

|   |  |                                     |
|---|--|-------------------------------------|
| <b>Committee Date</b>                   | 27 <sup>th</sup> September 2022  |                                     |
| <b>Address</b>                          | 33 Masons Hill<br>Bromley<br>BR2 9HD   |                                     |
| <b>Application number</b>               | <b>21/00741/FULL1</b>  | <b>Officer</b> Claire Brew          |
| <b>Ward</b>                             | Bromley Town   |                                     |
| <b>Proposal (Summary)</b>               | Demolition of the existing buildings and redevelopment of the site for a new part 8/part 11 storey building comprising flexible commercial floorspace (Use Class E) at ground floor and residential units (Use Class C3) above, along with the associated amenity space, ancillary refuse and recycling storage, cycle parking and wheelchair parking. |                                     |
| <b>Applicant</b>                        | <b>Agent</b>   |                                     |
| Cobalt (Bromley South) Limited          | Lauren Whiteley<br>Avison Young  |                                     |
| <b>Reason for referral to committee</b> | Major Development 20+ units  | <b>Councillor call in</b><br><br>No |

|                       |               |
|-----------------------|---------------|
| <b>RECOMMENDATION</b> | <b>REFUSE</b> |
|-----------------------|---------------|

### Summary

|  |
|--|
| <p><b>KEY DESIGNATIONS</b></p> <ul style="list-style-type: none"> <li>• <b>Adjacent Listed Building</b></li> <li>• <b>Biggin Hill Safeguarding Area</b></li> <li>• <b>Bromley Town Centre Area</b></li> <li>• <b>London City Airport Safeguarding</b></li> <li>• <b>Open Space Deficiency</b></li> <li>• <b>Smoke Control</b></li> <li>• <b>20m River buffer</b></li> <li>• <b>Flood Zone 2</b></li> <li>• <b>Ground Source Protection Zone – Outer Zone II</b></li> </ul> |
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**Table 1:**

| <b>Land use Details</b> |                               |                                  |
|-------------------------|-------------------------------|----------------------------------|
|                         | Use Class or Use description  | Floor space (GIA SQM)            |
| Existing                | Class E (shops)               | 478.8                            |
| Proposed                | Class E (flexible commercial) | 131 (139 including refuse store) |

**Table 2: Land use details**

| <b>Residential Use – See Affordable housing section for full breakdown including habitable rooms</b> |                             |           |          |          |  |
|--|-----------------------------|-----------|----------|----------|--|
|  | Number of bedrooms per unit |           |          |          |  |
|  | 1                           | 2         | 3        | 4 Plus   | Total / Payment in lieu                    |
| Market   | 6                           | 39        | -        | -        | 45 (including 4 wheelchair user dwellings) |
| Affordable (shared ownership – Discount Market Rent)   | 1                           | 4         | -        | -        | 5 (including 1 wheelchair user dwelling)   |
| Affordable (social rent)   | -                           | -         | -        | -        | 0  |
| <b>Total</b>   | <b>7</b>                    | <b>43</b> | <b>-</b> | <b>-</b> | <b>50</b>                                  |

**Table 3: Proposed Residential Use**

| <b>Vehicle parking</b> | Existing number of spaces | Total proposed including spaces retained | Difference in spaces (+ or -) |
|------------------------|---------------------------|--|-------------------------------|
| Standard car spaces    | 0                         | 0  | N/A                           |
| Disabled car spaces    | 0                         | 3 residential<br>1 commercial            | +4                            |
| Cycle                  | 0                         | 101 residential<br>12 commercial         | +113                          |

**Table 4: Vehicle Parking**

|                                     |              |
|-------------------------------------|--------------|
| <b>Electric car charging points</b> | 4 no. (100%) |
|-------------------------------------|--------------|

**Table 5: Electric Vehicle charging points**

|                               |  |   |
|-------------------------------|--|---|
| <b>Representation summary</b> | <b>Neighbour letters were sent on 26/03/21. A site notice was displayed from 06/04/21 for a minimum of 21 days. A press ad was displayed in the News Shopper on 07.04.21. Consultation is for a minimum of 21 days</b> |   |
| Total number of responses     |  | 5 |
| Number in support             |  | 1 |
| Number of objections          |  | 4 |

**Table 6: Representation Summary**

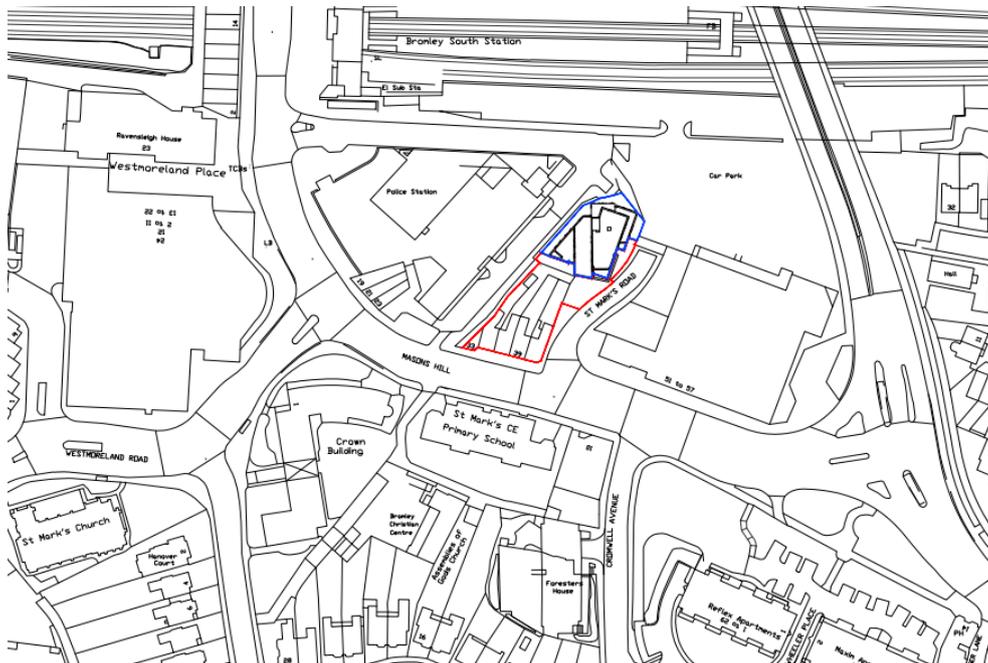
| <b>Section 106 Heads of Term</b>       | <b>Amount</b>   | <b>Agreed in Principle</b> |
|--|-----------------|----------------------------|
| Affordable Housing                     | 5 units         | Y                          |
| Early Stage Viability Review Mechanism | -               | Y                          |
| Late Stage Viability Review Mechanism  |                 | Y                          |
| Car Club membership                    | -               | Y                          |
| Carbon offset payment-in lieu          | £66,670         | Y                          |
| Highway contribution                   | £28,000         | Y                          |
|  |                 |                            |
| Play Space contribution                | £8,800          | Y                          |
| Public Realm contribution              | £170,000        | Y                          |
| Monitoring fee                         | £4000           | Y                          |
| Legal Costs                            | TBC             | Y                          |
| <b>Total</b>                           | <b>£277,470</b> |                            |

**Table 7: Planning Obligations – S106 Heads of Term**

## **SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- The proposed building and its foundations would be in too close proximity to the culverted River Ravensbourne, failing to provide an acceptable buffer to facilitate work on the culvert structure, including emergency works, maintenance, upgrades and repairs. The development would therefore be contrary to the London Borough of Bromley's Strategic Flood Risk Assessment (SFRA) (2017), Policy SI 12 of the London Plan, Policy 115 of the Bromley Local Plan and the overarching objectives of the NPPF.

# 1. LOCATION



**Fig 1: Site Location Plan**

- 1.1 The 0.06 hectare site is located within Bromley Town Centre which is an Opportunity Area in the London Plan. It sits in a strategic gateway location and forms part of the emerging context in Bromley South which includes the adjacent Waitrose site to the east.
- 1.2 The existing site comprises a two-storey terrace building (33-41 Masons Hill) with 4 retail units (Use Class E) and 1 Class E / part Sui Generis unit to the ground floor. Above, the building comprises four residential properties (Use Class C3).
- 1.3 Directly to the north of the site is Perigon Heights, a part-11/ part-17 storey mixed use residential-led development on the site of the former H.G. Wells Centre which the applicant refers to as 'Phase 1'.
- 1.4 The application site is bound by Masons Hill (B228) to the south, a four-lane carriageway connecting the site to Bromley Town Centre and Bromley Common. Directly to the east of the site is St Mark's Road and a large Waitrose store and car park which continues along the north side of the site.
- 1.5 St Mark's Road provides delivery and servicing access to the store and provides residential/commercial access to Perigon Heights. To the west of the site is a five storey police station.
- 1.6 Opposite the site, at 8 Masons Hill, is the Grade II listed former St Mark's School, a low-rise building which is modest in scale and treatment. Historic England's listing makes it clear that the school is

valued as an evidential object that is a fully intact example of its kind. The building is not primarily listed as a contributor to local townscape.

- 1.7 Either side of the listed building are No.10 Masons Hill which is a large, three storey block dating back to the 1980s used for educational purposes; and 1 Westmoreland Road which is a brick and concrete-frame government office building, dating from 1954, mainly four storeys in height.
- 1.8 The Bromley Town Centre conservation area is approximately 422m to the north-west of the site. The statutory listed former school building and the conservation area are both designated heritage assets.
- 1.9 The nearest section of the Transport for London Road Network (TLRN) is (A21) Kentish Way, approximately 130 metres away. There are three bus stops within an appropriate walking distance (640 metres) served by 15 routes.
- 1.10 The nearest rail station, Bromley South, served by Thameslink and South-eastern services, is approximately 150 metres away and is step free between the street and the platforms. As a result, the site has a public transport accessibility level (PTAL) of 6a (on a scale from 0-6b, where 6b is the highest).
- 1.11 There are no nearby existing cycling links, however the proposed Quietways: Lower Sydenham to Bromley route would be within 200m of the site.



**Fig 2: Existing Site (33 – 41 Masons Hill) with Perigon Heights (Phase 1) to the rear (8/9/22)**



**Fig.3 Existing Site (on right) and Masons Hill (8/9/22)**

## **2. PROPOSAL**

- Demolition of existing buildings and construction of part 8/part 11 storey mixed use building
- 50 new residential units
- 131sqm commercial floorspace (Class E) (excluding bin stores)
- 3 no. disabled persons parking bays to be shared between the proposed residential development and the existing development at Perigon Heights (formerly H G Wells centre)
- 1 no. disabled persons parking bay for the commercial use
- 159sqm of external communal amenity space at eight floor roof level
- 75sqm of communal external amenity space on the northern boundary of the Site between the proposed development and Perigon Heights



**Fig.4 Proposed east elevation (on left) with Phase 1 (Perigon Heights) on right**



**Fig.5 Proposed west elevation (on right) with Phase 1 (Perigon Heights) on left**

### **3. RELEVANT PLANNING HISTORY**

#### Application Site:

96/01143/FUL: Change of use of building from retail Class A1 to Estate Agents Office Class A2: PERMITTED ON 03.07.1996

03/02152/FULL2: Change of use from estate agents (Class A2) to beauty salon: PERMITTED ON 23.07.2003

05/01870/FULL2: Change of use to hot food takeaway (Class A5): REFUSED ON 06.07.2005

HG Wells Centre/St Marks Reach/Perigon Heights:

**13/03345/FULL1:**

Demolition of existing building and erection of a part 7, part 11, part 17 storey mixed use building comprising 256sqm community uses (use Class D1/D2), 1,467sqm office use (use Class B1) and 52 residential flats with associated landscaping and public realm works, new pedestrian links, refuse and cycle stores, plant room and 3 disabled car parking spaces: ALLOWED AT APPEAL ON 13.08.2015

**16/02395/EIA:**

Screening Opinion pursuant to Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (as amended by the 2015 Regulations) in respect of demolition of existing building and erection of a part 7, part 11, part 17 storey mixed use building comprising 210sqm community uses (use Class D1/D2), 42sqm office use (use Class B1) and 68 residential flats with associated landscaping and public realm works, new pedestrian links, refuse and cycle stores, plant room and 3 disabled spaces: NOT EIA DEVELOPMENT (17/06/2016)

**16/02395/FULL1:**

Demolition of existing building and erection of a part 7, part 11, part 17 mixed use building comprising 210 sqm community uses (use class D1/D2), 42 sqm office use (flexible B1(a) and A3 use) and 68 residential flats with associated landscaping and public realm works, new pedestrian links, refuse and cycle parking stores, plant room and 3 disabled car parking spaces: REFUSED ON 28.11.2016 for the following reason:

Viability has not been agreed and the proposed development has not provided the required 35% provision of on-site affordable housing required under Policy H2 of the Unitary Development Plan and does not provide adequate justification for the proposed off-site payment in lieu, contrary to Policy H3 of the Unitary Development Plan (2006), Policy BTC3 of the Bromley Town Centre Area Action Plan (2010), Policies 3.9, 3.11 and 3.12 of the London Plan (2015) and Paragraph 50 of the National Planning Policy Framework (2012).

