

Committee Date	01/09/2022	
Address	National Westminster Bank Sports Ground Copers Cope Road Beckenham BR3 1NZ	
Application Number	21/03379/FULL1	Officer - Claire Brew
Ward	Copers Cope	
Proposal	Installation of a fuel tank for the storage of heating oil (retrospective application)	
Applicant	Agent	
CPFC Limited	Mr Aaron Zimmerman	
104C St John Street London EC1M 4EH	104C St John Street London EC1M 4EH	
Reason for referral to committee	Call-In	Councillor call in Yes

RECOMMENDATION	Application Permitted
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<p>KEY DESIGNATIONS</p> <p>Area of Special Residential Character Adjacent Metropolitan Open Land Biggin Hill Safeguarding Area Green Chain London City Airport Safeguarding Open Space Deficiency Smoke Control SCA 12</p>

Representation summary	Nearby owners/occupiers were notified of the application in writing on 17.08.2021 and a press advert was published on 25.08.2021.
Total number of responses	13
Number in support	0
Number of objections	13

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The development does not result in significant harm to the character and appearance of the area and the introduction of trellis atop the boundary fence has helped to screen the tank from adjoining residential occupiers.
- The amenities of the occupiers of adjacent properties are not unduly harmed by inadequate daylight, sunlight, privacy or by overshadowing.
- Air quality impacts, noise and other nuisances, which any combustion of the heating oil could give rise to, are all dealt with by extant conditions on permission 19/04644/FULL1.

2. LOCATION

2.1 The site forms part of the wider Crystal Palace Football Academy training grounds.

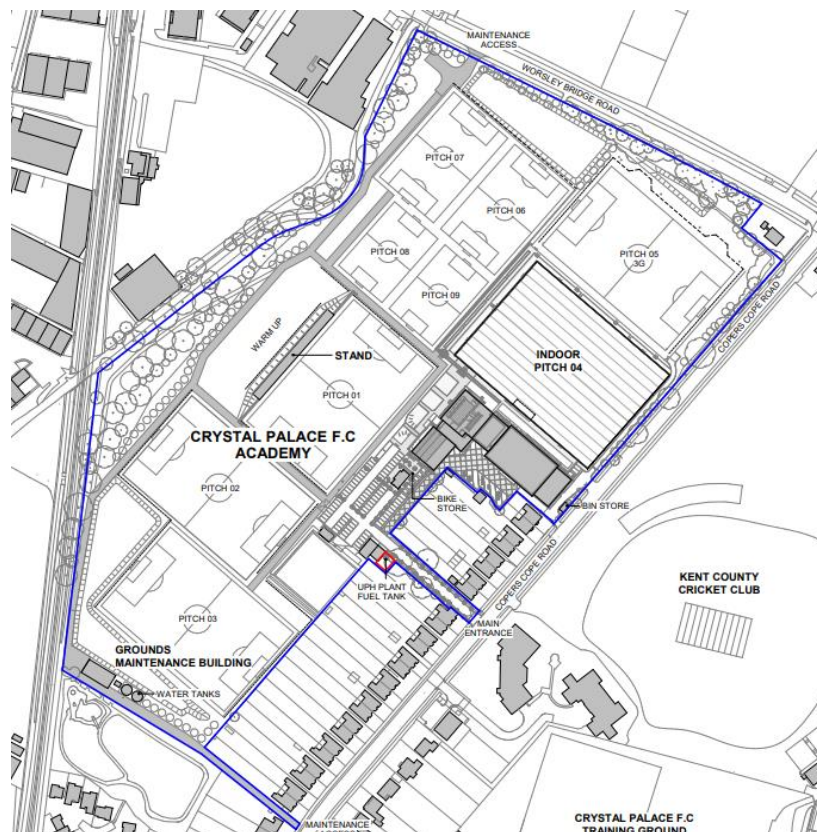


Fig.1 Site Location Plan

2.2 The fuel tank is sited to the rear of 153 Copers Cope Road, a two-storey semi-detached dwelling which forms part of the North Copers Cope Road Area of Special Residential Character (ASRC) in the Bromley Local Plan.

