consisting of 10 four bedroom houses and 133 x one, two and three bedroom apartments together with concierges office. Construction of basement car park with 204 spaces. Central landscaped area with 10 visitor spaces cycle parking for 286 and refuse stores. Amendments are sought to allow the removal of the remaining horse chestnut trees and for 32 fastigiatae oaks at a height of 6 metres to be planted.	
Applicant		Agent
Northern Land Developments Ltd		Jim Quaife
Reason for referral to committee	Call-in: <i>The proposal involves the planting of trees and is of great public interest</i>	Councillor call in Yes

RECOMMENDATION	REFUSE
-----------------------	---------------

UPDATE

This application was previously considered at Plans Sub-Committee No.4 on 11.11.21 where it was deferred, without prejudice, to allow the applicant to submit an ecological assessment.

The applicant has subsequently provided a letter from the ecology partnership dated 2nd December 2021 which presents the findings of the assessment of the potential for foraging and commuting bats at the site. Specifically, a survey was carried out of the three remaining horse chestnuts. The results of the survey are as follows:

- T1 – the survey found that this tree has ‘negligible’ potential to support roosting bats, and concludes that this tree can be removed without further survey
- T2 - the survey found this tree to have ‘low’ potential to support roosting bats. Soft felling measures should be implemented.
- T3 - the survey found this tree to have ‘low’ potential to support roosting bats. Soft felling measures should be implemented.

The previous report is repeated below, with updates/amendments provided where relevant.

Summary

KEY DESIGNATIONS	
<ul style="list-style-type: none"> • Air Quality Management Area • Urban Open Space • Adjacent to Site Interest Nature Conservation • Adjacent to Conservation Area • Biggin Hill Safeguarding Area • London City Airport Safeguarding • Smoke Control • Tree Preservation Order 	

Representation summary	Neighbour letters were sent on the 8.07.21. A press ad was displayed in the News Shopper on the 14.07.21. Consultation is for a minimum of 21 days	
Total number of responses	41	
Number in support	0	
Number of objections	39	

SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposal to vary conditions 2 and 32 in the manner proposed would lead to the loss of TPO trees which are of environmental importance and make a positive visual contribution to the street scene
- No tree survey and arboriculture implications assessment has been submitted to support the removal of the trees on health grounds and the remaining life span of these trees is considered to be reasonable

- No information about the existing value of the benefits of the trees (or the value of those replacing them) has been provided and there is no evidence to demonstrate that a biodiversity net gain would be achieved

1. LOCATION

- 1.1 The application site is a roughly triangular shaped parcel of land approximately 1.44 hectares in area located to the east of South Eden Park Road which is located to the south of the B251 Hayes Lane roundabout. The site is located approximately 1.3km to the south of the centre of Beckenham and approximately 3km to the west of Bromley town centre.
- 1.2 The application site is designated as Urban Open Space in the Bromley Local Plan. The site is not in a Conservation area.
- 1.3 The site is accessed off of South Eden Park Road via a gated drive "North Drive" which curves around the north-eastern edge of the site.