**19/05122/FULL1:**

Change of use of existing community floorspace (Class D1/D2) to commercial floorspace (Class B1a), along with associated minor internal and external alterations: PERMITTED ON 26.08.2020

**20/02275/FULL4:**

Section 106A application to amend the terms of the legal agreement attached to planning permission ref 13/03345/FULL1 so that the Purelake Group can provide the 6no. intermediate shared ownership units as discounted market rent units (DMR): APPROVED ON 18.02.2021

## 4. CONSULATION SUMMARY

### a) Statutory

#### 4.1 **GLA – The scheme is supported in land use terms, however the application does not currently comply with the London Plan (a copy of the full comments is attached at Appendix 1)**

##### *Land-use Principles*

- Residential-led mixed use development of the underutilised town centre brownfield site is supported in strategic planning terms

##### *Housing/Affordable Housing*

- The application proposes 50 new residential units on the site. This constitutes 0.65% of the housing target the Council needs to meet its London Plan 10-year target, which is currently at 7,740 additional homes between 2019/20 and 2028/29
- As the proposed level of affordable housing is 10% by unit and 10% by habitable room, the proposal does not comply with the Fast Track Route, therefore, as outlined in Policy H6 of the London Plan, the application must follow a Viability Tested Route
- The applicant is required to clarify the tenure split of the affordable housing element of the proposed development in terms of habitable room and must engage with the Council and confirm the tenure split is supported by the Council
- The applicant must provide full details of the market and intermediate housing proposed, including target rent levels, and details of any service charges
- All affordable housing must meet the definitions affordable housing as set out in the London Plan and all the affordable housing offer be robustly secured in perpetuity, within a Section 106 agreement

##### *Urban design and heritage*

- The general layout and massing arrangement are supported and creates a consistent street frontage onto Masons Hill
- The proposed materials proportions of building frontages are well thought out and create a well-crafted, high quality building
- Attention to detail, particularly to winter garden elements, curved glazing and ground frontages should be exemplary and secured within the application submission
- The proposal does not comply with London Plan Policy D9A as the site has not been specifically identified suitable for a tall building of this scale

- The applicant should present material that allows officers to reach a fully informed view of compliance with London Plan Policy D9C
- No harm would be caused to heritage assets

#### *Residential Quality*

- the applicant is required to clarify whether the provision of dual aspect units has been maximised and that the number of single aspect north-facing units minimised.
- the applicant should demonstrate that play space and equipment within the development is not segregated by tenure

#### *Transport*

- The proposed residential cycle parking does not comply with the London Cycling Design Standards
- The applicant should work with the Council in securing improvements to alleviate the highlighted public realm issues in accordance with Policy T2 of the London Plan
- The forecasted trip rates would not represent any significant impact on the local transport network

#### *Energy*

- The energy proposals do not comply with the London Plan energy policies and therefore not supported and should be revised

#### *Drainage & Flood Risk*

- The FRA does not comply with the London Plan 2021 policy SI.12 as it does not give appropriate regard to the risk of the overland surface water flow route from Masons Hill
- Further information should be provided to accurately assess the risk of flooding to the site and propose appropriate mitigation measures as necessary, taking note not to displace floodwater off site
- The drainage strategy drawing should show the proposed discharge rate off site and the proposed dimensions and attenuation volume within the permeable paving sub-base storage
- Additional above ground green SuDS should be incorporated to provide water quantity, quality, biodiversity, and amenity benefits
- Rainwater harvesting should also be provided in line with the London Plan drainage hierarchy
- A Sustainability Statement or similar should be provided to demonstrate how the water consumption targets of the London Plan are met
- The Applicant should also include water harvesting and reuse to reduce consumption of water across the site

#### *Biodiversity*

- The applicant should provide evidence that the proposed development secures a net biodiversity gain in accordance with Policy G6D of the London Plan.

### *Urban greening*

- Given that the scheme remains below the target UGF the applicant should review the urban greening proposed, seeking to improve the quality or quantity
- The applicant should seek to identify improvements and the result of this review should be submitted prior to Stage 2 referral
- Should it be found that the scheme remains short of the 0.4 target, robust justification should be provided, setting out the improvements considered and the rationale behind their exclusion

### *Trees*

- All existing on-site trees are proposed for removal. It is not clear how many trees are proposed to be planted as part of the scheme (no trees are shown on the UGF calculation). The application should provide an assessment of the value of the trees to be lost using the appropriate valuation system and set out how this has been accounted for through replacement tree planting.

### *Circular economy*

- The applicant must submit a Circular Economy Statement in line with London Plan Policy SI7, which demonstrates how the proposal promotes circular economy outcomes and aim to be net zero-waste. All proposed measures should be identified and secured through appropriate conditions.

### *Air quality*

- The air quality assessment accords with London Plan Policy SI1B. Mitigation measures must be proposed by the applicant prior to recommendation for approval
- Conditions are recommended

## **4.2 Environment Agency – Objection**

- Would be unlikely to grant a flood risk activity permit for the development as submitted
- no information or assessment has been provided in relation to the potential impact of the development proposals on the main river culvert
- We object to the planning application as submitted, as it may involve building too close to the culverted River Ravensbourne (east branch)
- The proposed development may restrict access to the main river culvert for essential maintenance, emergency works and future repairs to, or replacement of, the culvert structure
- The proposed development may also compromise the structural integrity of the main river culvert
- The development proposals could therefore increase the risk of flooding to neighbouring areas, thereby failing to comply with the requirements of the National Planning Policy Framework (NPPF) (Paragraph 163 and so on) and the London Borough of Bromley's Local Plan (2019) (Policy 115 'Reducing flood risk')

- Generally, we seek an 8 metre (m) offset between the edge of built developments and main rivers
- In order to overcome our objection, the applicant should provide evidence that:
  - the proposed development will not compromise the structural integrity of the main river culvert;
  - there will be adequate access for essential maintenance, emergency works and future repairs to, or replacement of, the main river culvert.
- We recommend that flood resistant and resilient measures are incorporated in to the design and construction of the development proposals
- the submitted desk study report is accepted, in principle, as being in line with relevant guidance for the redevelopment of a contaminated site, with regard to issues of concern to the Environment Agency
- the submitted desk study report has identified a potential risk to controlled waters and recommends further investigation (non-targeted sampling) to ascertain whether any contamination may be present
- Given that there is no intention to discharge to ground, we have no comments on the drainage scheme from a groundwater protection perspective. However, should plans change, we would request to be re-consulted.
- Given the height of the proposed development, we presume that piled foundations will be used
- should our objection be satisfactorily addressed in due course, we would wish to request that a number of planning conditions relating to groundwater and land contamination be imposed on any planning permission granted.

#### **4.3 TFL – No Objection**

- Car-free development is supported
- A permit-free agreement should be secured by S106
- The forecast trip rates are not considered to represent any significant impact on the local transport network
- the proposed residential cycle parking does not comply with the London Cycling Design Standards (LCDS) – this should be addressed prior to any permission being granted
- the applicant should work with the Council in securing improvements to alleviate the highlighted public realm issues in accordance with policy T2 of the London Plan.

#### **4.4 Highways – No objection**

- The proposed development will be ‘car-free’, with the exception of Blue Badge spaces. This is in line with the London Plan
- The applicant has shown two on street disabled bays on St Marks Road which is Highway land

- Electric charging points on Highways must be in agreement with the Highway Authority
- The applicant is required to agree with Waitrose an arrangement to not coincide with each other: this should form part of the applicant's Service Delivery Plan (DSP)
- The applicant should, in highway areas, use modular 400 paving with brindle block spacers. Should they decide to use the same materials for their private areas a demarcation should be provided, either in paving or studs
- There is a bus stop with a bus shelter which may require relocating. More details are required. This must be agreed with the Highway Authority prior to construction

#### **4.5 Drainage (lead local flood authority) – No objection**

- The drainage strategy should be implemented in accordance with the submitted report

#### **4.6 Thames Water – No objection**

- The proposed development is located within 15 metres of a strategic sewer and a piling condition is recommended
- If the developer follows the sequential approach to the disposal of surface water we would have no objection
- The proposed development is located within 5m of a strategic water main. Thames Water do NOT permit the building over or construction within 5m, of strategic water mains
- Conditions and informatives are recommended

#### **4.7 Network Rail – No objection**

### **b) Local groups**

#### **4.8 RSPB Bromley Group**

- The installation of 20 integral swift nest bricks is recommended as a planning condition, and that the proposal for these be submitted prior to the commencement of above ground works (addressed in paragraph 6.12.10)

#### **4.9 Bromley Civic Society (addressed in section 6.4)**

- impact on setting of the Grade II listed former St Marks School building immediately opposite due to the proximity, height and design
- This small terrace is the last remnant of the historic commercial heart of Mason Hill which was an historic settlement in its own right retaining its own an individual character
- this entire area has now been virtually eradicated since 1990 by piecemeal development including the Kentish Way road scheme

- the remaining historic character of Masons Hill is reliant only upon retention of a) the listed building, b) the nearby former Tigers Head pub and c) these 19thc shops now under threat
- remaining Victorian shops are 'non designated heritage assets' which should be retained in accordance with paras 194-197 of the NPPF
- may be scope for some additional phase two development but this should retain the shops and respect their spatial setting and that of the listed building.

#### **4.10 APCA** (addressed in section 6.4)

- the panel fully supports the view of the LBB Conservation Officer
- the proposals cause harm to the setting of the Listed Building and the adjacent Town Centre Conservation Area to which the existing row of Victorian shops relate in terms of period design and history
- together with the Listed former St Marks School they are all that is left to embody the character and appearance of the Masons Hill Historic area
- as such they should be regarded as non-designated heritage assets and demolition resisted
- whereas phase one of the development is set well back from the road, this phase two proposal is an overdevelopment necessitating a tall building right on the pavement frontage creating an urban canyon effect overpowering the listed building and its setting and would be alien to the otherwise still open historic aspect of Masons Hill
- the proposed height, according to the heritage statement, would also harmfully impinge on views from the conservation area contrary to LB Policy 42
- this distant view harm clearly reinforces the harm to the immediate setting of the listed building
- we recommend retaining the existing shops sensitively incorporated into a revised development

### **c) Adjoining Occupiers**

#### **4.11 Waitrose Supermarket**

- the cumulative impact of servicing 33 Masons Hill on the surrounding highways has not been robustly analysed or incorporated within the DSMP (addressed in paragraphs 6.3.9 – 6.3.14)
- the current proposals have the potential to cause harm to the existing arrangements of the Waitrose Store, and wider highways network, by not considering the implications of multiple HGVs pulling in and out of either site at one time (addressed in paragraphs 6.3.9 – 6.3.14)
- it is unclear whether a 16.5m vehicle that is servicing the Waitrose Store would be able to safely turn east into the Waitrose servicing yard as part of the proposed arrangement due to the proposed on-street parking bays (addressed in paragraph 6.3.12)
- It is unclear how the refuse collection would be undertaken should the two disabled spaces be in use (addressed in paragraphs 6.3.13 – 6.3.14)

- Should any disabled resident be in occupation prior to the construction of the site being finished then longer articulated vehicles may not be able to access the allotted 'offload area' within the bay, potentially having to use St Mark's Road to offload material, subsequently blocking access into the Waitrose yard (addressed in paragraphs 6.9.15 – 6.9.17)
- welcome the suitable mitigation methods proposed in the wind Microclimate Assessment, and recommend that these are secured by the council via condition to ensure residents can experience a high level of comfort within the shared amenity space (addressed in paragraph 6.7.6)
- would like to ensure that the LBB considers the 'Agent of Change' principles, as outlined within the NPPF. This would mean that the applicant would be responsible for mitigating any impacts of the existing servicing yard on the neighbouring residential properties (addressed in paragraph 6.7.12 – 6.7.14)
- the applicant should have regards to the cumulative impacts of existing plant, located on the western side of the Waitrose Store, and the 24-hour operation of the service yard on the proposed flats (addressed in paragraph 6.7.12 – 6.7.14)

#### **4.12 Local Residents**

##### **OBJECTION**

- Far too many new tall buildings already in Bromley - this will continue to take the character away from this area (addressed in paragraphs 6.3.23 – 6.3.31)

##### **SUPPORT**

- Amenity Space with sitting chairs

#### **5. POLICIES AND GUIDANCE**

##### **Planning and Compulsory Purchase Act (2004)**

- 5.1 Section 38(5) states that 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].
- 5.2 The Bromley Local Plan (2019) and the London Plan (2021) are the most recent documents to become part of the development plan and supersede certain policies in the Bromley Town Centre Area Action Plan (2010) SPD.
- 5.3 Section 38(6) requires that the determination of these applications must be made in accordance with the plan unless material considerations indicate otherwise.

## National Policy Framework (NPPF) 2021 and National Planning Practice Guidance (NPPG)

5.4 Paragraph 11 of the NPPF 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.

5.5 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.

5.6 Other relevant paragraphs are referred to in the main assessment

### The London Plan (March 2021)

5.7 The relevant policies are:

|   |   |
|---|---|
| <b>Chapter 2 Spatial Development Patterns</b> |   |
| Policy SD1                                    | Opportunity Areas   |
| Policy SD6                                    | Town centres and high streets                                       |
| Policy SD7                                    | Town centres: development principles and Development Plan Documents |
| Policy SD8                                    | Town centre network   |
| Policy SD9                                    | Town centres: Local partnerships and implementation                 |
| Policy SD10                                   | Strategic and local regeneration                                    |
| <b>Chapter 3 Design</b>                       |   |
| Policy D1                                     | London's form character and capacity for growth                     |

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| Policy D2   | Infrastructure requirements for sustainable densities    |
| Policy D3   | Optimising site capacity through the design-led approach |
| Policy D4   | Delivering good design                                   |
| Policy D5   | Inclusive design   |
| Policy D6   | Housing quality and standards                            |
| Policy D7   | Accessible housing                                       |
| Policy D8   | Public realm   |
| Policy D9   | Tall buildings   |
| Policy D11  | Safety, security and resilience to emergency             |
| Policy D12  | Fire safety  |
| Policy D13  | Agent of Change  |
| Policy D14  | Noise  |
| <b>Chapter 4 Housing</b>                                      |  |
| Policy H1   | Increasing housing supply                                |
| Policy H2   | Small sites  |
| Policy H3   | Meanwhile use as housing                                 |
| Policy H4   | Delivering affordable housing                            |
| Policy H5   | Threshold approach to applications                       |
| Policy H6   | Affordable housing tenure                                |
| Policy H7   | Monitoring of affordable housing                         |
| Policy H10  | Housing size mix   |
| Policy H11  | Build to Rent  |
| <b>Chapter 5 Social Infrastructure</b>                        |  |
| Policy S1   | Developing London's social infrastructure                |
| Policy S3   | Education and childcare facilities                       |
| Policy S4   | Play and informal recreation                             |
| Policy S6   | Public toilets   |
| <b>Chapter 6 Economy</b>                                      |  |
| Policy E9   | Retail, markets and hot food takeaways                   |
| <b>Chapter 7 Heritage and Culture</b>                         |  |
| Policy HC1  | Heritage conservation and growth                         |
| Policy HC3  | Strategic and Local Views                                |
| Policy HC4  | London View Management Framework                         |
| Policy HC5  | Supporting London's culture and creative industries      |
| Policy HC6  | Supporting the night-time economy                        |
| <b>Chapter 8 Green Infrastructure and Natural Environment</b> |  |
| Policy G1   | Green infrastructure                                     |
| Policy G4   | Open space   |
| Policy G5   | Urban greening   |
| Policy G6   | Biodiversity and access to nature                        |
| Policy G7   | Trees and woodlands                                      |
| Policy G8   | Food growing   |
| Policy G9   | Geodiversity   |