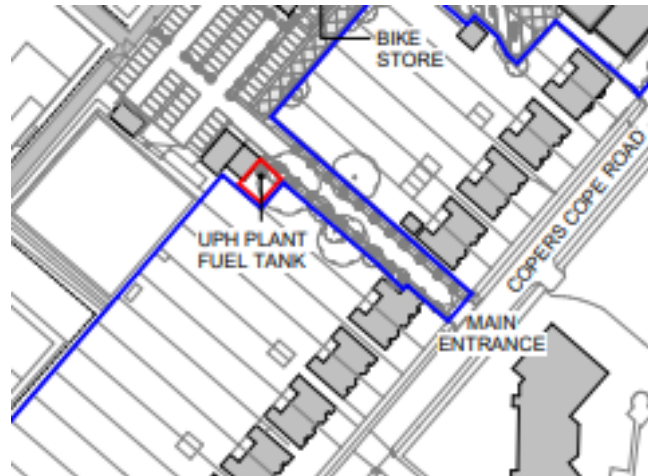


Fig.2 Extract from Site Location Plan

2.3 Although the wider site is within Metropolitan Open Land (MOL) and the South East London Green Chain, the area where the fuel tank is located is not within the MOL. The site is technically within the Area of Special Residential Character (ASRC).

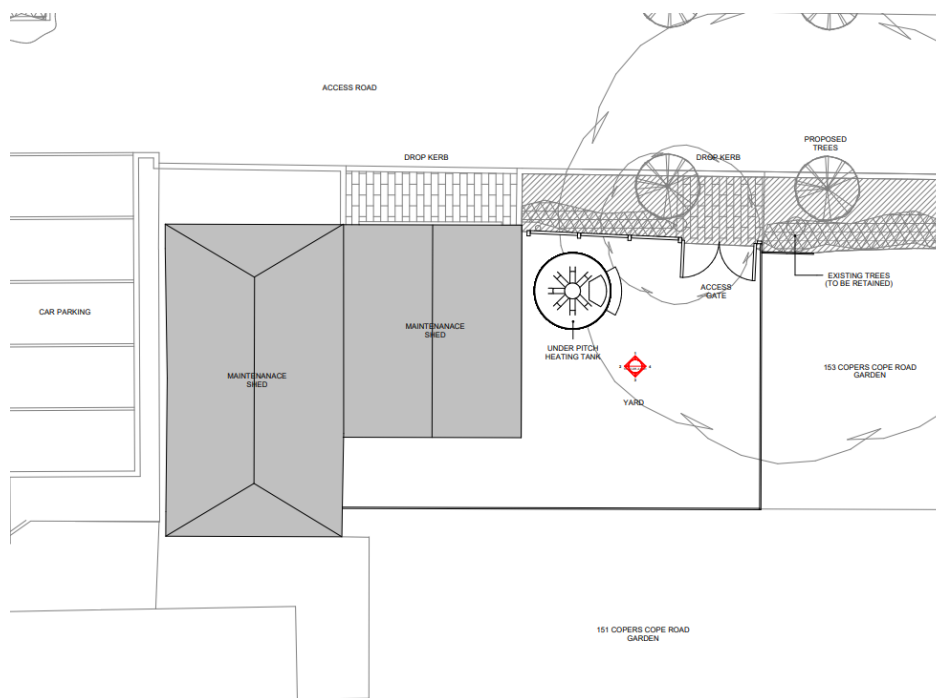


Fig.3 Site layout Plan

2.4 The site is in an area with PTAL rate of between 1b and 2 (on a scale of 0 – 6b, where 6b is the most accessible).

3. PROPOSAL

- 3.1 Planning permission was granted, subject to legal agreement, on 11.06.2020 for Erection of a covered full-size football pitch, creation of an artificial full-size pitch with floodlighting, and regrading of the site to create a full-size show pitch with spectator seating & six training pitches (two full-size, two 3/4 size & two half-size). External alterations and lobby & link extensions to the existing buildings. Installation of maintenance/store sheds, water tanks and under-pitch infrastructure. Associated highway and landscaping works (ref.19/04644/FULL1).
- 3.2 The applicant now seeks retrospective planning permission for the installation of a 2.59m high x 2.89m wide polyethylene tank, capable of holding 10,000 litres of heating oil. The covering letter accompanying the application confirms that the heating oil is required for the under-pitch heating infrastructure, to ensure its availability for safe use in all weather conditions.
- 3.3 'Under-pitch infrastructure' was included in the description of the extant scheme, however no details of such infrastructure were submitted or approved under application ref.19/04644/FULL1. It was not apparent in the initial application what the under-pitch infrastructure was to be used for, although it was assumed that it was related to the proposed water tanks, for pitch irrigation.
- 3.4 Furthermore, the tank was not indicated in the initial application, as a potential future requirement, or otherwise.