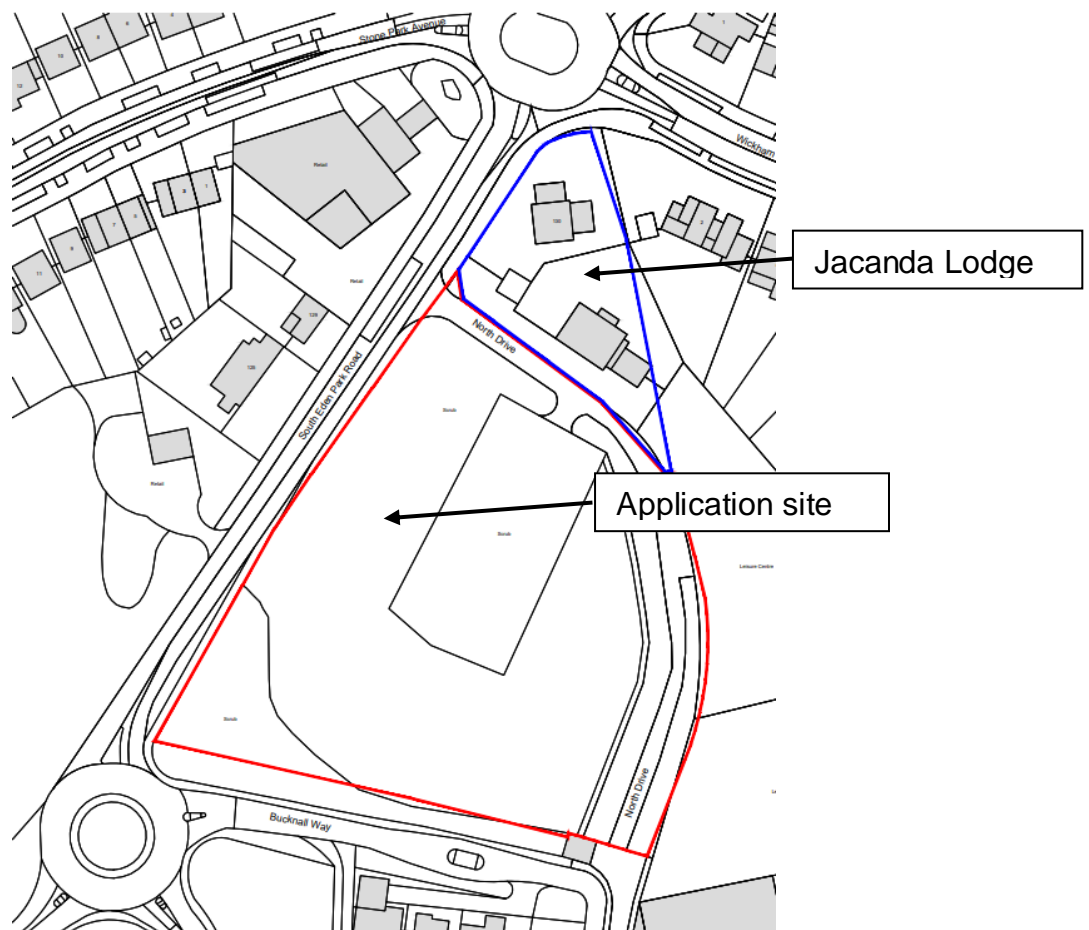


Fig 1: Site Location

- 1.4 The site previously consisted of grass and scrub land and a number of trees including a green link of mature trees and hedgerow along the eastern side of the site connecting to Bucknall Way to the south.

- 1.5 TPO Ref.1881, confirmed on 24-01-2002, refers to 5 horse chestnuts located on the western edge of the site fronting South Eden Park Road.
- 1.6 Some preparatory works associated with the sites' residential development (see Planning History section) have been undertaken as seen in the aerial image below, involving the removal of the grassed area between the hardstanding parking area and the South Eden Park Road and Bucknall Way boundaries and the removal of a number of trees, including the green link and hedgerow along the eastern side.



Fig 2: Aerial view of site (Source: google)

2. PROPOSAL

- 2.1 Planning permission was granted on 5th December 2019 for a development of 143 new residential units on land situated at South Eden Park Road, Beckenham BR3 6XQ under ref.19/01543/FULL1.



Fig 3: Site Plan as approved under application ref.19/01543/FULL1

- 2.2 The original application was accompanied by Arboricultural Statement (AR-3485-AMS-01 rev. C 20190116) dated 16th January 2019 which included the removal of 3 trees: 2 horse chestnuts T22 and T25 and an English Oak T28
- 2.3 Condition 2 of the planning permission, which listed the approved plans and documents, included a proposed landscape strategy showing the retention of 4 TPO horse chestnut trees along the site's frontage with South Eden Park Rd
- 2.4 Condition 32 of the permission required a replacement Horse Chestnut tree to be planted 1m from tree T25 as referenced within the Arboricultural Survey and Planning Integration Report
- 2.5 The applicant now wishes to vary conditions 2 and 32 to allow for the removal of the remaining 3 horse chestnut trees and plant 32 fastigate oaks at a height of 6 metres along the front boundary of the site fronting South Eden Park Road.
- 2.6 It is noted that the fourth horse chestnut which was to be retained under application 19/01543/FULL1 was recently removed and this is the subject of an ongoing planning enforcement investigation.