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| <b>Chapter 9 Sustainable Infrastructure</b> |  |
| Policy SI1                                  | Improving air quality                              |
| Policy SI2                                  | Minimising greenhouse gas emissions                |
| Policy SI3                                  | Energy infrastructure                              |
| Policy SI4                                  | Managing heat risk                                 |
| Policy SI5                                  | Water infrastructure                               |
| Policy SI6                                  | Digital connectivity infrastructure                |
| Policy SI7                                  | Reducing waste and supporting the circular economy |
| Policy SI8                                  | Waste capacity and net waste self-sufficiency      |
| Policy SI12                                 | Flood risk management                              |
| Policy SI13                                 | Sustainable drainage                               |
| <b>Chapter 10 Transport</b>                 |  |
| Policy T1                                   | Strategic approach to transport                    |
| Policy T2                                   | Healthy Streets                                    |
| Policy T3                                   | Transport capacity, connectivity and safeguarding  |
| Policy T4                                   | Assessing and mitigating transport impacts         |
| Policy T5                                   | Cycling  |
| Policy T6                                   | Car parking  |
| Policy T6.1                                 | Residential parking                                |
| Policy T6.3                                 | Retail parking                                     |
| Policy T6.5                                 | Non-residential disabled persons parking           |
| Policy T7                                   | Deliveries, servicing and construction             |
| Policy T9                                   | Funding transport infrastructure through planning  |
| <b>Chapter 11 Funding the London Plan</b>   |  |
| Policy DF1                                  | Delivery of the Plan and Planning Obligations      |

## Mayor Supplementary Guidance

5.8 The relevant SPGS are:

- *Providing for Children and Young People's Play and Informal Recreation* (2012)
- *Accessible London: Achieving an Inclusive Environment* (2014)
- *Sustainable Design and Construction* (2014)
- *Shaping Neighbourhoods: Character and Context* (2014)
- *Accessible London: Achieving an Inclusive Environment* (2014)
- *Housing* (March 2016)
- *Control of Dust and Emissions During Construction and Demolition* (2014)
- *Homes for Londoners - Affordable Housing and Viability* (2017)

## Bromley Local Plan 2019

5.9 The relevant policies are:

- 1 Housing Supply
- 2 Affordable Housing
- 4 Housing Design
- 21 Opportunities for Community Facilities
- 22 Social Infrastructure in New Developments
- 26 Health and Wellbeing
- 30 Parking
- 32 Road Safety
- 33 Access for all
- 37 General Design of Development
- 38 Statutory Listed Buildings
- 39 Locally Listed Buildings
- 40 Other Non-Designated Heritage Assets
- 46 Scheduled Monuments and Archaeology
- 47 Tall & Large Buildings
- 48 Skyline
- 59 Public Open Space Deficiency
- 60 Public Rights of Way and Other Recreational Routes
- 70 Wildlife Features
- 72 Protected Species
- 73 Development and Trees
- 77 Landscape Quality and Character
- 79 Biodiversity and Access to Nature
- 90 Bromley Town Centre Opportunity Area
- 91 Proposals for Main Town Centre uses
- 92 Metropolitan and Major Town Centres
- 101 Shopfront & Security Shutters
- 113 Waste Management in New Development
- 115 Reducing Flood Risk
- 116 Sustainable Urban Drainage Systems
- 118 Contaminated Land
- 119 Noise Pollution
- 120 Air Quality
- 122 Light Pollution
- 123 Sustainable Design and Construction
- 124 Carbon reduction, decentralised energy networks and renewable energy
- 125 Delivery and Implementation of the Local Plan

## **Bromley Supplementary Guidance**

5.10 The relevant SPDs are:

- *Bromley Town Centre Area Action Plan (2010)*
- *Affordable Housing (2008)* and subsequent addendums
- *Planning Obligations (2022)*
- *SPG1 General Design Principles*

- SPG 2 Residential Design Guidance

## Other Considerations

- 5.11 The London Borough of Bromley's Strategic Flood Risk Assessment (SFRA) (2017) is a material consideration

## 6. ASSESSMENT

### 6.1 Proposed Land use(s) – Acceptable

- 6.1.1 The proposal would result in the loss of 5 retail units (Use Class E) amounting to around 479 sqm floorspace plus 4 residential units on the upper floors to be replaced with 131sqm flexible commercial floorspace (class E) at ground floor and 50 residential units above.
- 6.1.2 The site is outside of any retail frontages, neighbourhood centres or parades, in the Bromley Local Plan, however, being a Town Centre site a suitable mix of uses which would “*contribute positively to the vitality and viability of the Town Centre*” (BLP policy 92) is required. Under Policy 96 – *Neighbourhood Centres, Local Parades and Individual Shops* - the Council will consider the change of use of individual shops that do not fall within a neighbourhood centre or local parade where there is appropriate alternative provision within reasonable walking distance.
- 6.1.3 While the proposal will significantly reduce the commercial floorspace offer at the site (which has been in retail use), the site is well placed for alternative comparison goods retail provision within a short distance to the north of the site. As such the proposal complies with policy 96.
- 6.1.4 Being in the Bromley South Business Improvement Area (BIA) the Council will seek to manage and improve the supply of high-quality office floorspace in this location, in line with Policy 84 of the Local Plan. Improved quality, flexibility and adaptability of office space of different sizes through new office provision, refurbishment and mixed- use development is also supported by Policy E1 of the London Plan.
- 6.1.5 With regard to the potential uses of the site the proposal includes general Class E floorspace which the applicant states “*has been designed to be flexible to facilitate a range of uses encompassed under Use Class E*”. Shops, financial and professional services, cafés or restaurants, offices, research and development, industrial processes compatible with a residential area, clinics, health centres, creches, day nurseries, day centres and indoor recreation are all uses which can be carried out under Class E.
- 6.1.6 It is noted that the Transport Assessment (TA) accompanying the application does not assess the potential trip generation associated with a retail unit, stating at paragraph 6.10 that:

It is unlikely that the end occupier (if retail) will be a destination retailer and any trip is likely to be part of a linked/pass by trip. In addition, the surrounding roads are part of a CPZ and therefore will discourage visitors travelling to the site by car as there are very limited parking opportunities in close proximity to the site.

- 6.1.7 A car-free retail development in this well-connected, high PTAL location would be acceptable in planning policy terms. However, the development would only provide an area of 7sqm for the storage of commercial waste and recycling which is considered by the Council's Waste Advisor to be inadequate for a food retail shop, café or restaurant use and could lead to rubbish over-spilling from the store into the public realm. Accordingly, a condition is recommended to restrict the permitted development rights at the site and ensure that planning permission would be required for any future change of use to food retail, café or restaurant use.
- 6.1.8 Overall, the proposed flexible use is unlikely to compromise the functioning of the BIA and, as there is no office floorspace being lost, policy 84 is complied with. However, given the constraints identified above, it is recommended that, should permission be granted, the permitted development rights for the proposed commercial unit are restricted to offices (and any other functions within part (g) of Class E), non-food retail, financial or professional services, indoor sport and recreation and medical or health services. This would allow the Council to fully consider the impacts of any proposed change of use (to food retail or childcare provision) in the future.

### *Housing Supply*

- 6.1.9 London Plan Policy H1 sets Bromley's housing target at 774 homes per annum while Policy H2 requires Boroughs to pro-actively support well-designed new homes on small sites (below 0.25 hectares in size). In order to deliver this target, boroughs are encouraged to optimise the potential for housing delivery on all suitable and available brownfield sites. This approach is consistent with Policy 1 of the Bromley Local Plan, particularly with regard to the types of locations where new housing delivery should be focused.
- 6.1.10 Policy 1 also resists the loss of existing housing except where accommodation is unsuitable and incapable of being adapted for continued residential use or where the proposal meets an identified need for community facilities. This application site is a previously developed parcel of land consisting of 4 existing dwellings at 33 Masons Hill. No evidence has been provided to demonstrate that the existing units could not be adapted/refurbished for continued residential use and the loss of the existing housing would therefore be contrary to Policy 1 of the BLP.

6.1.11 Whilst quantitatively the proposal reduces the current commercial offer and would result in the loss of 4 residential units, the principle of a mixed use residential-led development providing a significant uplift in residential floorspace and Class E floorspace is supported in principle planning policy terms. Furthermore, the applicant has confirmed that all existing units on the site are privately rented, as such there would be no loss of affordable accommodation.

6.1.12 The Council's latest position in relation to Bromley's Five Year Housing Land Supply (FYHLS) was agreed at Development Control Committee on 2nd November 2021. The current position is that the FYHLS (covering the period 2021/22 to 2025/26) is 3,245 units, or 3.99 years supply. This is acknowledged as a significant undersupply and for the purposes of assessing relevant planning applications means that the presumption in favour of sustainable development will apply.

6.1.13 According to paragraph 11(d) of the NPPF in the absence of a 5 year Housing Land Supply the Council should regard the Development Plan Policies for the supply of housing, including Policy 1 Housing Supply of the Bromley Local Plan, as being 'out of date'. In accordance with paragraph 11(d), for decision taking this means where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>1</sup>; 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.

6.1.14 Footnote 7 of the NPPF (labelled as footnote 1 in this report) sets out in more detail the types of areas referred to in paragraph 11d (i), which certain policies in the Framework seek to protect. These include 'areas at risk of flooding or coastal change'.

6.1.15 The applicant has raised the matter of the Council's lack of a five-year supply of housing land and that policies most important for determining the application are out-of-date. However, the application site is within an area at risk of flooding which, in accordance with paragraph 001 Ref ID: 7-001-20220825 of the NPPG are those at risk of flooding from any

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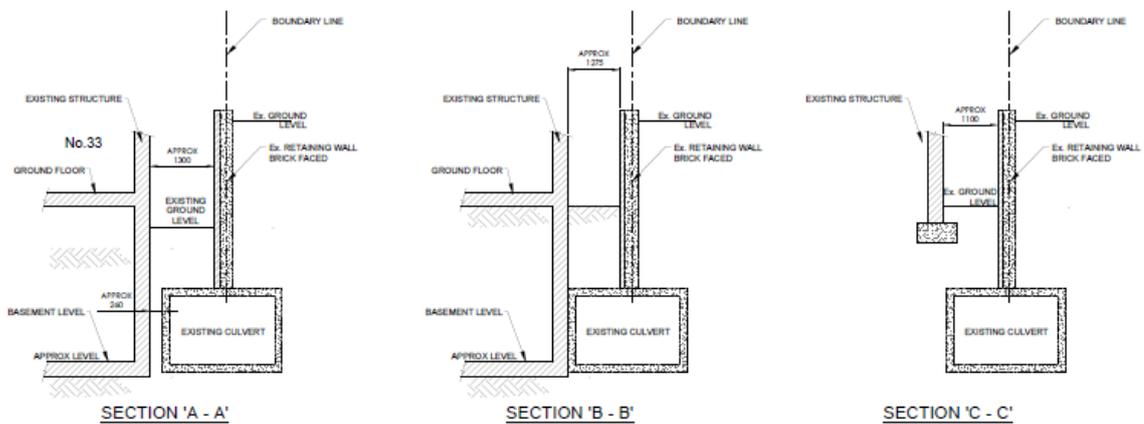
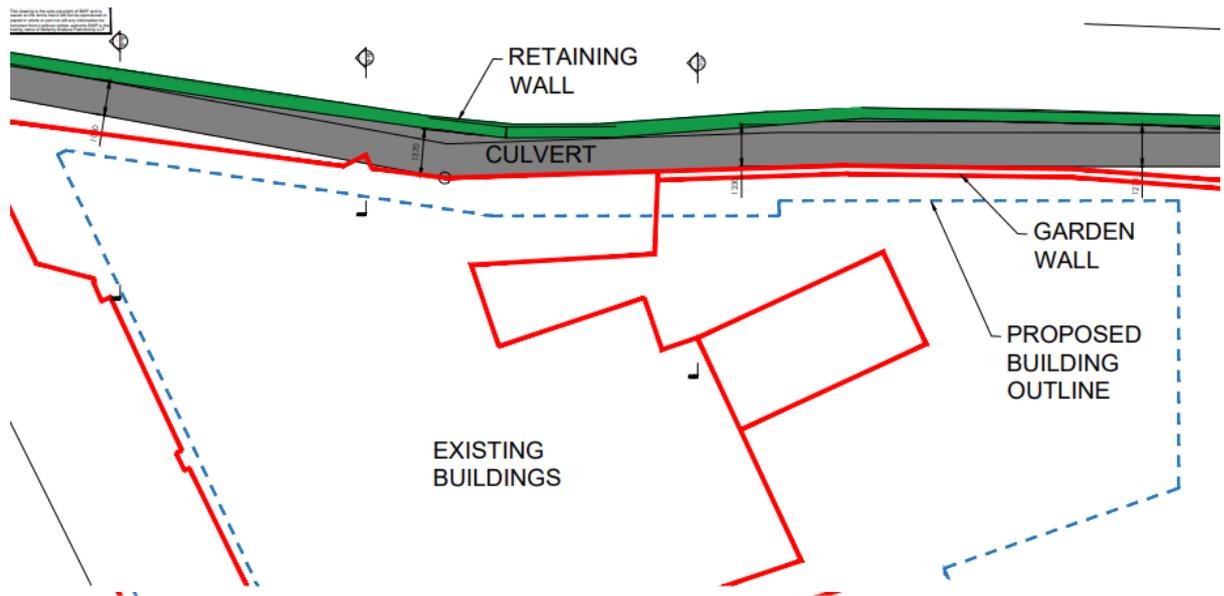
<sup>1</sup> The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

source, now or in the future. Sources include rivers and the sea, direct rainfall on the ground surface, rising groundwater, overwhelmed sewers and drainage systems, reservoirs, canals and lakes and other artificial sources. For areas at risk of river and sea flooding, this is principally land within Flood Zones 2 and 3 or where a Strategic Flood Risk Assessment shows it will be at risk of flooding in the future.

6.1.16 As discussed in the following section of the report, there is a real risk that this development could increase flood risk elsewhere and it would conflict with Flood Risk policy. The Framework at paragraph 11d) i. therefore provides a clear reason for refusing the development proposed. As such, it is not necessary to apply the approach set out in paragraph 11d) ii. of the Framework.