Fig.4 Photograph of fuel tank in situ (source: applicant)

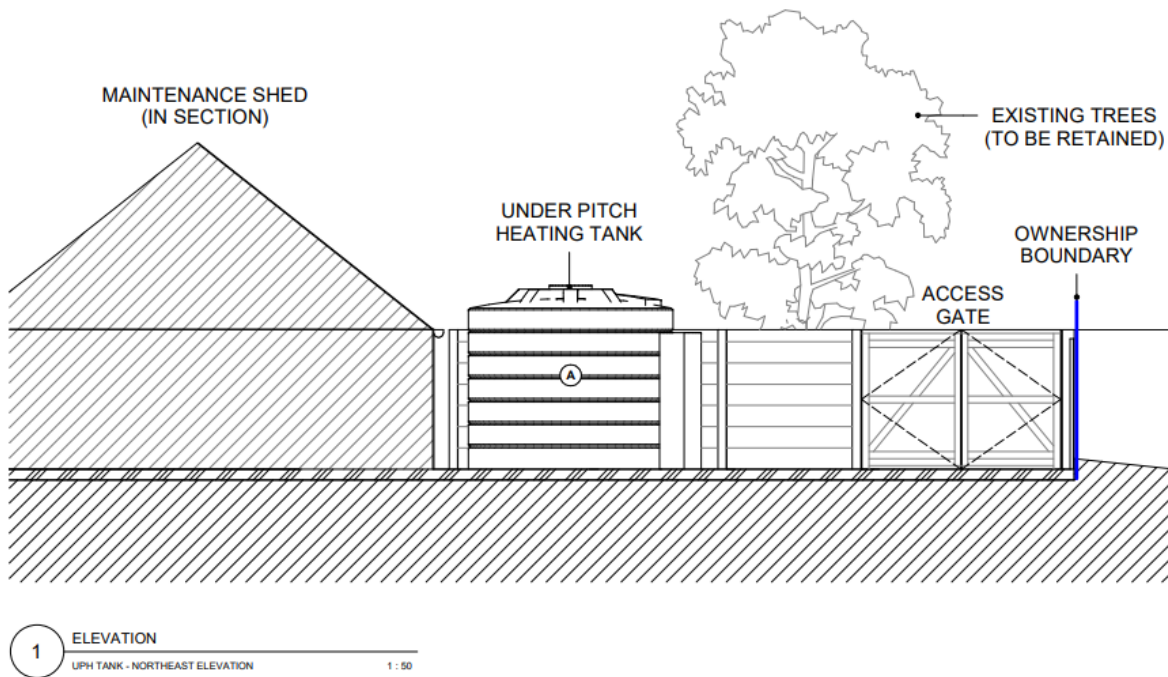


Fig 5. North-east elevation showing fuel tank and surrounding development, as existing