- 2.7 An application has been made in conjunction with this scheme for the planting of 18 trees at Jacanda Lodge (ref.16/01330/RECON) and is currently under consideration.



Fig 4: Proposed Road Frontage Tree Planting (showing Jacanda Lodge on the left and application site on the right)

3. RELEVANT PLANNING HISTORY

- 3.1 **21/00343/TREES:** Pending Enforcement investigation into unauthorised removal of protected Horse Chestnut tree (T21 in Fig 5, below).
- 3.2 **19/01543/RECON1:** Application under Section 73 of the Town and Country Planning Act 1990 to remove condition 3 (requirement to enter into S106 planning obligation to secure viability review mechanisms) of permission ref. 19/01543/RECON for residential development comprising erection of 6 x four storey buildings consisting of 10 four bedroom houses and 133 x one, two and three bedroom apartments together with concierges office. Construction of basement car park with 204 spaces. Central landscaped area with 10 visitor spaces cycle parking for 286 and refuse stores: Submitted to the Council on 3.11.2020. Appeal against non-determination lodged on 5.2.2021 and is ongoing.
- 3.3 **20/04446/ELUD:** Use of the land circled in redon drawing 15124 S101 B for the storage of cars or for the parking of cars or as a car park in association with car dealerships (LAWFUL DEVELOPMENT CERTIFICATE – EXISTING): Submitted to the Council on 4.11.2020. Appeal against non-determination lodged on 29.01.2021 and is ongoing.
- 3.4 **19/01543/RECON:** Application under Section 73 of the Town and Country Planning Act 1990 to remove condition 3 (scheme to be

submitted for the provision of affordable housing) of permission ref. 19/01543/FULL1 for residential development comprising erection of 6 x four storey buildings consisting of 10 four bedroom houses and 133 x one, two and three bedroom apartments together with concierges office. Construction of basement car park with 204 spaces. Central landscaped area with 10 visitor spaces cycle parking for 286 and refuse stores: Approved on 29.10.2020 subject to a variation of condition 3 as follows:

3. No development shall commence on the site until a planning obligation, in accordance with section 106 of the Town and Country Planning Act 1990, has been entered into with the Local Planning Authority.

The Section 106 agreement shall include early and late stage viability review mechanisms, in terms as set out below, in order to ascertain whether it is viable to provide any affordable housing units and/or provide a financial payment towards off-site affordable units:

- a) an Early Stage Viability Review which is triggered if an agreed level of progress on implementation is not made within two years of the permission being granted;
- b) a Late Stage Viability Review which is triggered when 75 per cent of the units in the scheme are sold or let.

The Section 106 legal agreement shall, following the carrying out of the reviews, set out the requirements for the provision of the affordable units and/or for receiving the financial contribution, as deemed necessary.

Reason: To ensure that the maximum reasonable amount of affordable housing can be secured and to accord with policy 2 of the Bromley Local Plan, policy 3.12 of the London Plan and policy H5 of the Intend to publish London Plan.

- 3.5 **18/00103/ELUD:** Use of land shown coloured yellow, red and white on the submitted drawing ref.15124 S103 J for the storage of cars or for the parking of cars or as a car park in association with car dealerships. Lawful Development Certificate (Existing): Lawful use certificate granted on 26.02.2020.
- 3.6 **19/01543/FULL1:** Residential development comprising erection of 6 x four storey buildings consisting of 10 four bedroom houses and 133 x one, two and three bedroom apartments together with concierges office. Construction of basement car park with 204 spaces. Central landscaped area with 10 visitor spaces cycle parking for 286 and refuse stores: Permitted subject to S106 legal agreement on 5th December 2019
- 3.7 **18/04519/DET:** Details of appearance, landscaping and scale pursuant to outline permission DC/16/02613/OUT allowed at appeal on 22.03.2018 for the residential development comprising of 105 units with

a mixture of 4 bedroom houses and one, two and three bedroom apartments together with concierges office and associated basement car parking. Approved on 26.02.2019.