## **6.2 Flood Risk – Unacceptable**

6.2.1 The site is located in Flood Zone 2 which is land defined by the national Planning Practice Guidance (PPG) as having a 'medium probability' of flooding. The culverted River Ravensbourne (east branch) borders the application site and the existing buildings (33 and 35 Masons Hill), abut the culvert in some places, as shown in Figure 6:



**Fig.6 Existing building in relation to culvert**

**6.2.2 The NPPF states at paragraph 152:**

The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

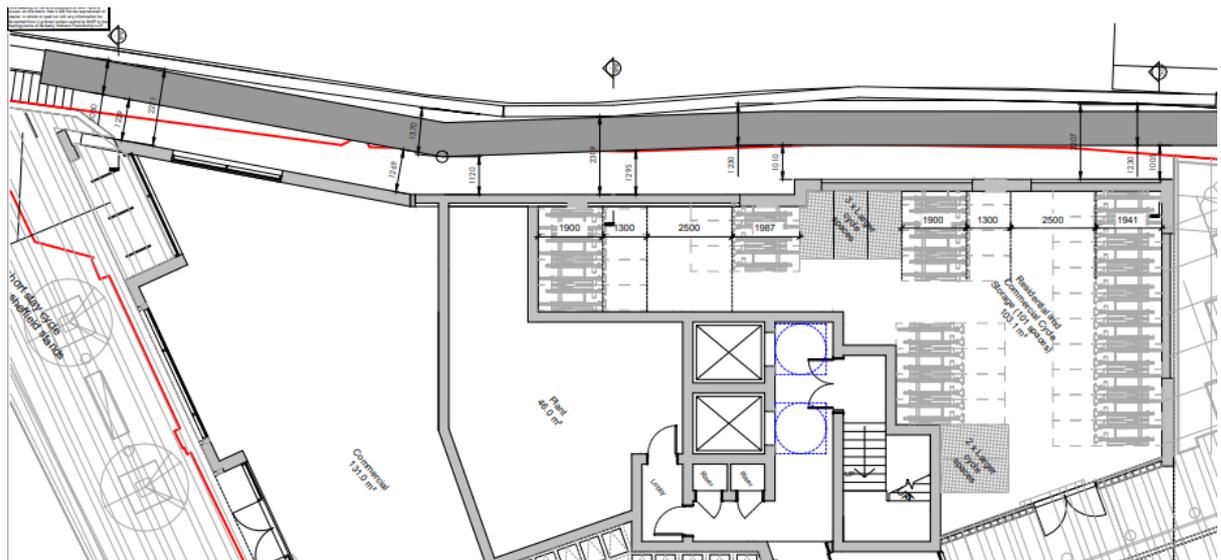
**6.2.3 The relevant planning policies are policy SI 12 of the London Plan and policy 115 of the Local Plan. The London Plan, at policy SI 12 states:**

- Development proposals should ensure that flood risk is minimised and mitigated, and that residual risk is addressed. This should include, where possible, making space for water and aiming for development to be set back from the banks of watercourses. (C)
- Development proposals adjacent to flood defences will be required to protect the integrity of flood defences and allow access for future maintenance and

upgrading. Unless exceptional circumstances are demonstrated for not doing so, development proposals should be set back from flood defences to allow for any foreseeable future maintenance and upgrades in a sustainable and cost-effective way. (F)

6.2.4 Local Plan Policy 115 states that in order to address existing flood risk and to reduce the impact of new development, the Council will: “*Work with the Environment Agency, landowners and developers, based on the findings of the most recent SFRA and other Plans, to manage and reduce flood risk from all sources of flooding*”. The London Borough of Bromley Strategic Flood Risk Assessment (SFRA) (2017) is a material planning consideration.

6.2.5 The proximity of the proposed development to the culverted River Ravensbourne is a key consideration in the determination of this application. The application drawings show that the new development would be in close proximity to the culverted river. The minimum offset between the face of the retaining wall and the proposed building elevation is 2,207mm and the minimum offset between the eastern edge of the existing culvert and the western edge of the proposed foundations and building is 1,005mm.



**Fig. 7 Proposed building in relation to culvert**

6.2.6 The Environment Agency are a statutory consultee for this application because the proposed development is in Flood Zone 2 and is within 20 metres of a main river.

6.2.7 The Environment Agency provided their initial response to the application on the 14th April 2021, objecting to the proposed development on the grounds that it involved building too close to the culverted River Ravensbourne which would restrict access to the main river culvert for essential maintenance, emergency works and future repairs to, or replacement of, the culvert structure. The Environment Agency generally require an 8m offset between the edge of built developments and main rivers, in order to avoid adverse effects on the

construction and stability of river structures, and to accommodate essential maintenance, emergency works and future repairs, or replacement, of river structures.

- 6.2.8 In response to the EAs concerns the applicant has provided a Technical Note, detailing the results of a subsequent culvert survey. This ascertained the precise location of the culvert and its retaining wall. The plans for the proposed development have also been amended to ensure that the western elevation of the building maintains at least a 1m setback from the outside edge of the culvert.
- 6.2.9 The applicant has also provided a Structural Assessment and justification to demonstrate that there would be no impact on the watercourse as a result of the development. The Structural Assessment prepared by BWP also details the engineering solution which was agreed with the EA for Phase 1 (Perigon Heights - former HG Wells site allowed at appeal under application ref 13/03345/FULL1). This included the use of a contiguous piled wall to ensure access for maintenance and future upgrade works was maintained.
- 6.2.10 The applicant is of the view that the approach adopted for the Phase 1 development should be continued for the current development and, on this basis, they consider that the structural integrity of the culvert is protected; access for maintenance is maintained; future upgrades can be achieved; and development does not increase flood risk off-site, having only 1 metre of offset to the main river culvert should be accepted. Furthermore, they have submitted 2 further drawings: a 'contiguous piled wall adjacent to existing culvert' drawing and a 'current building adjacent to existing culvert' drawing.
- 6.2.11 The Environment Agency has not disagreed with the findings of the structural assessment. However they do not consider that the abovementioned drawings alter that the proposed development will be too close to the culverted main river. Indeed, the submitted 'current building adjacent to existing culvert' drawing not only shows that the proposed development would be offset no more than 1.26 metres, but also that a greater length of building would be situated within the 8metre offset margin compared to the current development. This would result in an increase in encroachment across much of the site.
- 6.2.12 The Environment Agency state that the solution agreed for Phase 1 was wholly an exception and resulted from some inaccurate information and a misunderstanding over the exact location of the culvert while the Phase 1 scheme was being developed and also in allowing the Phase 1 development to proceed only 1 metre from the box culvert. Without this the Environment Agency would not have

permitted a building to be constructed that close to the culvert. The up-to-date information submitted with the current application has confirmed the location of the culvert and it is now certain that the proposed building will be situated too close to the culvert.

6.2.13 As with any residential-led development, the lifetime of the Phase 2 development is taken to be minimum of 100 years, in line with the national Planning Practice Guidance (PPG) ('lifetime of development' section). The Environment Agency are not aware of current defects with the culvert, but they state it is entirely possible that the structure may need major repair or renewal over the next 100 years. Space for operational access is not only required for open watercourses but equally for culverted rivers. If a building is constructed only 1 metre away from the culvert, then needed excavation and structural work could be more difficult, as a mechanical excavator could not be positioned between the culvert and the built development. It may also be impractical to situate an excavator on top of the culvert if it was in poor condition requiring strengthening or renewal.

6.2.14 The applicant is arguing that access to work on the culvert will be provided. The Environment Agency are not asserting that it would be impossible to work on the culvert with the proposed development in place. They state:

If sufficient funds and effort are invested, there are often engineering solutions. This is not a binary matter, but rather one of 'relative difficulty'. In our opinion, at only 1 metre offset, the relative difficulty of maintaining or, if needed, replacing the culvert with the development in place would be too great. For an asset of this size, a utility company would generally also seek a larger offset to preserve operational access.

6.2.15 The Environment Agency state that there are no current plans to upgrade this culvert. The requirement for space for improvements relates to the retention of flexibility to act in the future. Therefore they maintain the view that a significantly larger offset is required for maintenance and emergency access to the culvert. On this occasion, they would seek for a minimum offset of 6 metres to be provided between the proposed development and the main river culvert. However, it is noted that the EAs decisions to accept given offset distances are judged on a site-by-site and case-by-case basis, therefore cannot be universally applied.

6.2.16 The applicant's view is that there is no planning policy requirement for a larger offset to be provided. Whilst setting back development from a watercourse and flood defences is a material consideration, they ascertain "*no minimum distance for this is stipulated in policy*". As such no further amendments have been made to the application in order to provide the larger offset distance. Consequently, the Environment Agency are upholding their objection.

6.2.17 Officers acknowledge that no minimum offset is stipulated in policies SI 12 or 115, however, development plan policies are rarely prescriptive when it comes to separation distances. These finer details are more commonly picked up in SPDs or SPGs. The London Borough of Bromley Strategic Flood Risk Assessment (SFRA) (2017) is a material consideration which is referenced in policy 115 of the Local Plan. The SFRA states “...*development located adjacent to flood assets is required to demonstrate that these will be maintained over the lifetime of the development*” (paragraph 5.2.7) and specifies, at paragraph 6.6.5:

Developers must aim to set back a development from the edge of adjacent waterways in order to provide a buffer strip to “make space for water’ and allowing additional capacity to accommodate the effects of climate change ... as a minimum, development should be set back ... 8 metres from fluvial main rivers

6.2.18 No exceptional circumstances have been demonstrated for not retaining an acceptable buffer which would hinder any future maintenance and upgrades, contrary to Policy SI 12 of the London Plan. The London Plan and the Bromley Local Plan are consistent with the overarching aims of the NPPF which states at paragraph 160:

Strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.

6.2.19 The Environment Agency (also referenced in policy 115) are a statutory consultee on this application and have objected to the development, as proposed, on the grounds that it would fail to retain an acceptable, continuous unobstructed area between the culverted main river and the new development, which is an essential requirement for future maintenance and upgrading. The Environment Agency have also advised that they may be unable to grant a flood risk activity permit (FRAP) for the development proposals as submitted.

### **6.3 Design**

#### ***Layout and public realm – Acceptable***

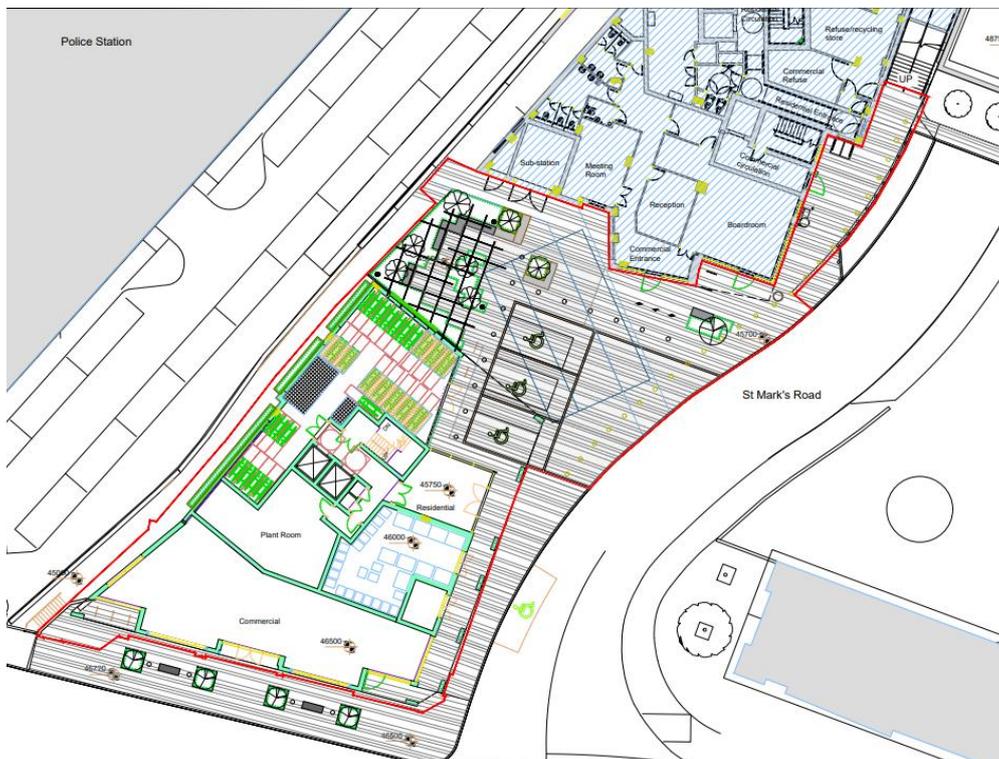
6.3.1 The proposed building is set back between 4 and 4.7m from the Masons Hill highway, compared to between 3.6 and 4m from the existing building. The commercial entrance is situated directly off Masons Hill. The proposed flats are accessed from St Mark’s Road via a residential foyer leading to a single stair core and 2 lifts. The adjoining streets will be activated by the proposed residential lobby and commercial units.

- 6.3.2 The applicant proposes a number of public realm enhancements within and outside of the red line site boundary. The opportunity to respond to Phase 1 of the development with a cohesive piece of shared public realm to help tie the two phases together along with improvements to the wider public realm to create a more human focused environment is welcomed.
- 6.3.3 The principle of a colonnade to extend the public realm is also supported given the generosity of space needed to support a building of this scale and to accommodate the increased footfall that will be generated. However, the setting back of the building from Masons Hill appears to have been reduced from earlier iterations (at pre-application stage) which featured a full wrap around colonnade. The applicant is of the view that the omission of the colonnade gives the commercial unit a more prominent frontage on Masons Hill which will maximise its commercial viability. From an urban design perspective, the suggestion that the building design/colonnade cannot be revised as it would jeopardise interest from a potential commercial occupier holds little weight. It is reasonable to assume that various different businesses will occupy the ground floor commercial space over the lifetime of the building and the success of the ground floor space would not be dependent upon interest from one particular tenant.
- 6.3.4 The applicant is also proposing 4 no. tree pits or planters, along with seating and new paving on the Masons Hill footway. Although the pavement width is sufficient for pedestrian flow it is a busy road and with all the committed and the proposed developments the trees and benches would reduce the footway unnecessarily. The Highway Authority have not objected to the trees in principle and would welcome some tree planting in this location. However, the proposed seating would be unlikely to be well used and should be omitted.
- 6.3.5 From a Highways Maintenance perspective, there is a preference for tree pits on Masons Hill, rather than trees in planters due to the initial maintenance requirements. However, the underground services would need to be identified before it can be confirmed whether tree pits are feasible. Furthermore, there needs to be a clear demarcation between the Highway and private land. The Highway land should only be made from LB Bromley's existing pallet of regularly used materials. The Council will have to maintain it at their own cost, as such it should not cost more to maintain than it would do anywhere else. The preference would be for a complete change of materials between the Highway and private land, however, the Council would not object to the same material being used on the private area as long as the border is clearly demarked.
- 6.3.6 Had the application been considered acceptable overall, a landscaping condition would be recommended through which the design for the paving, seating and trees could be revised, in consultation with the Highway Authority, once the further investigative work into the

underground services has taken place. The works impacting the Highway land would need to be secured through S278 agreement. This is in addition to a Grampian condition to ensure all of highways works are implemented prior to occupation of the development.