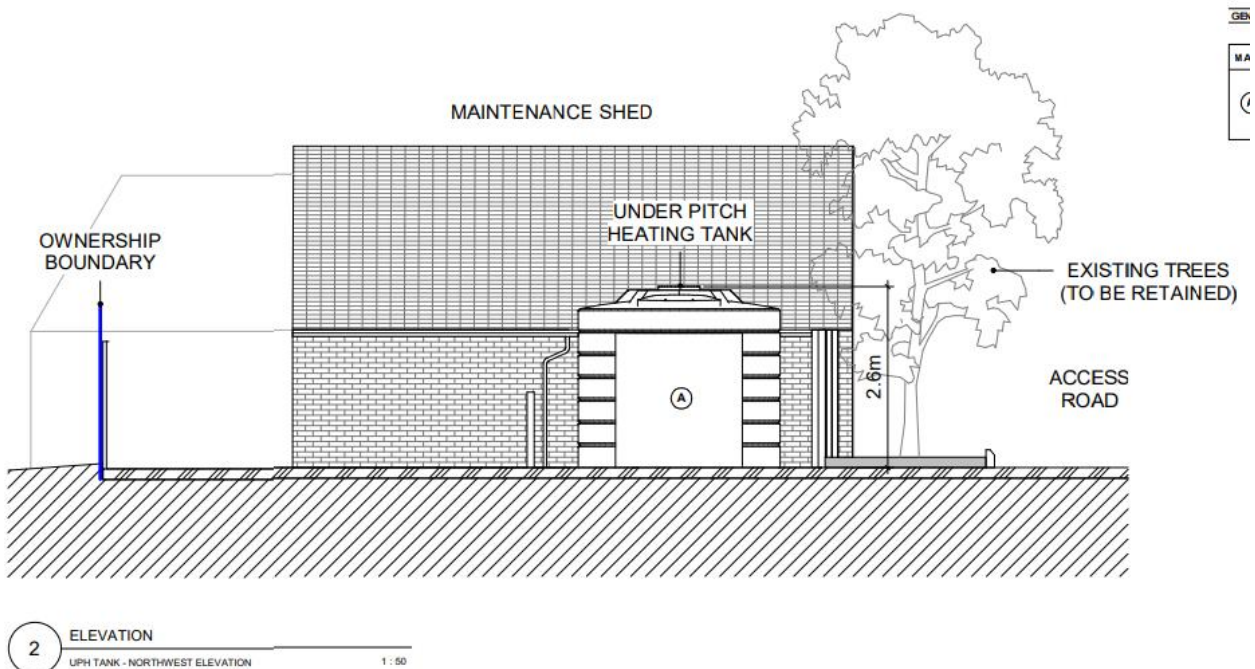


Fig 6. North-west elevation showing fuel tank and existing maintenance shed

4. RELEVANT PLANNING HISTORY

- 19/04644/FULL1: Erection of a covered full-size football pitch, creation of an artificial full-size pitch with floodlighting, and regrading of the site to create a full-size show pitch with spectator seating & six training pitches (two full-size, two 3/4 size & two half-size). External alterations and lobby & link extensions to the existing buildings. Installation of maintenance/store sheds, water tanks and under-pitch infrastructure. Associated highway and landscaping works – Permitted subject to legal agreement on 11.06.2020
- 21/02984/FULL1: Erection of a security hut and access controls with associated works to the site access road – Permitted subject to conditions on the 25.10.2021
- 22/00063/FULL1: Maintenance vehicle site access from Worsley Bridge Road – Permitted subject to conditions on the 26.04.2022
- 21/02760/FULL1: Construction of open-air canopy covering for spectator seating stand – Permitted subject to conditions on the 25.05.2022

5. CONSULTATION SUMMARY

A) Statutory

Environment Agency – No objection

- The installed tank is an above ground facility to provide fuel for the heating system which inputs heat to the below ground infrastructure under the pitch. As the fuel tank is above ground, providing it meets the oil storage regulations for ASTs (Above Ground Storage Tanks) in full, we have no additional comments
- Where it is proposed to store more than 200 litres (45 gallon drum = 205litres) of any type of oil on site, it must be stored in accordance with the Control of Pollution (oil storage) (England) Regulations.

B) Local Groups

North Copers Cope Road Action Group

- It is an entirely new application which the Council needs to assess on its merits (addressed in paragraphs 7.1 – 7.4)
- the planning application only deals with the storage tanks, what about the boilers which will also be necessary? (addressed in paragraphs 7.5 – 7.15)
- the Council needs to be confident that:
 - 1.any fire safety regs have been identified and complied with or that any necessary and relevant conditions are applied to any consent granted (addressed in paragraphs 7.31 – 7.34)
 2. given the proximity of the tank to a drainage system, the MOL and the Pool River that the tank should:- a) Not be sited over a drain or drainage system or within close proximity b) Be properly set within a properly constructed concrete bund to ensure that in the event of any spillages or leaks that the MOL, drains, gardens and trees are not polluted and that any clean-up is easily carried out (addressed in paragraphs 7.31 – 7.34)

3. the tank should be installed away from the houses on the other side of the building to avoid any possible nuisance from refilling (addressed in paragraph 7.30).