- 3.8 **16/02613/OUT:** Residential development comprising of 105 units with a mixture of 4 bedroom houses and one, two and three bedroom apartments together with concierges office and associated basement car parking (OUTLINE APPLICATION): Allowed at appeal on 22.03.2018
- 3.9 **17/00757/OUT:** Residential development comprising 15 four storey townhouses and 52 apartments in three and four storey blocks to provide a total of 67 residential units together with concierges office and basement car parking (OUTLINE APPLICATION): Allowed at appeal on 22.03.2018

Other relevant developments in the area include those relating to the site directly to the north of the application site: Jacanda Lodge, North Drive, Beckenham:

- 3.10 **16/01330/RECON:** Minor material amendment under Section 73 of the Town and Country Planning Act 1990 of planning permission 16/01330/FULL1 for demolition of two detached dwellinghouses and construction of a crescent terrace of 7 three storey four bedroom plus roof accommodation townhouses with basement car parking, refuse store and associated landscaping in order to vary condition 4 to allow 18 fastigiata oaks at a height of 6 metres to be planted: Approved on the 24th November 2021
- 3.11 **16/01330/CONDT1:** Details submitted to discharge conditions in relation to planning ref 16/01330/FULL1: Condition 4 – Landscaping. This application related to the removal of a horse chestnut tree (T29 in Fig 5, below) which was protected by a Tree Preservation Order (Ref:1763) made on 8/12/2000. The application was referred to plans sub-committee and was subsequently approved on 22.12.2020
- 3.12 **16/01330/FULL1:** Demolition of two detached dwellinghouses and construction of a crescent terrace of 7 three storey four bedroom plus roof accommodation townhouses with basement car parking, refuse store and associated landscaping: Permitted on 10.10.2016.



Fig 5: Extract from Arboricultural Statement submitted with application ref.19/01543/FULL1 showing existing trees T21, T23, T24 and T26 to be retained and T22 and T25 to be removed

4. CONSULTATION SUMMARY

a) Adjoining Occupiers

Principle

- The Woodland Trust is pledging to plant 50 million more trees in the next 5 years to help meet the Government's target of reaching carbon net zero in 2050, it is counterproductive to consider removing these trees – *addressed throughout report*
- Removal of trees is not essential for the planned development – *addressed in paragraph 6.12*
- The design should have factored them in – *addressed in paragraph 6.12*
- Plans for this development were only approved after arboreal survey had been undertaken and conditions placed protecting and retaining these trees – *addressed in paragraph 2.3*
- The trivial disease which some may suffer from is common in horse chestnuts anyway, does not kill the tree, and does not provide any reasonable grounds for their removal – *addressed in paragraph 6.13*
- Trees are protected by a TPO which the Council 'places a high priority on their retention and protection' - *addressed in paragraph 6.13*

- One TPO tree has already been cut down – *addressed in paragraphs 2.6 and 3.1*
- Should only be taken down if dangerous - addressed in paragraph 6.13
- In favour of planting additional new trees – *addressed in paragraphs 6.16*
- Would rather the developer consider a native tree – *addressed in paragraphs 6.18 - 6.19*

Environment/sustainability/ecology

- Negative impact on wildlife and the environment - *addressed in paragraphs 6.17 – 6.26*
- Horse chestnuts are one of the top carbon-absorbing tree species – *addressed in paragraph 6.17*
- Mature trees greatly contribute as a form of green infrastructure - *addressed in paragraph 6.17*
- Existing trees support wildlife - *addressed in paragraphs 6.17 – 6.26*
- the existing trees' greater contribution to air quality, carbon sequestration (in comparison to juvenile trees) and carbon reduction goals as set out in the London Plan and the Bromley Local Plan as well as their proximity to the conservation area should outweigh the inconvenience of their presence for design plans – *addressed throughout report*
- Oak would take approximately 40 years to reach maturity – *addressed in paragraphs 6.18 – 6.19*

Character and appearance of area

- Existing mature trees contribute greatly to character of area – *addressed in paragraph 6.12*
- Existing trees provide an attractive street scene - *addressed in paragraph 6.12*
- Proposed replacement trees are not in keeping with the local landscape – *addressed in paragraph 6.16*
- The site is in close proximity to a conservation area and tree removal would be contrary to policy – *the site is not within the conservation area*
- Additional trees can be planted around the existing trees making for an attractive boundary whilst preserving the older valuable trees – *addressed in paragraph 6.27*
- Visual aesthetics cannot take precedence over environmental loss – *addressed throughout report*