6.3.7 Notwithstanding the Urban Design officer's concern over the omission of the colonnade and proximity of the building to Masons Hill, overall the proposed new public realm which adopts an integrated unified approach appears to be well considered and, subject to a landscaping condition, the proposed layout and Masons Hill public realm is, on balance, acceptable.

6.3.8 Additionally, improvements made to the public realm of St Mark's Road, to the east of the site, will help to change its character from service road to 'street' to support the emerging residential-led developments and improve the street level experience. The interface with the adjacent Waitrose site is key in this regard.



**Fig.8 Proposed ground floor and public realm**

### ***Access and Servicing - Acceptable***

6.3.9 Residential and commercial refuse and recycling stores and cycle stores are also accessed directly from St Mark's Road. Waitrose Supermarket, which adjoins St Mark's Road to the east, have raised objections on the basis that the proposal has the potential to harm the operation of the neighbouring Supermarket. In particular they are concerned that the cumulative effects of servicing the proposed development on the surrounding highways network has not been robustly assessed because Waitrose has the ability to receive

deliveries by HGVs at all hours and also delivers to online customers throughout daytime and evenings. Furthermore, Waitrose are concerned over the proposed on-street disabled parking spaces on St Mark's Road and the potential conflict between HGVs servicing Waitrose, vehicles servicing the proposed development (including refuse lorries), and vehicles parked in the disabled bays.

- 6.3.10 The applicant has confirmed that the number of servicing trips associated with the development is low and can be accommodated within the loading bay adjacent to Perigon Heights. As such servicing will not be required to stop on-street. There is sufficient space for vehicles to pass one another therefore not impacting on Waitrose vehicles leaving the site.
- 6.3.11 In response to concerns raised by the Council's Waste team, one of the on-street disabled parking bays has been relocated to on-site so that there is space for a refuse lorry to park within a 10m drag distance of the proposed bin store. 3 no. disabled car parking spaces are now provided on-site leaving 1 no. on-street bay.
- 6.3.12 Vehicle tracking demonstrates that there is sufficient space to accommodate the on-street blue badge space without impacting access to the proposed bin store or the adjacent Waitrose servicing access. Waitrose however have expressed further concerns that an HGV accessing the Waitrose yard would not be able to pass a refuse vehicle that is parked on St Mark's Road, blocking access to the Waitrose service yard and potentially affecting the free-flow of traffic on Masons Hill.
- 6.3.13 The Council's Waste team have advised that once refuse and recycling collections are underway, it is likely that this issue will be encountered potentially for a 15-20 minute window twice a week:
- One for refuse (collection day Wednesday)
  - Two for paper and dry mixed recycling rotated each week (collection day Friday)
- 6.3.14 The Council's waste operatives aim to have completed most town centre collections by about 11am and the round moves to the less built up bulk domestic flats collections after this time. As such the likelihood of such a conflict taking place is anticipated to be low. Notwithstanding this a final Delivery and Servicing Management Plan, setting out measures to co-ordinate servicing activity between the development site and Waitrose in order to ensure this is appropriately managed and avoid any potential conflicts, can be secured by planning condition.

***Density – Acceptable***

- 6.3.15 The Site has an area of circa 0.1ha and therefore the proposed development has a residential density of 500 units per hectare and 1,430 habitable rooms per hectare.
- 6.3.16 The 2021 London Plan moves away from the adoption of a more prescriptive formulaic approach when determining an acceptable density on a site. Instead it seeks to ensure that developments make the most efficient use of land, with a focus on locating high density development within sustainable locations such as opportunity areas and town centres, that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling (Part B of policy D3). Where these locations have existing areas of high density buildings, expansion of the areas should be positively considered by Boroughs where appropriate.
- 6.3.17 The application site within a sustainable Metropolitan town centre location and an opportunity area. It is well-placed to access public transport and local services, including the adjacent Waitrose supermarket and the town centre shops. The surrounding area is characterised by recent higher density flatted development and lower-density flatted accommodation above the existing shops at the application site. There are also a number of commercial buildings and the low-key historical building opposite the application site.
- 6.3.18 The proposed residential density is considered an acceptable transition between the high-density development at Perigon Heights to the north-east and the lower-density context to the south. The development would optimise the site in accordance with Policy D3 of the London Plan.

### ***Scale and Massing – Unacceptable***

- 6.3.19 London Plan Policy D9 sets out the criteria against which tall and large buildings should be assessed and establish support for the development of tall buildings where they create attractive landmarks enhancing London's character. The policy recognises that tall buildings help to provide a catalyst for regeneration, where they are acceptable in terms of design and impact on their surroundings. Policy D9 further establishes that boroughs should determine where tall buildings are an appropriate form of development in Development Plans and criteria against which impact should be assessed, the height of which will vary between and within different parts of London but should not be less than 6 storeys or 18 metres measured from ground to the floor level of the uppermost storey.
- 6.3.20 Bromley's Local Plan Policy 47 sets out that proposals for tall and large buildings will be required to make a positive contribution to the townscape ensuring that their massing, scale and layout enhances the character of the surrounding area. Tall and large buildings will need to be of the highest architectural design quality and materials and be

appropriate to their local location and historic context, including strategic views. Proposals for tall buildings will be required to follow the current Historic England Guidance. The supporting text of Policy 47 states that 'Tall buildings are those that exceed the general height of their surroundings and cause a significant change to the skyline'. Much of the Borough is not considered appropriate for tall buildings due to its established suburban character. However, the plan confirms that potential may exist for tall buildings to be located in town centres which benefit from good public transport, exhibit an existing local built character that would allow for taller buildings, and where no harm would be caused to heritage assets, the wider historic environment or important views.

6.3.21 The site has not been identified as potentially suitable for a tall building in the Bromley Local Plan, as such the application conflicts with policy D9B of the London Plan and justification is required in townscape terms.

6.3.22 The local vernacular in this part of the Town Centre is lower-rise frontage buildings with the taller elements set-back, away from the road. This is evidenced well in views of the Site from the east along Masons Hill, where there is a clear pattern of *stepping-back* of the taller building elements.



Fig.9 View from Masons Hill (junction with Cromwell Ave) looking east towards site (8/9/22)

6.3.23 The design intent to mediate between the scale of the larger Phase 1 development to the north and the low-rise development to the south is supported and the stepping back of the upper floors to reduce the appearance of bulk and the visual impact on protected views is considered appropriate. However, at the front the building would be positioned in close proximity to Masons Hill and, given its eight storeys height, would dominate the street scene.

6.3.24 The alignment with the 11 storey element of the Phase 1 building creates a suitable transition, however, the Council's urban design officer considers that the 8 storey element should be reduced (by one storey) to align with the lower element of phase 1. This would reduce the step change in scale fronting Masons Hill and also the incursion of the building into the view of the Keston Ridge which is a View of local importance in the Bromley Local Plan (policy 48). Furthermore, the synergy between blocks would be more clearly emphasised particularly when viewed from the west.

6.3.25 The Design Council undertook a review of the scheme, early on in its preparation. They took the view that the height and massing of the scheme worked well and that the stepping down to eight storeys on the road is adequately sympathetic, especially given the Town centre's urban character and the trend for an emerging cluster of taller buildings here. Consequently, the applicant has not made any reductions to the height of the scheme.

6.3.26 Comments made by the Design Review Panel are independent from the Council and should be viewed *in addition* to officer's comments. The letter from the Design Council is attached at Appendix 2.



**Fig.10 CGI of proposed development as viewed from the east on Masons Hill (Design and Access Statement)**



**Fig.11 Representative view 5 – Proposed situation as viewed from the west on Masons Hill (source: TVIA, Arc, November 2020)**

6.3.27 The applicant has assessed the impact on views of the Keston Ridge in their Townscape and Visual Impact Assessment. This sets out that of the 5 views tested from the High Street to Keston Ridge (1A-1E) the development proposals would result in no effect to 1 view (1E), a minor to neutral effect on 3 views (1B-1D) and a moderate to minor adverse effect on View 1A (figures 12 and 13 below).



**Fig.12 Viewpoint 1A – High Street at junction Elmfield Road - Existing (source: TVIA, Arc, November 2020)**



**Fig.13 Viewpoint 1A – High Street at junction Elmfield Road - Proposed (source: TVIA, Arc, November 2020)**

6.3.28 The proposals therefore preserve a visual link from the High Street to Keston Ridge in at least 4 of the 5 views. The minor incursion of the proposed development into this view and the moderate to minor adverse impact as a result will be weighed into the overall planning balance in the conclusions section of the report.

6.3.29 The applicant has also provided an assessment against Policy D9C of the London Plan which sets out specific criteria to assess the acceptability of tall buildings, including their visual, functional, environmental and cumulative impacts. In summary, this confirms that the proposed scheme has been designed in accordance with Secured by Design and Building Regulations Part Q security recommendations and will function well in terms of servicing, access and access to public transport, including Bromley South Station which has step-free access and is therefore conducive for accessible users. The site is also well-placed for local amenities including the Waitrose supermarket to the east. Furthermore, the site itself will provide employment opportunities within the proposed commercial floorspace.

6.3.30 The Designing out Crime officer advises that while there is some consideration for security and Secured by Design, further consideration is required as to how the development could incorporate the aims and principle of Secured by Design to reduce opportunities for criminal activity. A Secured by Design condition is recommended on any subsequent grant of planning permission.

6.3.31 From a technical perspective, the proposed development would not interfere with aviation, navigation or telecommunication and, with the identified mitigation, the proposed development is expected to have a

suitable and safe wind microclimate for the intended use at all areas. Air quality and noise impacts are considered in the technical assessment accompanying the report, along with the cumulative impacts with other proposed, consented and planned tall buildings in the area.

### ***Materials and appearance - Acceptable***

6.3.32 The proposed design of the building is currently for a glass-fronted lower ground-floor section, with the remainder of the building being a concrete frame, with predominantly brickwork clad facades (red & white brick). This would be in keeping with the current design palate within this area of Bromley. The predominant use of glass will ensure an active frontage is retained and improved on this part of the Site, whilst adding passive surveillance to the public realm also.

6.3.33 The introduction of a green wall on the west elevation in order to increase the Urban Greening Factor is welcomed and will also improve the appearance of dead frontage from the cycle store and plant room. The longevity of the proposed south facing green wall on the 8<sup>th</sup> floor would be subject to the impact from potential micro-climate effects. A landscape management plan would be recommended had the application been considered acceptable overall.

### **6.4 Heritage impacts - Unacceptable**

6.4.1 This area comprises a cluster of historic buildings, including the Grade II Listed Former St Mark's School opposite which is a designated heritage asset, and the site proposed for demolition (33 – 41 Masons Hill). The site is not in a conservation area and 33 – 41 Masons Hill do not benefit from any statutory protection.



**Fig.14 Former St Mark's School (8/9/22)**

- 6.4.2 Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) set out the obligation on local planning authorities to pay special regard to safeguarding the special interest of listed buildings and their settings, and preserving or enhancing the character or appearance of conservation areas.
- 6.4.3 Paragraph 194 of the NPPF states that “*In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting*”. When considering the impact of a proposal on a heritage asset Local authorities are required to take into account the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) in order to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.
- 6.4.4 Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The effect of an application on the significance of a non-designated heritage asset should also be taken into account in determining the application.
- 6.4.5 Local Plan policy 38 states that applications for development involving a listed building or its setting will be permitted provided that the character, appearance and special interest of the listed building are preserved and there is no harm to its setting.
- 6.4.6 The historic buildings or heritage assets and other buildings around this site and fronting the road are mainly two or three stories in height or buffered by open green space and the area retains an attractive, visually low-key character.
- 6.4.7 In terms of the impact on the immediate site context, section 5.6 of the applicant’s Heritage Statement contains a useful description of the existing buildings at 33 – 41 Masons Hill, and paragraph 5.6.6 says:
- Regardless, the structures do retain some value in that they reflect the archetypical Victorian terraced property within the Town and good examples of the development of mixed-use properties within the town from the 19<sup>th</sup> century.
- 6.4.8 Paragraph 5.7.3 continues: “*the principle elevation for the properties are their frontages onto Masons Hill which reflects the prominence of the properties in proximity to the main thoroughfare into Bromley town Centre.*”



**Fig.15 Current relationship between 33 – 41 Masons Hill and former St Mark's school (Source: Design and Access Statement addendum)**

6.4.9 The comments received from Bromley Civic Society stating that these “*remaining Victorian shops are ‘non designated heritage assets’ which should be retained in accordance with paras 194-197 of the NPPF*” are acknowledged. Although not determinative, these buildings are not on the Council’s “local list” of buildings which, due to their architectural or historic interest, make a valuable contribution to the character of an area. LB Bromley’s conservation officer is of the view that, whilst they are of importance to the setting of the Listed Building, they should not be treated as ‘non-designated heritage assets’.

6.4.10 Notwithstanding the above, the conservation officer has raised concerns over the cumulative, negative harm of the proposed development on the setting of the Grade II Listed Building opposite. Being set forward, closer to the road and to the listed building, the conservation officer considers that this development would cause substantial harm to its setting and would be an anomaly in character terms. It is also his view that it will result in a cluster of tall buildings which will further detract from the setting of the designated heritage asset. In addition, the conservation officer has raised concerns that the development would cause substantial harm to the setting of the Bromley Town Conservation Area (which is also a designated heritage asset).