C) Adjoining Occupiers

Principle/scope of application (addressed in paragraphs 7.1 – 7.4)

- wrong to suggest that the granting of permission for 'under-pitch infrastructure' included permission for under-pitch heating
- installing under pitch heating is a major civil engineering project

Energy and Sustainability (addressed in paragraphs 7.12 – 7.15)

- the Energy Statement prepared by M-E Engineers Ltd appended to Palace's application made no mention of under-pitch heating, nor the installation within the buildings of an oil-fired boiler and oil tank
- there is no energy statement associated with the proposed heating scheme
- an oil fired boiler is the worst possible eco-friendly option the applicant could have chosen
- such a heating system does not require high flow temperatures and is ideally suited to a ground source heat pump or similar "green" heat source
- when businesses are meant to be more Carbon Neutral, why they have chosen this kind of pitch heating when other methods are available?
- this tank and means of heating does not contribute towards the councils net zero carbon target, if it is to heat water they could use air source heating pumps which can now generate enough heat to heat whole swimming pools.
- Bromley council published a net zero carbon emissions by 2029 paper on Tuesday 16th July 2019, this large tank would go against that paper and the councils commitment to net zero carbon emissions
- the plan to use heating oil to heat the academy pitches flies in the face of international efforts to reduce carbon emissions; the London Plan's principles of sustainable design and construction which include "Minimise carbon dioxide emissions" and "Minimise pollution"; and Bromley Council's policies set out in its Local Plan: "The priority is to design development in such a way that less energy is required in its construction and in its use"

Air Pollution (addressed in paragraphs 7.5 and 7.6)

- there was also no mention of proposals to introduce new plant to support under-pitch heating in the Air Quality Assessments produced by Hawkins Environmental as part of the club's application
- increased air pollution arising from the filling, use and discharging of the fuel tank, with the smell of the fuel/its vapours affecting my property

Water Pollution (addressed in paragraph 7.34)

- the application makes no mention of measures (concrete bund etc) to mitigate any spill or leak from this tank, or any measures to stop any leak from entering the drainage system

Traffic and highways (addressed in paragraph 7.16)

- will contribute to traffic management issue that are already impacting local resident.

Impact on Neighbourhood amenity (addressed in paragraphs 7.26 – 7.30)

- ridiculous that the owners of numbers 151 and 153 Copers Cope Road should have a massive heating oil tank rising above the fence height so close to their gardens
- the tank is in a completely wrong location at the rear of a residential garden and near a fence
- the tank already impacts the visual amenity of our respective properties as it is visible above the level of the boundary fencing
- concerned about the health impacts of the fuel stored in the tank being burned close to my house and entering my home
- noise nuisance
- what conditions will be imposed on the hours of operation of this equipment and the heating system?

Health and Safety (addressed in paragraphs 7.31 – 7.34)

- there should be an independent Health and Safety Assessment, including an Air Quality Risk Assessment, Fire Risk Assessment, Contaminated Land Risk Assessment, Noises Impact Assessment (generators can be noisy) and Local Area Risk Assessment along with site and local evacuation plans as the proposed site is near residential houses, near vehicles entering the site and cars parking the other side of the maintenance shed
- contains volatile liquid and no health and safety has been carried out in respect of the local area and the local soil and plants
- an explosion can cause vibrational and structural damage to nearby buildings and foundations
- there is no housing to contain or limit the spread of any fire or explosion
- the tank should be removed from its existing location and re-installed far away from neighbouring properties, inside a purpose-built housing which complies with all applicable fire safety regulations.
- the Tank itself should be situated on specific ground e.g. sand and not an old concrete plinth as the submitted picture shows

Other

- impact on property value (not a material planning consideration)

6. POLICIES AND GUIDANCE

National Policy Framework (NPPF) 2021

- 6.1 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.
- 6.2 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.
- 6.3 Paragraph 59 refers to Enforcement and states that Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

National Planning Practice Guidance (NPPG)

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

The London Plan 2021

Policy D4	Delivering good design
Policy D8	Public realm
Policy D12	Fire Safety
Policy D13	Agent of Change
Policy D14	Noise
Policy G3	Metropolitan Open Land
Policy G4	Open Space
Policy G5	Urban Greening
Policy G6	Biodiversity and access to nature
Policy S5	Sports and recreation facilities
Policy SI1	Improving Air Quality
Policy SI2	Minimising Greenhouse gas emissions
Policy SI12	Flood risk management
Policy SI13	Sustainable drainage
Policy T7	Deliveries, servicing and construction

Mayor Supplementary Guidance

Sustainable Design and Construction (2014)