Other

- Pollution, noise, traffic – *addressed in application ref. 19/01543/FULL1*
- Whole development is excessive - *addressed in application ref. 19/01543/FULL1*

- The plan should be revised to provide a fully segregated cycle path along the whole length of the frontage of the development in South Eden Park Road, if necessary, on land in the edge of the development provided and funded by the developers – *not relevant to this application*
- "No parking" provisions should also be made along this length of the road on both sides, together with other suitable measures such as bollards and raised kerbs to prevent pavement parking and prevent parking in the cycle lane - *not relevant to this application*
- adequate parking should be allowed for on the building site for all the building contractors - *not relevant to this application*

b) Local Ward Councillor

- The trees are partially diseased
- There are only 3 trees and they will be replaced by 32 trees at a cost of over £150k
- The replacement trees will create an Avenue of trees from the Chinese Garage (i.e. from the roundabout of south Eden Park Rd / Hayes Lane / Wickham Rd / Wickham Way / Stone park Avenue) all the way along SEP Rd to Bucknal Way and then along Bucknal Way to the entrance to Langley Park.
- This will create a beautiful street scene
- The application should be approved

5. POLICIES AND GUIDANCE

National Policy Framework (NPPF) 2021

- 5.1 Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For **decision-taking** this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) 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.
- 5.2. In accordance with Paragraph 47 of the Framework, planning law requires that applications for planning permission be determined in

accordance with the development plan, unless material considerations indicate otherwise.

- 5.3 Paragraph 174 states that Planning policies and decisions should contribute to and enhance the natural and local environment, including by minimising impact on and providing net gains for biodiversity.

National Planning Practice Guidance (NPPG)

- 5.4 Relevant paragraphs are referred to in the main assessment.

The London Plan (March 2021)

- 5.5 Relevant policies:

Policy G1	Green infrastructure
Policy G4	Open space
Policy G5	Urban greening
Policy G6	Biodiversity and access to nature
Policy G7	Trees and woodlands

Mayors Supplementary Guidance

- 5.6 Relevant SPGs:

- *Character and Context* (June 2014)
- *Preparing Borough Tree and Woodland Strategies* (February 2013)

Bromley Local Plan (2019)

- 5.7 Relevant policies:

- 26 Health and Wellbeing
- 37 General Design of Development
- 42 Development adjacent to a Conservation Area
- 55 Urban open space
- 69 Development and Nature Conservation Sites
- 70 Wildlife Features
- 72 Protected Species
- 73 Development and Trees
- 74 Conservation and Management of Trees and Woodlands
- 78 Green Corridors
- 123 Sustainable Design and Construction

Bromley Supplementary Guidance

- 5.8 Relevant SPDs:

- SPG 1 General Design Principles

Other Considerations

- 5.9 The Bromley Biodiversity Plan (2015-2020) endeavours to promote coordinated action for biodiversity at the local level. It recommends best practise guidelines for protecting and enhancing biodiversity in the borough and aims to sustain Bromley's local species and habitats for future generations, ensuring that a long-term strategy for conserving, protecting and enhancing biodiversity is in place (LBB: Bromley Biodiversity Plan 2015-2020).

6. Assessment

- 6.1 Section 73 of the Town and Country Planning Act 1990 (as amended) '*Determination of application to develop land without compliance with conditions previously attached*' provides, at sub-paragraph 2, that in determining such applications, the Local Planning Authority should consider only the question of the conditions subject to which planning permission should be granted, and –
- a) If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - b) If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 6.2 The starting point for determining this application is the development plan and any other material considerations.
- 6.3 The London Plan, at Policy G1 states that London's network of green and open spaces, and green features in the built environment, should be protected and enhanced. Green infrastructure should be planned, designed and managed in an integrated way to achieve multiple benefits.
- 6.4 The London Plan, at policy G5 provides that Major development proposals should contribute to the greening of London by including urban greening as a fundamental element of site and building design, and by incorporating measures such as high-quality landscaping (including trees).
- 6.5 Policy G6 of the London Plan requires that development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain.
- 6.6 Policy G7 states that development proposals should ensure that, wherever possible, existing trees of value are retained (Category A, B

and lesser category trees where these are considered by the local planning authority to be of importance to amenity and biodiversity, as defined by BS 5837:2012). If planning permission is granted that necessitates the removal of trees there should be adequate replacement based on the existing value of the benefits of the trees removed, determined by, for example, i-tree or CAVAT or another appropriate valuation system.