6.4.11 The setting of a heritage asset is defined in the Glossary of the National Planning Policy Framework as:

The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

6.4.12 The NPPG, at paragraph 013 explains:

The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

6.4.13 Whilst the views of the conservation officer have been taken into consideration regarding the extent of harm that this proposal would cause, it is necessary to consider the effect upon the significance of the designated heritage assets, being the Grade II Listed Building and the Bromley Town Conservation Area. Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. Under the definition provided by the NPPF which recognises three categories of harm: substantial harm, less than substantial harm and no harm. The PPG notes that in general terms, substantial harm is a high test and may not arise in many cases.

6.4.14 Historically, the setting of the Grade II Listed former St Mark's School has undergone significant change and it is now experienced as a historic survivor set within a group of taller, higher-density buildings, close to a busy junction and a heavily trafficked route into the town centre. It is appreciated that the setting will alter further as a result of the demolition of the existing terraces and re-development with a much larger form of development; however, for the reasons outlined above it is considered that this would only have a minor adverse impact on the setting of the listed building.

6.4.15 This view was also taken by the Planning Inspector when considering the impact on the Listed school building of the construction of the proposed part 4/part 10 storey building at the adjacent site, 1 Westmoreland Road:

The listed building is modest in scale and treatment. The buildings to each side are of later date, but their mid-rise scale helps to allow the heritage value of the earlier building to be appreciated. Older buildings opposite also provide a more traditional context. Therefore, I find that the building's setting makes a minor contribution to its significance (Para 52).

...the enlarged scale of the appeal proposal would significantly alter the setting. In my assessment there would be a very minor adverse effect on significance (Para 53).

6.4.16 Despite recognising there would be minor adverse harm to the significance of the listed building, the Inspector went on to conclude that the public benefits of the proposed development “*would considerably outweigh the very minor adverse effect on heritage significance*” (Para 56).

6.4.17 It is also relevant to highlight that the Design Council undertook a review of the scheme, early on in its preparation. In their comments, which should be viewed in addition to officer’s comments, they considered that the height and massing wouldn’t significantly impact the already compromised setting of the listed school:

As discussed above, we feel that the height and massing of the building is appropriate to its context. However, we feel that the design of this elevation onto Masons Hill is not yet resolved and needs to take more account of the listed school opposite. We think that the height and mass of the proposed scheme does not significantly affect the already compromised setting of the listed school. Historic England’s listing makes it clear that the school is valued as an evidential object that is a fully intact example of its kind. The building is not primarily listed as a contributor to local townscape.

Notwithstanding this, we feel that the facade treatment of the new block ought to take more account of its listed neighbour. We recommend that further thought is given to how the new building addresses the school more positively, particularly with respect to its first two stories. The new facade might take cues from the of historic building, including: proportions, facade elements, framing of the windows, use of mullions within the big window, and the setback garden. We encourage the design team to make study drawings of the historic building to help fully understand its qualities.

6.4.18 The applicant has provided further information with regard to how the development can more positively respond to the listed building. This includes the following features to address/mimic the listed building:

- Recessed glazing and set backs
- A defined hierarchy of the ground and first floor
- Central entrance doors
- Definition of five bays
- Brick piers

6.4.19 A perspective view of the 5 bay south elevation highlighting the responses to the former St Marks School building opposite is shown in figure16, below.



**Fig.16 Perspective view of 5 bay south elevation highlighting responses to St Marks School building opposite (Source: Design and Access Statement addendum)**

6.4.20 Subject to approval of the detailed materials as part of a planning condition, the design of this aspect of the development is considered acceptable. Furthermore, the proposal would not affect the structural integrity nor the architectural elegance of the listed structure opposite, which would still be able to be appreciated in the retained views along Masons Hill and from the application site itself. Accordingly, Officers consider that the development would result in less than substantial harm to the significance of the listed building.

6.4.21 With regard to the impact on the setting of the Bromley Town Conservation Area, it is noted that the conservation area boundary is some 400m away from the application site. Therefore, whilst the proposed development would be somewhat visible in views from the conservation area, as evidenced by the applicant's TVIA (viewpoint 1A, Figs.12 and 13 above), it would be viewed down the hill and at a considerable distance away from the conservation area. For these reasons it is not considered that the development would significantly detract from the setting of the conservation area and, overall, it would have less than substantial harm to the significance of designated heritage assets.

6.4.22 The NPPF makes clear that any harm to a designated heritage asset requires clear and compelling justification. *“Where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”* (Para.202).

6.4.23 The less than substantial harm to the significance of the designated heritage assets, which has been identified, will be weighed against the public benefits of the proposal in the conclusions section of this report.

## **6.5 Housing Mix and Accessible Homes – Acceptable**

6.5.1 London plan policy H10 states that schemes should generally consist of a range of unit sizes and regard should be had to local evidence of need. Local Plan policy 1 supporting text highlights findings from the 2014 Strategic Housing Market Assessment (SHMA) that the highest level of need across tenures within the Borough up to 2031 is for one bedroom units (53%) followed by 2 bedroom (21%) and 3 bedroom (20%) units. Larger development proposals (i.e. of 5+ units) should provide for a mix of unit sizes and considered on a case by case basis.

6.5.2 The application proposes the following mix:

| Housing Type   | Total     | Split       |
|----------------|-----------|-------------|
| 1 bed 2 person | 7         | 14%         |
| 2 bed 3 person | 7         | 14%         |
| 2 bed 4 person | 36        | 72%         |
| <b>Total</b>   | <b>50</b> | <b>100%</b> |

6.5.3 It would be preferable for the proposal to include a greater mix of units however clause 6 of Policy H10 does make reference to the suitability of 1 and 2 bedroom units on sites with good accessibility and clause 9 recognises the role of one and two-bed units in freeing up existing family housing. It is also noted that the proposal includes some larger, 2 bedroom 4 person units which could be capable of accommodating a small family. In this instance, the proposed unit mix is therefore considered acceptable.

6.5.4 In accordance with Policy 4 of the Local Plan and policy D7 of the London Plan at least 10 per cent of dwellings are required to meet Building Regulation requirement M4(3) 'wheelchair user dwellings'. All other dwellings should meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.

6.5.5 The Scheme proposes the delivery of 5 no. M4(3) 'Wheelchair User Dwellings' one of which will be affordable (Discount Market Rent). All remaining units should achieve M4(2) 'accessible and adaptable dwellings' standards. The M4(2) and M4(3) units would need to be secured by planning condition in any subsequent grant of planning permission. The residential apartments will also be served by 2 lifts. The planning application is accompanied a fire statement which also considers the evacuation of the accessible dwellings and confirms that one of the lifts would be an evacuation lift.

## **6.6 Affordable Housing and viability - Acceptable**

- 6.6.1 Delivering more genuinely affordable housing is a key strategic issue for London. Meeting the need for circa 43,500 affordable homes per year, as established in the 2017 Strategic Housing Market Assessment, will require an increase in affordable housing contributions from all sources.
- 6.6.2 All schemes are expected to maximise the delivery of affordable housing and make the most efficient use of available resources to achieve this objective. The strategic target for 50 per cent of all new homes delivered across London to be genuinely affordable. Where **grant or other public subsidy** is available and would increase the proportion of affordable housing, this should be utilised.
- 6.6.3 Policy 2 of the Bromley Local Plan states that in order to meet the needs of the Borough, the Council will seek affordable housing on all housing developments capable of providing 11 residential units or more or where the residential floorspace is more than 1000sqm, irrespective of the number of dwellings. Policy H4 of the London Plan is more up-to-date than Policy 2 and requires all major development of 10 or more units to provide affordable housing.
- 6.6.4 Policy H5 of the London Plan sets out the 'Threshold approach' to affordable housing which should be applied to all major developments. The threshold level of affordable housing in gross residential development is initially set at a minimum of 35% for schemes which are not on public sector land.
- 6.6.5 Policy H6 'Affordable Housing Tenure' of the London Plan specifies that the following split should be applied to residential developments: 30% for social/affordable rent; 30% for London Living Rent/London Shared Ownership; with the remaining 40% to be decided by the borough as either low cost rent (social/affordable) or intermediate units. The Local Plan requires a 60:40 (social-rented/affordable rented: intermediate) split which is consistent with Policy H6, unless it can be demonstrated that a lower level should be sought or that the 60:40 split would not create mixed and balanced communities.
- 6.6.6 The application proposes 5 Discounted Market Rent (DMR) units, provided at London Living Rent levels, equating to a 10% affordable provision by habitable room. Whilst London Living Rent is described as 'genuinely affordable' in the London Plan, as it is based on a percentage of the market rent, the higher cost of the private rented sector in Bromley means that London Living Rent levels are accordingly higher than in other Boroughs. Therefore, while cheaper than private rents they are still not accessible to those on housing waiting lists.
- 6.6.7 As this falls below the threshold level of affordable housing required by planning policy the application does not qualify for the fast-track route

set out in Policy H5 of the London Plan. As such it is accompanied by a Financial Viability Assessment (FVA2) dated Jan 2022 (by Savills) which the Council have had independently assessed by a viability consultant. The final findings of the Council's independent assessor are set out in an addendum report, by Gerald Eve, dated 15<sup>th</sup> March 2022.

- 6.6.8 The applicant's FVA2 updates the Scheme appraisal to reflect scheme updates (the total number of private residential units has remained the same, but the total square footage has decreased), as well as setting out updated inputs to the assessment between the initial FVA and subsequent discussions between the LPA, their consultants, and the applicant. It concludes that the Scheme is in a deficit position of - £3.04m, with the inclusion of 10% affordable housing and £438,000 of CIL and S106 contributions, against the Advisor's Benchmark Land Value (BLV) of £2.07m.
- 6.6.9 There are a number of assumptions in the applicant's FVA which the Council do not agree with including residential sales values, residential GDV, construction costs, professional fees, CIL / S106 and, most notably, Benchmark Land Value. The Council's findings are that the Scheme appears to generate a deficit in the order of -£995,000, including 5 Discounted Market Rent units, when compared to an updated BLV of £1.54 million.
- 6.6.10 Sensitivity analysis was undertaken by the Council's viability consultant. This shows that average sales value would have to increase by 10% alone to reach a viable position. Therefore, whilst small movements in sales values appear to indicate that the Scheme could be viable, the current market evidence does not support a level of value increase which would be sufficient to provide additional affordable housing.
- 6.6.11 In conclusion the revised Scheme generates a residual value which is below that of the BLV. Therefore, it appears that the Scheme with the inclusion of 5 DMR units and £846,000 of S106/CIL contributions is the maximum level that can be justified based on viability evidence.
- 6.6.12 Having regard to the viability of a policy compliant level of affordable housing in relation to grant funding under the GLA programme 2016-21 and the 2021-26 programme, the level of grant funding assuming a 40% affordable housing provision still does not produce a Residual Land Value (RLV) in excess of the BLV for the Scheme.
- 6.6.13 The weight of viability evidence is for the decision maker having regard to all factors involved in the application. Should the Council be minded to accept the proposals in their current form, accepting that the 5 intermediate (London living rent) units are the maximum that this development can viably provide, these will need to be secured through a Section 106 legal agreement.

6.6.14 Early and late stage review mechanisms would also need to be secured in order to test whether the scheme may become more (or less) viable in the future and whether it can provide any additional affordable housing units and/or a payment in-lieu. The figures which should be used to formulate the early and late stage review mechanisms are those as set out in the report of the Council's independent viability consultant (15 March 2022).

6.6.15 The applicant has agreed in principle to the affordable housing units being secured at London Living Rent levels through S106 legal agreement.

## **6.7 Accommodation Standards - Acceptable**

### ***Internal Layout and amenity space***

6.7.1 The proposed development has been designed to ensure that all units achieve the minimum space standards set out both within Policy D6 of the London Plan.

6.7.2 A maximum of six units are proposed per residential core which accords with the London Plan standards. The central corridor which provides access to all of the units would benefit from no natural light or ventilation, however, the Daylight/Sunlight/Internal Illuminance Analysis (Richard Staig, Dec 2020) demonstrates that the internal illuminance for the flats will be in accordance with the BRE Second Edition 2011 guidelines.

6.7.3 Whilst the efforts to minimise the number of single aspect units are noted, the oriel windows on the northern elevation to avoid potential overlooking issues appear slightly tokenistic in terms of achieving dual aspect. Having said that the applicant has confirmed that single aspect units have been kept to a minimum and the proposed floor plan seeks to maximise the number of units that are dual aspect given the highly constrained nature of the site.

6.7.4 The revised drawings, received 16.09.21 demonstrate that additional windows have been added to the south-east corner units between levels 1 and 7. Flat 01-03 has also been revised and is now a 2b 3p unit, along with the removal of the additional north facing bedroom window and reduction in balcony size which is repeated between the first and fifth floor level.

6.7.5 All habitable rooms will be provided with openable windows, in addition to any glazed doors, allowing them to be ventilated. All dwellings would have a minimum floor to ceiling height of 2.5m for at least 75% of the GIA of each dwelling.

- 6.7.6 All flats are provided with private outdoor space in the form of balconies which meet, or in many cases, exceed, the minimum space standards in the London Plan. At eighth floor 159sqm of external communal amenity space is provided. 62.6sqm of this is for general use and 97sqm is provided as play space, specifically for the under 5's. The proposed external amenity space has been designed to be clearly defined, appropriately located and useable, and will be easily accessible to all future residents. Subject to a condition requiring compliance with the measures outlined in the Wind Microclimate Assessment, this area would provide suitable and safe conditions for all users.
- 6.7.7 While 97sqm play space for the under 5's is a slight over-provision for a development of this nature when assessed against policy S4 of the London Plan, the applicant intends for provision for the older age groups to be catered for off-site. As detailed within the accompanying Design and Access Statement, there is existing provision for 5-11 play within 400m of the Site (Newbury Playground) and for 12+ play space within 800m of the Site (Bromley Park and Queens Gardens). It is proposed a financial contribution towards these existing play facilities is secured by a Section 106 agreement. In addition, the GLA have advised that the total play space provision and a mechanism to secure open access across tenures should be secured by an appropriate planning condition and a Section 106 agreement.