Bromley Local Plan 2019

Policy 32	Road Safety
Policy 37	General Design of Development
Policy 50	Metropolitan Open Land
Policy 53	Land Adjoining Green Belt or Metropolitan Open Land
Policy 54	South East London Green Chain
Policy 58	Outdoor Sport, Recreation and Play
Policy 116	Sustainable Urban Drainage Systems
Policy 119	Noise Pollution
Policy 120	Air Quality
Policy 123	Sustainable Design and Construction
Policy 124	Carbon Dioxide Reduction, Decentralised Energy Networks and Renewable Energy
Policy 125	Delivery and implementation of the Local Plan

Bromley Supplementary Guidance

SPG1 - General Design Principles

7. ASSESSMENT

Principle/Scope of application

7.1 The description of development, as submitted, is 'Installation of a fuel tank for the storage of heating oil' and the applicant asserts that it is appropriate to consider the fuel tank in isolation. They state:

A planning application for a fuel tank does not need to demonstrate the end use of any fuel stored or justify an applicant's rationale for intending to store fuel. The only planning considerations here are safety (which is scoped out as a planning consideration by statute) and visual amenity (the effects on which would be acceptable).

7.2 However, it is stated quite clearly in the applicant's covering letter that the fuel tank is required for the under-pitch heating (UPH) system. This is what the oil, to be stored in the tank, will be used for.

7.3 Fuel oil combustion has the potential to give rise to emissions to air, noise, vibration, and odour, and may also generate additional traffic, none of which are covered by the details currently submitted. Whilst these issues are clearly relevant to the application in hand, such issues are the subject of separate planning conditions attached to the wider football academy development granted under permission ref.19/04644/FULL1.

- 7.4 The applicant has acknowledged that any proposal to combust the fuel would be subject to existing conditions and, accordingly, has submitted details relating to air quality, energy/carbon emissions and noise under separate cover. These are discussed in more detail, below.

Air Quality

- 7.5 The Council has considered the air quality impacts of the UPH boiler plant under condition 13 (ref.19/04644/CONDT5). As part of that submission the applicant provided an Air Quality Neutral Assessment (AQNA) which was able to demonstrate that the development would be 'air quality neutral'. Based on the AQNA alone, the requirements of Part (a) of condition 13 were therefore deemed to have been met and the details were subsequently approved on the 31.03.2022.
- 7.6 It is also relevant to highlight the Council's decision to refuse an application for a non-material amendment to permission 19/04644/FULL1 which sought the erection of a flue on an existing outbuilding. No details were provided about the type of plant which the flue would serve or how the emissions from the flue would impact on the assumptions in the approved AQNA. Given the site's location within the Council's Air Quality Management Area, this was not 'non-material' and would require planning permission.

Noise and other nuisances

- 7.7 In accordance with policy D13 'Agent of Change' of the London Plan "*New noise and other nuisance-generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses.*"
- 7.8 Part E of policy D13 states "*Boroughs should not normally permit development proposals that have not clearly demonstrated how noise and other nuisances will be mitigated and managed*".
- 7.9 The Council have considered the noise impacts of the boiler plant to be used for the heating of the oil under condition 11 (ref.19/04644/CONDT3). In the absence of sufficient information to demonstrate that a) the equipment would not have any adverse noise impacts on adjoining residents; b) the equipment would not have any negative implications for the Air Quality Neutral Assessment; and c) whether chimney height approval would be required, the Council refused the details on 31.03.22.
- 7.10 Odour was not addressed as part of the details pursuant to the planning conditions relating to permission ref.19/04644/FULL1, even though it was a requirement of condition 11.
- 7.11 Notwithstanding the lack of demonstration of any acceptable means by which to combust the fuel without causing noise or odour nuisance, any such future activity would be subject to existing conditions on permission ref.19/04644/FULL1. Should permission be granted for the fuel tank, an informative should therefore be used confirming that this application relates solely to the siting of a storage tank and the

storage of fuel only and does not authorise its dispensing or combustion. Furthermore, an informative should remind the applicant that any such future activities would be subject to the requirements of existing conditions attached to permission ref.19/04644/FULL1 and that a further application would need to be made to the LPA, and any such future activities may also require chimney height approval under the Clean Air Act 1993.