- 6.7 Bromley Local Plan (BLP) Policy 37 (criteria b) requires all development proposals to positively contribute to the existing street scene and/or landscape and respect important views, heritage assets, skylines, landmarks or landscape features. Criteria C requires space about buildings to provide opportunities to create attractive settings with hard or soft landscaping (including enhancing biodiversity).
- 6.8 BLP policy 73 requires proposals for new development to take particular account of existing trees on the site and on adjoining land, which in the interests of visual amenity and/or wildlife habitat, are considered desirable to be retained. Tree preservation orders (TPOs) will be used to protect trees of environmental importance and visual amenity. When trees have to be felled, the Council will seek suitable replanting.
- 6.9 Policy 74 of the BLP encourages appropriate new tree planting in suitable locations and the Council will make use of planning conditions and obligations to achieve new planting of suitable tree species, native and/or of local provenance as appropriate, through the planning process.
- 6.10 Habitats and species in the Bromley Biodiversity Plan are a material consideration in the determination of planning applications. Planning permission will not be granted for development or change of use of land that will have an adverse effect on protected species, unless mitigating measures can be secured to facilitate survival, reduce disturbance or provide alternative habitats (BLP policy 72).
- 6.11 The applicant is proposing the removal of the 3 remaining TPO horse chestnut trees along the western edge of the site bordering South Eden Park Road and replacement with 32 fastigate oaks at a height of 6 metres. A significant amount of vegetation has already been removed from along the western edge and south-western corner of this site.
- 6.12 The remaining trees along this prominent edge of the site serve an important visual function in the street scene and their retention is highly desirable. Accordingly, these trees were shown to be retained as an integral feature of the landscaping scheme for the development at application stage.
- 6.13 The Council's Tree Officer has recently reviewed the 3 remaining trees. In this case no significant defects have been noted. Whilst the trees are

suffering with 'leaf minor' this pest is not life threatening and they remain categorised as 'B', in accordance with British Standard 5837. The remaining life span of these trees is reasonable. The removal of the trees would therefore negate the objectives of the TPO.

6.14 The applicant concurs that there is "*nothing about*" the existing trees that would justify their removal in isolation. Accordingly, the applicant has not provided any supporting arboricultural information as they consider that a report on their physiological condition is unnecessary.

6.15 It is the applicant's view that the removal of the existing Horse Chestnuts is justified through the "*various benefits which would accrue from the native oaks*" and they submit the following in support of the application. The applicant states:

"the landscape impact of the proposed oaks will produce a feature of importance and stature commensurate with the consented buildings and to be compromised by the horse chestnuts would be incongruous to say the least.

The replacement of three horse chestnuts with some 50 native oaks provides a net gain in environmental values which is extraordinarily large and very rarely achieved.

Moreover, whereas tree planting is carried out on the basis of tangible environmental benefits being deferred for 15 to 20 years, as 6-metre tall trees with dense foliage giving habitat provision, the net environmental gain is immediate in terms of ecology and air quality."

6.16 Whilst the planting of trees in new developments is supported by planning policies at the strategic and local level and there are no 'in principle' planning policy reasons to resist the planting of the new trees, there are a number of other policy considerations which must also be taken into account when considering the removal of existing trees.

6.17 In addition to their aesthetic value in the street scene, trees and woodlands play an important role within the urban environment. They help to trap air pollutants, add to amenity, provide shading, absorb rainwater and filter noise. They also provide extensive areas of habitat for wildlife, especially mature trees (Paragraph 8.7.1, London Plan).

6.18 Despite what the applicant states (at paragraph 6.15), insufficient information about the existing value of the benefits of the trees (or the value of those replacing them) has been provided, contrary to London Plan G7.