### ***Fire Safety***

- 6.7.8 In line with Policy D12 of the London Plan, development proposals must achieve the highest standards of fire safety and ensure that they are designed to incorporate appropriate features which reduce the risk to life in the event of a fire; are constructed in an appropriate way to minimise the risk of fire spread and provide suitable and convenient means of escape for all building users. The matter of fire safety compliance is covered by Part B of the Building Regulations.
- 6.7.9 The application is supported by a Fire Safety Statement prepared by BWC Fire Limited. BWC Fire has confirmed that the scheme includes a fire evacuation lift to BS EN 81-76 standards. The Fire Statement submitted in support of the application details a 'fire fighting lift'. It is this lift that is also the fire evacuation lift. In an emergency event, the lift operates in automatic mode to allow for evacuation until the fire service arrive who then take over the management of the lift.
- 6.7.10 Any subsequent grant of permission should be conditioned to be carried out in accordance with the measures detailed in the statement. The Fire Brigade's comments that they are unable to comment on the suitability of the proposals at this point have been highlighted to the applicant.

6.7.11 As the application was received prior to the 1<sup>st</sup> August 2021 the application did not have to be referred to the Health and Safety Executive in relation to the new Gateway One Planning regulations.

### ***Noise and vibration***

6.7.12 The application site is adjacent to a heavily trafficked road and in close proximity to the railway. In accordance with policy D13 'Agent of Change' the relationship of the proposed development to the adjacent Waitrose servicing yard should also be taken into account, including the existing plant located on the western side of the store and the 24-hour operation of the service yard.

6.7.13 A noise assessment report was completed by Clement Acoustics dated 28 April 2020, Report Ref: 15547-NEA-01 RevB. Baseline noise measurements were taken to the south (unattended noise survey, over a 47-hour period) and to east (manned noise survey) of the existing buildings.

6.7.14 The minimum sound reduction index performance for the windows, along with the required ventilation are specified in Table 7.2 of the report and should be incorporated within the buildings to meet the required internal noise environment. A condition to ensure the level of glazing and ventilation is provided in accordance with the recommendations/mitigation measures in the report is recommended.

6.7.15 The initial noise assessment by Clement Acoustic did not consider the sound insulation requirements between the residential and the commercial use on the ground floor and the plant room. The Technical Note from Clement Acoustics dated 18th June 2021 has considered the sound insulation based on the proposed commercial space below the residential having a flexible status to facilitate a range of uses encompassed in Use Class E. As the proposal is for flexible Class E use, a worse case from the perspective of noise generation i.e., a gym, has been assumed.

6.7.16 The Technical Note recommends a number of changes to the proposed sound insulation. The resulting improved construction through calculation has been demonstrated to meet the criteria for 'inaudibility' noise intrusion at the residential above i.e., NR15 within the above residential premises. The Note has indicated that the above is based on an overall limit level within the commercial space of 98 dB(A).

6.7.17 Vibration monitoring was also taken to the rear/north of the existing building, to assess any affects from the railway line. This confirms the vibration levels are below the 'low probability'.

6.7.18 Had the development been considered acceptable overall planning conditions would be required to submit details of sound insulation in

order to mitigate any potential noise effects on future occupiers of the flats. In addition to the above, flood resistant and resilient measures would also need to be incorporated into the design and construction of the development and a condition requiring details would be recommended.

## **6.8 Neighbourhood Amenity - Acceptable**

6.8.1 BLP policy 37 requires development to 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.

### ***Perigon Heights***

6.8.2 The drawings show a minimum 11m separation distance between residential balconies in the adjacent Perigon Heights to the north, and those on the north-west corner of the proposed building. However, the proposed balconies would be inset and with only a small opening facing north towards Perigon Heights. Proposed habitable room windows serving living areas and bedrooms are predominantly orientated towards the east to avoid any direct views over to the neighbouring site. A number of small, north-facing windows are also proposed, however these are shown as being obscure glazed so would not give rise to any loss of privacy, but would enable more natural light to enter the new dwellings.



**Fig.17 Proposed north elevation facing Perigon Heights**

6.8.3 In terms of visual impact, the approved floor plans for Perigon Heights also demonstrate that all potentially impacted flats in the neighbouring development would be dual-aspect; therefore, the prospect from these dwellings would not be significantly diminished as a result of the proposed tall building to the south.

6.8.4 The application was accompanied by a Daylight/Sunlight/Internal Illuminance Analysis by Richard Staig (8.12.20). This considered the effect upon daylight/sunlight to the residential elements of Perigon Heights, which, at the time the report was issued, was currently being constructed. The technical analysis of the effect of the proposals upon the current development at Perigon Heights focuses on living, kitchen and dining rooms within Flats F03, F04 & F05 on the fourth floor whose outlook is towards the proposed development. These units are considered to be the flats most affected by the proposals at 33-41 Masons Hill.

6.8.5 The technical analysis, carried out in accordance with Appendix C of the BRE Second Edition 2011 confirms that the internal illuminance for Perigon Heights remains in accordance with the guidance.

### ***Waitrose***

6.8.6 The concerns raised by Waitrose in respect of noise, construction and delivery and servicing impacts have been addressed elsewhere in this report.

### ***Bromley Police Station***

6.8.7 The proposed building would be sited at around 14m away from the five storey Metropolitan Police Station and due to their orientation, the majority of proposed flats on the western side of the building would maintain their principle outlook towards the Police Station and its curtilage. In allowing the appeal at H G Wells, the Inspector did not consider that this would result in a harmful relationship and no objections have been received from the MET Police.

### ***Statement of Community Involvement***

6.8.8 The Applicant has consulted local businesses and groups, ward councillors and residents at a public consultation event on 27th November 2019 between 4pm-8pm and was held at 39 Masons Hill (the Site). The event was advertised through both a window display on Site and invitations, delivered to local residents and businesses. A total of 25 people attended the event, 2 of which left written feedback.

6.8.9 The applicant states that the project was largely well received by those who attended, with the majority of visitors asking questions rather than voicing significant concern. In particular, there was general support for redevelopment of the site so that it is better used and more attractive. There were also comments regarding density and lack of parking. These matters have been addressed in the 'Design' and 'Highways and Transport' sections of the report.

6.8.10 Overall, officers consider that the design of the development has been well considered in terms of its relationship to neighbouring residential sites and there would be no significant loss of amenity to neighbouring residents.

## **6.9 Highways and Transport - Acceptable**

### ***Car Parking***

6.9.1 The has a public transport accessibility level (PTAL) of 6a (on a scale from 0-6b, where 6b is the highest) and is well-served by public transport. The London Plan(March 2021) at Policy T6 states that "*car-free development should be the starting point for all development*

*proposals in places that are (or are planned to be) well-connected by public transport".* Policy T6.1 (Table 10.3) sets out maximum parking standards for new residential development and policy T6.1 clearly states that these standards should not be exceeded. The maximum standards in Table 10.3 of the London Plan for PTAL 5-6 areas or Metropolitan Centres specify these areas should be car free. Being the more up-to-date development plan document, the London Plan car parking standards would take precedence over those set out in the Local Plan.

- 6.9.2 The proposed residential development is car-free apart from the provision of 3 no. disabled persons parking spaces which will be shared with the adjoining development at Perigon Heights. The principle of 'car-free' development is acceptable in this location as it accords with the adopted parking standards in the London Plan and, given the proximity of local amenities, the availability of walking, cycling and public transport options and car clubs, the proposed parking provision for the new residential development is considered acceptable.
- 6.9.3 Furthermore, the developer must offer residents 2 years annual membership of an existing Car Club in the vicinity of the site. In the first year of the car club membership, the developer will also provide the first residents a minimum of 20 hours driving time per unit.
- 6.9.4 During the public consultation concerns were raised over a lack of parking for the development which could result in cars being displaced and could, in turn, mean the elderly and those with mobility issues having to walk further. The scheme will though provide cycle parking, membership to a local car club and there will be dedicated spaces for disabled drivers.
- 6.9.5 In accordance with London plan policy T6.1 of the London Plan residential development proposals delivering ten or more units must, as a minimum:
- 1) ensure that for three per cent of dwellings, at least one designated disabled persons parking bay per dwelling is available from the outset
  - 2) demonstrate as part of the Parking Design and Management Plan, how an additional seven per cent of dwellings could be provided with one designated disabled persons parking space per dwelling in future upon request as soon as existing provision is insufficient. This should be secured at the planning stage.
- 6.9.6 The total residential units provided by Perigon Heights and the proposed development is 102. Three disabled persons parking bays equates to 2.9% of the total number of units across both the sites. Furthermore, given the constrained nature of the site and the planned amenity space, landscaping and public realm enhancements in the area between Perigon Heights and the site there is no space to provide

a further 7% if required at a later date. Whilst this is technically contrary to policy T6.1, given the proximity of the site to step-free public transport links and to local amenities and shops, on balance, this is considered acceptable.

- 6.9.7 One further disabled persons parking spaces is provided for users of the proposed commercial unit which accords with policy T6.5 of the London Plan. The laying out of the on-street bay which is outside of the red line site boundary will need to be agreed with the Highways Authority through S278 agreement and secured through Grampian condition. A full Travel Plan should also be secured by condition in line with policy T4 of the London Plan.
- 6.9.8 All residential car parking spaces must provide infrastructure for electric or Ultra-Low Emission vehicles. At least 20 per cent of spaces should have active charging facilities, with passive provision for all remaining spaces. All four parking spaces will be provided with electric vehicle charging points. One of these points would be provided within the footway adjacent to the proposed spaces on St Mark's Road. Electric charging points on Highways must be in agreement with the Highway Authority (through S278) before any works is permitted to proceed. The applicant must be made aware that all cost of the works on the highway will be at their expense.

### ***Trip Generation***

- 6.9.9 The Transport Assessment (TA) accompanying the application predicts that the 50 units will generate 29 and 21 two-way person trips in the AM and PM peak respectively. In order to determine the likely multi modal split of future residents of the proposed development, reference has been made to the 'Method of Travel to Work' data within the 2011 Census for the Output Area 'Bromley 018B'. The person trips have been factored having regard to the 2011 Census data, whilst accounting for the 'car-free' nature of the proposal.
- 6.9.10 The findings in the TA indicate that the proposals are likely to result in a total of 16 and 12 two-way rail movements in the AM and PM peaks respectively, which constitute the biggest proportion of the total number of trips. The applicant advises that these trips need to be taken in the context of the frequency of trains from Bromley South station (17 services an hour from Bromley South station to London Victoria and London Blackfriars as well as 19 services an hour from the station to other destinations such as Sevenoaks and Orpington).
- 6.9.11 Based on these findings the TA concludes that the increases in person trips are unlikely to result in any capacity issues of the sustainable transport networks and will be spread across a number of different methods of travel.

6.9.12 The proposed trips associated with office use for the commercial unit have been investigated. The TA concludes that an office use would generate 6 and 7 two-way person trips in the AM and PM peak respectively. As these trips would be distributed across the different modes of transport available in close vicinity of the site, it concludes that the impact would be negligible. The findings of the TA have not been disputed by the Highways Authority.

### **Cycle Parking**

6.9.13 99 no. long-stay and 2 no. short-stay cycle parking spaces are proposed to support the residential units. 2 long-stay spaces and 10 short-stay spaces are proposed to support the commercial element of the proposal. This is acceptable and meets the requirements of policy T5 of the London Plan. The short stay spaces will take the form of Sheffield stands outside of the commercial entrance on the Masons Hill frontage. It is noted that two of the short-stay Sheffield stands to support visitors of residents have been relocated to be closer to the main residential access point (within 15 metres). This is considered an improvement on the previous arrangement.

6.9.14 The long-stay cycle parking will all be provided internally, at the ground floor of the proposed building. Following TfL's comment that the cycle parking does not comply with the London Cycling Design Standards (LCDS), a number of revisions to the cycle storage arrangements have been undertaken, including the provision of 5 spaces for larger cycles. The larger spaces will be 1m x 2m in dimension, with the Sheffield stand to be located along on of the long sides of each space. There will therefore be a spacing of 1m between the spaces in accordance with the LCDS. The shared residential / communal cycle store will be securely managed and the entrance to the residential lobby will include an electronic fob system to restrict access just to residents. The cycle parking is considered acceptable in principle, subject to the final details being submitted as part of a planning condition.

### **Construction impacts**

6.9.15 The application is accompanied by a Construction Management Plan (CMP) which suggests that delivery vehicles will use the 'offload area' when servicing the site (shown in figure 2 below), and that *'off-loading of vehicles within St Marks Road will not be permitted unless prior consent has been agreed with the adjacent Waitrose store'*.

6.9.16 Waitrose Ltd have raised concerns over a potential conflict between any disabled resident in occupation at Perigon Heights prior to the construction of the site being finished and longer articulated vehicles which may not be able to access the allotted 'offload area' within the bay, potentially having to use St Mark's Road to offload material and subsequently blocking access into the Waitrose yard. Waitrose has requested that the recommendation within the CMP, to not allow off-

loading of vehicles within St Marks Road unless prior consent has been agreed with the adjacent Waitrose store, is enforced through a suitable condition to ensure that any potential impact of the development on the servicing of the Waitrose store is mitigated. It is not considered that such a condition would meet the tests in the NPPG as it would not be necessary to make the development acceptable. Instead, the construction/delivery arrangements are dealt with through the Construction Management Plan, which would form part of any approval subsequently granted.

6.9.17 A draft Construction Logistics Plan (CLP) and a draft Delivery and Servicing Plan (DSP) have also been provided. Detailed versions of the CLP, CMP and DSP should be secured by condition in line with policy T7 of the London Plan. The detailed comments raised by TfL can therefore be dealt with at this time.

### ***Highways and public realm contributions***

6.9.18 The provision of 50 new residential units and the additional commercial floorspace would result in additional pressure on the public realm and an increase in visitor footfall to the town centre. The development will also be 'car-free', meaning the majority of trips will be by walking, cycling or public transport.

6.9.19 Financial contributions towards some minor pedestrian and public realm improvements in order to enhance the walking route to the town centre and Bromley South station, along with a financial contribution to link the site to both the Bromley - Lower Sydenham and A21 cycle routes, are therefore considered appropriate. This could include the widening of a nearby pedestrian refuge and raised kerbs to two bus stops in the vicinity of the site, thereby improving access for all bus users including disabled people.

6.9.20 Policy justification for such contributions is provided by Policy T2 'Healthy Streets' of the London Plan and Policies 33, 34 and 125 of the BLP and the Council's Planning Obligations SPD (June 2022) which, amongst other things, require development to provide for the infrastructure, facilities, amenities and other planning benefits that are necessary to support and serve a development and contribute towards the cost of implementation of the strategic transport schemes.