Energy and Sustainability

- 7.12 In accordance with Local Plan policy 37, the development should address sustainable design and construction and include where appropriate on-site energy generation.
- 7.13 Whilst Policy SI 2 of the London Plan is not directly relevant to this application because it is not a Major and it does not include any means to combust fuel or, in turn, create carbon emissions, the Council retains the authority to approve the details of the under-pitch heating (UPH) plant through the relevant conditions of the main permission, to which Policy SI 2 would apply.
- 7.14 The Council have considered the details of the UPH plant, separately, under condition 12 of permission ref.19/04644/FULL1. It was found that there was insufficient detail provided to discharge condition 12 due to the absence of any detailed energy strategy demonstrating how the zero-carbon target within the energy hierarchy in policy SI 2 will be met. The details were subsequently refused on 31.03.2022 (ref.19/04644/CONDT4).
- 7.15 Notwithstanding the lack of any acceptable means by which to combust the fuel in accordance with the strategic policies which aim to minimise greenhouse gas emissions, an informative should be used to highlight that any future proposals to combust the fuel would be subject to further approvals by the LPA.

Traffic and Highways

- 7.16 The Highways Authority have raised no objections to this application on the basis that the proposal is unlikely to have a significant impact on the trip generation within the local road network.

Sustainable Urban Drainage

- 7.17 Being sited on an existing area of hardstanding, the fuel tank does not give rise to any significant surface water drainage impacts.

Design and Visual Impact

- 7.18 Policy 37 of the Bromley Local Plan requires development to meet a number of criteria, where they are relevant to the proposal. Clause a requires development to *“be imaginative and attractive to look at, of a good architectural quality and should complement the scale, proportion, form, layout and materials of adjacent buildings and areas”*.

- 7.19 Policy D3 of the London Plan advocates a design-led approach to ensure all development makes the best use of land and states that development proposals should respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character.
- 7.20 Policy D4 requires LPAs to thoroughly scrutinise the design of development proposals.
- 7.21 The fuel tank is not visible in the Copers Cope Rd street scene, nor does it have a significant impact on the wider landscape or important views of the adjacent MOL, being sited between the existing outbuilding and the residential site. While the introduction of the fuel tank in this part of the site has resulted in somewhat of a discordant feature in the context of the adjacent residential development, the applicant has recently installed trellis on top of the 2m high fence on the boundary with No.153 which minimises its visual impact when viewed from the adjoining properties.
- 7.22 Policy 44 of the Local Plan states that development proposed in areas designated as ASRCs on the policies map will be required to respect, enhance and strengthen their special and distinctive qualities. While the application site does technically form part of the ASRC, the special and distinctive qualities largely relate to the form, materials and decorative features of the three storey semi-detached Victorian and Edwardian dwellings, with their long, narrow plots, backing onto Metropolitan Open Land. Given the fuel tank lies outside of the residential curtilage the impact on the ASRC is unlikely to be pronounced.
- 7.23 The applicant explains in their covering letter that they first sought storage of the fuel inside an existing building, which would not require planning permission. However, they found that there was no suitable inside space for the proposed tank, so external storage was proposed.
- 7.24 Although it is considered by officers that a more suitable location for the tank could have been found, on this occasion, the development is not considered to contravene policies 37 or 44 of the Local Plan by reason of either its siting, scale or design.
- 7.25 Policy 37, criterion *c* states that “*Space about buildings should provide opportunities to create attractive settings with hard or soft landscaping (including enhancing biodiversity)*”. It is noted that the fuel tank is positioned on an already developed section of the site and provides limited opportunity for soft landscaping.

Impact on Neighbourhood Amenity

- 7.26 The relevant policy is Local Plan policy 37, criterion *e*, which states that development should respect the amenity of occupiers of neighbouring buildings and those of future occupants, providing healthy environments and ensuring they are not harmed by noise and disturbance, inadequate daylight, sunlight, privacy or by overshadowing.

- 7.27 The applicant is of the view that, as the tank sits below the roofline of the adjacent outbuilding, it has no material effect on visual amenity. Furthermore, they consider that its colour, 'forest green', would further minimise its visual presence.
- 7.28 The fuel tank is a substantial structure which is prominent in views from the adjoining residential sites, particularly during the winter months when there are fewer or no leaves on the surrounding trees. Figure 7 is a photograph of the site taken from the ground floor of 153 Copers Cope Road prior to the applicant installing trellis on top of the boundary fence.



Fig.7: Photograph of the site taken from the ground floor of No.153 Copers Cope Road (12/07/22)

- 7.29 Since the application was submitted the applicant has installed trellis along the rear and side boundary fences of No.153. As can be seen in Figures 8 & 9, this has helped to screen the tank, reducing its visual impact from the neighbouring site.