6.19 Furthermore, local residents are of the view that the proposed tree species would be at odds with the prevailing landscaping in the area.

- 6.20 A Preliminary Ecological Appraisal (PEA) dated Feb 2017 was submitted in support of the original application (ref.19/01543/FULL1) which concludes at paragraph 3.15:

The horse chestnut trees along the western boundary however are of an age and structure that could provide potential roosts...Trees 3 and 4 are considered to have medium-low suitability due to the potential for bats to roost within features or under the loose bark and ivy present



Fig 6: Location of the semi-mature trees along the western boundary (Source: Preliminary Ecological Appraisal, the ecology partnership, Feb 2017)

- 6.21 Trees 3 and 4 in the image above are T25 and T26 in the arboricultural report accompanying the original application. Permission was granted to remove T25, subject to suitable replacement within 12 months. In addition, the PEA recommended a further climbing survey and inspection of the features using an endoscope to assess the suitability for bats. T25 appears to have been removed. It is not clear whether any bat surveys were undertaken and no replacement has yet been planted.
- 6.22 An enforcement investigation will be opened in respect of the removal and non-replacement of tree T25 and, as a result, the breach of the planning condition. Tree T26 remains in situ.
- 6.23 An up-to-date ecological survey has been submitted in support of this application which confirms that the remaining horse chestnuts have negligible – low potential to support roosting bats. It recommends a soft felling approach to include re-checking the tree and any features for evidence of bats and if evidence of bats or bat roosts are found then works should stop and the advice of an ecologist sought immediately.

- 6.24 The survey report also recommends a number of other mitigation measures including provision of two 'rocket boxes' since there are no mature trees present in the red line site boundary and no buildings. Rocket boxes are stand-alone structures and therefore can provide roosting opportunities on sites such as this.
- 6.25 The survey report further considers that the creation of new tree lines created by the new planting scheme, "*will provide compensation and significant ecological enhancements to the scheme*" (the ecology partnership, Dec 2021).
- 6.26 Given the findings of the ecological survey and the proposed mitigation measures, officers are of the view that the proposal would not significantly harm protected species. However, there remains a lack of any evidence to demonstrate that a biodiversity net gain would be achieved, as required by policy G6 of the London Plan, and insufficient justification to support the loss of the existing B category trees, contrary to policy G7.
- 6.27 Officers maintain that the tree planting and landscaping of the nature proposed should be implemented alongside existing tree features.

7. Conclusion

- 7.1 The proposal to vary conditions 2 and 32 in the manner proposed would lead to the loss of 3 mature horse chestnut trees (TPO Ref.1881) which, due to their public amenity value and environmental benefits should be retained, in accordance with planning policy.
- 7.2 The remaining life span of these trees is considered to be reasonable and the information that has been submitted is insufficient to establish that their removal and replacement with 32 fastigate oaks would contribute to and enhance the natural and local environment, in line with the overarching principles of the NPPF.
- 7.3 Furthermore, in the absence of information to the contrary, the proposals would fail to secure a net biodiversity gain.
- 7.4 Accordingly, having regard to the presumption in favour of sustainable development the application to vary conditions 2 and 32 is recommended for refusal.
- 7.5 In reaching this conclusion officers have had regard to the statutory provisions of Section 70 of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 which dictate that decisions must be undertaken in accordance with the development plan unless material considerations indicate otherwise.

RECOMMENDATION REFUSE

- 1. The existing horse chestnut trees, which are the subject of Tree Preservation Order Ref.1881, make a positive contribution to the street scene and, in the absence of a supporting tree survey and arboriculture implications assessment in accordance with British Standard BS5837:2012, their proposed removal is contrary to policies 37 and 73 of the Bromley Local Plan and policy G7 of the London Plan.**

- 2. In the absence of any valuation of the benefits of the existing horse chestnut trees and the proposed trees, the proposals would fail to manage impacts on biodiversity or secure a net biodiversity gain, contrary to the aims and objectives in paragraph 174 of the NPPF, Policies 37, 73 and 123 of the Bromley Local Plan and policies G1, G6 and G7 of the London Plan.**