Figs. 8 and 9: Photographs of the site taken from 153 Copers Cope Road on 03/08/2022

- 7.30 The tank itself does not give rise to any daylight, sunlight or overshadowing impacts, nor has it resulted in any overlooking or loss of privacy to adjoining occupiers. Noise and other nuisances arising from the use of this fuel tank have been discussed at paragraphs 7.7 – 7.11. With regard to hours of use, condition 26 of permission ref.19/04644 stated:

The use of the premises for the purposes permitted shall be limited to Monday to Saturday inclusive between the hours of 8am and 10pm; and Sunday and Bank Holidays between the hours of 8am and 9pm.

Any combustion of the heating oil in connection with the under-pitch infrastructure would be captured under the terms of the original permission which would include the hours of use permitted by condition 26. The submission and approval of a service and delivery plan is additionally recommended as a condition of any permission granted to ensure that the type, frequency and times of fuel deliveries would not cause undue nuisance to local residents.

Other Matters

- 7.31 The Health and Safety Executive (HSE) have confirmed that because the capacity of the tank is less than 2,500 tonnes, and assuming they have no other hazardous substances that should be considered under additional and aggregation, it would not require Hazardous Substance Consent. Therefore, the HSE do not need to be consulted on the application.
- 7.32 With regards to water pollution, the storage of oil is subject to separate legislation i.e. The Control of Pollution (Oil Storage) (England) Regulations 2001, for which the Environment Agency are the enforcing authority.
- 7.33 The Applicant provided further supporting information on the 6/10/21 stating that they, and their contractors, will endeavour to comply with all Government regulations at the site, but demonstration of compliance with The Control of Pollution (Oil Storage) (England) Regulations 2001 is not material to determining the acceptability of planning applications.
- 7.34 Without prejudice to the fact that British Standards and The Control of Pollution (Oil Storage) (England) Regulations 2001 are not material considerations, the applicant is of the view that the submitted application contains sufficient information to demonstrate that the proposed tank includes: an integrated bund, automatic overflow prevention, and a lockable cabinet.

8. CONCLUSION

- 8.1 The proposed development has been assessed against the adopted development plan and all other material considerations.
- 8.2 This application raises a number of relevant planning issues, including design, environmental health and the effects on neighbouring residential amenity.

- 8.4 On this occasion it is not considered that the development results in significant harm to the character and appearance of the area, and the introduction of trellis atop the boundary fence adjoining No.153 Copers Cope Road has helped to minimise the visual impact of the fuel tank from adjoining residential properties.
- 8.5 The comments received from local residents have also been taken into account in the assessment of this application and, in this instance, it is not considered that the amenities of the occupiers of adjacent dwellings have been unduly harmed by inadequate daylight, sunlight, privacy or by overshadowing.
- 8.6 Furthermore, air quality, noise (and other nuisances) and energy impacts are all dealt with by extant conditions relating to the wider Academy development. These conditions remain relevant and, as yet, undischarged in relation to any proposed plant to be used for the combustion of the heating oil.
- 8.7 Accordingly, permission is recommended for the siting of the fuel storage tank only, subject to planning conditions. This permission does not authorise the dispensing or combustion of the fuel.
- 8.8 The applicant is reminded of their obligations under permission ref.19/04644/FULL1, as well as any other statutory legislation which must be complied with.

RECOMMENDATION: Application Permitted

Subject to the following conditions:

Standard

- **Compliance with approved drawings and documents**

Within 3 months of permission being granted

- **Service and Delivery plan**

No further details

- **No lighting**
- **Boundary treatments shall remain in place and be maintained**

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

Informatives

1. **The applicant is reminded of their obligations under the conditions and obligations imposed on planning permission ref.19/04644/FULL1.**
2. **This permission relates solely to the siting of a storage tank and the storage of fuel only and does not authorise its dispensing or combustion. Any such**

future activities would be subject to the requirements of planning conditions attached to permission ref.19/04644/FULL1 requiring separate approval from the Local Planning Authority.

- 3. You are advised that any future dispensing or combustion of the fuel may require chimney height approval under the Clean Air Act 1993.**
- 4. You are advised to contact the Pollution Team of Environmental Health & Trading Standards regarding compliance with the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993.**
- 5. You are advised to contact the Environment Agency with regards The Control of Pollution (Oil Storage) (England) Regulations 2001.**