## **6.10 Environmental Health: contamination, air quality and construction - Acceptable**

### ***Contamination***

6.10.1 The site lies within Source Protection Zone 2 (SPZ2) and in close proximity to the buffer of SPZ1 (approximately 17 metres to the west) which is associated with the Shortlands pumping station to the north west.

- 6.10.2 The submission has been supported by a Phase 1, Non-Intrusive Desk Top Study by Risk Management Ltd., (Report No. RML 7168), November 2019 and a recommendation for phase 2 assessment, site investigation and remediation strategy. The submitted desk study report has identified a potential risk to controlled waters and recommends further investigation (non-targeted sampling) to ascertain whether any contamination may be present.
- 6.10.3 The submitted desk study report is accepted, in principle, as being in line with relevant guidance for the redevelopment of a contaminated site, with regard to issues of concern to the Environment Agency. The submitted desk study report has identified a potential risk to controlled waters and recommends further investigation (non-targeted sampling) to ascertain whether any contamination may be present. A contamination condition requiring further investigation and remediation, in accordance with the recommendations in the report, would be recommended in the event that permission was granted.

### ***Air quality***

- 6.10.4 A revised Air Quality Assessment has been provided produced by SRL, dated 27 May 2020 Report Ref: 30823-SRL-RP-YQ-02-S4-P1. The report has stated that the report 'looks at the air quality conditions around the site to assess the potential impact of construction and development-generated traffic on local air quality, as well as the air quality conditions within the site that new residents will be exposed to.'
- 6.10.5 Within these documents, benchmarks have been provided in relation to building and transport emissions, together with a methodology for calculating the building and transport related emissions for a particular development.
- 6.10.6 There will be no gas utilised on site, with all heating and hot water provided by electric air source heat pumps. As such, the air quality neutral assessment for building emissions was low and met the standard. The total transport emissions when compared to the transport Emissions Benchmarks was also considered air quality neutral.
- 6.10.7 The scheme is car-free (except for the provision of disabled parking bays) and proposed the use of Air Source Heat Pumps for heating, which will limit any overall air quality affect. Based on the modelled results the impacts from the scheme are considered to be low and the levels of exposure for the future residential occupiers are within all the current statutory health limits.
- 6.10.8 Given the nearness of the busy road some NO<sub>x</sub> filtration of the ventilation system should be included to reduce the internal build-up of Nitrogen Dioxide internally and/or where possible ventilation openings

are to be avoided on the front elevations with the provision of openings at the roof or ducted to the least exposed elevations.

### **Construction Impacts**

6.10.9 The Air Quality Assessment report also considers the impact of construction traffic from the scheme, again showing a 'negligible' impact in terms of air quality. The proposed development however is a medium risk for dust soiling and for human health effects and mitigation measures are proposed which should be employed to reduce the risk of air quality impacts during the construction phase of the proposed development. A condition recommending compliance with the measures set out in the air quality assessment during the construction phases is recommended.

6.10.10A revised Construction Management Plan has been provided, which incorporates the necessary changes requested by the Environmental Health Officer. The Plan has referenced and included the mitigation details presented in the Air Quality Assessment. It has also provided sufficient detail in relation to noise control measures, details on NRMM and provided a plan to show the nearest premises to the site.

6.10.11 The applicant has confirmed that Perigon Heights development is practically complete in Autumn 2020 and therefore there will be no overlap of the construction period. Had the development been considered acceptable overall, a more detailed Construction Management Plan to address TFLs outstanding concerns should be submitted as part of a planning condition. A Non-Road Mobile Machinery (NRMM) condition would also be recommended.

6.10.12 In order to mitigate disturbance to nearby residents, demolition and construction hours will need to be restricted to 0800 to 1800 hours Monday to Friday and 0800 to 1300 hours on Saturdays. No noisy works will be permitted on Sundays or Public Holidays. Separate enforcement powers are available to this Department in this regard under the provisions of section 60 and 61 of the Control of Pollution Act 1974.

### **6.11 Energy and Sustainability - Acceptable**

6.11.1 The London Plan Policy SI2 – Minimising greenhouse gas emissions - states that Major development should be net zero-carbon, reducing greenhouse gas emissions in accordance with the energy hierarchy:

- 1) be lean: use less energy and manage demand during operation
- 2) be clean: exploit local energy resources (such as secondary heat) and supply energy efficiently and cleanly
- 3) be green: maximise opportunities for renewable energy by producing, storing and using renewable energy on-site
- 4) be seen: monitor, verify and report on energy performance.

6.11.2 Major development proposals should include a detailed energy strategy to demonstrate how the zero-carbon target will be met within the framework of the energy hierarchy.

6.11.3 A minimum on-site reduction of at least 35 per cent beyond Building Regulations is required – Of the 35% residential development should achieve 10 per cent, and non-residential development should achieve 15 per cent through energy efficiency measures. Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, any shortfall should be provided, in agreement with the borough, either:

- 1) through a cash in lieu contribution to the borough's carbon offset fund, or
- 2) off-site provided that an alternative proposal is identified and delivery is certain.

6.11.4 Development proposals referable to the Mayor should calculate whole life-cycle carbon emissions through a nationally recognised Whole Life-Cycle Carbon Assessment and demonstrate actions taken to reduce life-cycle carbon emissions.

6.11.5 Policies 123 and 124 of the 2019 Bromley Local Plan are consistent with the strategic aims of the London Plan energy policies.

6.11.6 In 2019, the London Borough of Bromley approved a ten-year plan to ensure that the Council will have net zero emissions by 2029. The commitment is one of the most ambitious targets of any London borough. Work to move towards the net zero emission target will include tree planting, an energy efficiency programme, expanding renewable energy and LED street lighting, and other initiatives.

6.11.7 In response to comments made by the GLA in their Stage 1 report, the applicant has submitted a revised Energy Statement produced by XC02 for Cobalt Ltd (Sep 2021) and a Whole Life-Cycle Carbon Assessment (dated 27/08/21). A condition requiring submission of a post-construction assessment on the development's actual WLC emissions, must be secured.

6.11.8 Addressing the "Be Lean" element of the policy, the applicant is proposing a number of energy efficient measures including higher performance insulation, low air tightness levels, efficient lighting and energy saving controls for space condition and lighting. As part of the "Be Lean" approach, London Plan Policy S14 also requires development to minimise adverse impacts on the urban heat island effect through design, layout, orientation, materials and the incorporation of green infrastructure.

6.11.9 Given the buildings' proximity to a busy roads, there may be issues with openable windows due to associated noise and air quality concerns. As such the applicant is proposing both passive and active

design measures including external shading elements (such as set-back balconies) and mechanical ventilation.

6.11.12 The applicant has undertaken an Overheating Analysis to assess the overheating risk. All habitable rooms within the proposed development were found to meet the CIBSE TM59 overheating risk assessment criteria for the London Weather Centre DSY1 future weather data set through provision of solar control glazing and passive natural ventilation via openable windows.

6.11.13 In order to satisfy the “Be Clean” element of the energy hierarchy, the applicant is proposing a communal heat network supplied by a centralised energy centre. The applicant has also carried out an investigation as to whether there are any existing or planned district heating networks within the vicinity of the proposed development. The Council’s Energy Officer has advised that he is not aware of any planned district heating networks in the area. The GLAs comments regarding the applicant providing a commitment that the development is designed to allow future connection to a district heating network are noted. Drawings demonstrating how the site is to be future-proofed for a connection to a district heating network can be provided as part of a planning condition.

6.11.14 In order to address the ‘Be Green’ element of the policy, the energy assessment identifies photovoltaics and air source heat pumps as suitable renewable energy technologies for the development. The applicant has provided a detailed roof layout demonstrating that the roof’s potential for a PV installation has been maximised. Heat pumps are proposed in the form of a (centralised) ASHP system.

6.11.15 After implementation of the three-step Energy Hierarchy the estimated regulated CO2 savings on site are 54.6% for the domestic part and 42.6% for the nondomestic part of the development against a Part L 2013 compliant scheme with SAP10 carbon factors. Therefore, the total carbon offset payment which will be payable to the Council is **£66,670** which will need to be secured via a S106 legal agreement.

6.11.16 The energy assessment acknowledges the requirement for monitoring and reporting on carbon performance, as required by the “Be Seen” element of the policy and proposes a metering strategy to allow for the measure of energy consumption during the operation of the building, including the renewable energy from the solar PV. Had the application been acceptable overall, a ‘Be-Seen’ monitoring condition would be recommended.

### ***Circular Economy***

6.11.17 In accordance with London plan policy SI 7 Referable applications should promote circular economy outcomes and aim to be net zero-waste. The applicant has submitted a Circular Economy Statement

which the GLA will need to review as part of their Stage 2 consultation and conditions would be required.

### ***Construction Waste Management***

6.11.18 In accordance with Policy 113 of the Local Plan Major development proposals will be required to implement Site Waste Management Plans to reduce waste on site and manage remaining waste sustainably. A Site Waste Management plan will be required as part of a pre-commencement planning condition with the aim of reducing waste during demolition and construction.

### ***Water efficiency***

6.11.19 The proposed development will target a water efficient target of 105 l/p/d for the non-residential uses on site through installation of water efficient sanitary fittings and appliances. This will need to be secured through planning condition.

### ***Sustainable Urban Drainage***

6.11.20 The application is accompanied by a Flood Risk Assessment (FRA) and surface water drainage assessment. The FRA acknowledges that the site located in an area shown to be at risk of surface water flooding. The FRA adequately assesses the risk of flooding from fluvial, sewer, groundwater, and reservoir flooding. When taking into account mitigation measures, the risk is considered to be low.

6.11.21 An updated drainage strategy by Bellamy Wallace Partnership – issue 06 (June 2021) has been provided, containing additional information to assess the risk of surface water flooding and details of how surface water will be managed in the form of attenuation tanks and SuDS, including additional SuDS features such as:

- An increase in the amount of permeable paving to include the areas around the soft landscaping
- Inclusion of bioretention planters for planting around the outside of the landscaped area

6.11.22 Given that there is no intention to discharge to ground, the Environment Agency have no comments on the drainage scheme from a groundwater protection perspective.

6.11.23 The proposed foul water drainage system is to connect to the existing Thames Water sewer. Thames Water have not objected to the proposals on the basis of waste-water network, water network infrastructure capacity or sewage treatment works infrastructure capacity, however conditions and informatives regarding piling, the nearby public sewers and nearby water mains are recommended.

## 6.12 Green Infrastructure and Natural Environment - Acceptable

- 6.12.1 Green infrastructure should be planned, designed and managed in an integrated way to achieve multiple benefits. Policy G5 of the London Plan 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), green roofs, green walls and nature-based sustainable drainage.
- 6.12.2 Part B of Policy G5 says Boroughs should develop an Urban Greening Factor (UGF) to identify the appropriate amount of urban greening required in new developments. The UGF should be based on the factors set out in Table 8.2, but tailored to local circumstances. In the interim the Mayor recommends a target score of 0.4 for developments that are predominately residential and 0.3 for predominantly commercial development.
- 6.12.3 The applicant is proposing an extensive biodiverse green roof (236sqm), standard trees and perennial planting and a 87sqm green wall/ comprising a modular system or climbers. This will result in a Urban Greening Factor score of 0.35 which equates to 85% of the 0.4 target for residential in the London Plan. While it is considered that a higher score could potentially be achieved using intensive planting substrate or additional tree planting, given the need for this development to balance the provision of public amenity with 'urban greening' measures, on balance, the measures proposed to achieve 85% of the London Plan target for residential and above the target for commercial are considered acceptable. A condition is required to secure details of the green wall, green roofs and site-wide landscaping.
- 6.12.4 London Plan Policy G6 states that proposals that create new or improved habitats that result in positive gains for biodiversity should be considered positively. Policy G6 Part D further advises that *"Development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain. This should be informed by the best available ecological information and addressed from the start of the development process."*
- 6.12.5 Policy 72 of the Local Plan states that 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.
- 6.12.6 The supporting information with the application includes a Preliminary Ecological Assessment (PEA) which concludes low ecological value of the site and an accompanying bat emergence survey. GiGL records suggest only stag beetle records at the site, and in fact a stag beetle was observed during the bat emergence survey.

6.12.7 The emergence survey, undertaken on the 20th May 2020, confirmed the likely absence of roosting bats in the buildings. Low levels of foraging and commuting behaviour were however observed, with two passes by common pipistrelle (*Pipistrellus pipistrellus*) recorded. No mitigation actions in relation to roosting bats are required, however, in accordance with planning policy and good practice, measures to enhance the site for both roosting and foraging bats are described in section 5 of this report. These measures include:

- Bat-sensitive lighting regime following guidance from The Institute of Lighting Professionals and Bat Conservation Trust<sup>2</sup>;
- Provision of integrated bat boxes into the fabric of the new building, suitable for summer roosting; and
- Wildlife-friendly landscaping to enhance the site as a foraging and commuting resource, including provision of ground level soft landscaping, vertical greening and biodiverse roofs.

6.12.8 With roosting bats confirmed as likely-absent, the development is predicted to have a negligible impact upon roosting bats. Furthermore, the enhancements measures to be implemented will likely result in the development providing long term positive impacts for bats at a local scale, as well as providing an increase in biodiversity value.

6.12.9 The application was also accompanied by a Biodiversity impact assessment (Greengage, April 2021) which concludes that the proposals stand to result in a net gain of 0.05 biodiversity units associated with area-based habitats compared with pre-development value. This is equivalent to a total net increase of 46.81% in ecological value. This is compliant with local and national policy as well as exceeding the Government's emerging 10% biodiversity net gain aspiration. The net gain is achieved solely by the use of a mixed extensive/intensive green roof.

6.12.10A more detailed scheme of biodiversity enhancements, which should include the use of Swift Bricks, along with the enhancement and mitigation measures outlined in the bat emergence survey report, should be conditioned, along with a separate lighting condition. Any site clearance (including trees and vegetation) should be restricted to months outside of the bird nesting season.

## **6.13 Other Issues**

### ***CIL and S106***

6.13.1 The London Borough of Bromley Community Infrastructure Levy (CIL) proposals were approved for adoption by the Council on 19 April 2021, with a date of effect on all relevant planning permissions determined on and after 15 June 2021. The Mayor of London's CIL is also a material

consideration. CIL is payable on this application and the applicant has completed the relevant form.

6.13.2 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

6.13.3 BLP Policy 125 and the Council's Planning Obligations SPD (June 2022) state that the Council will, where appropriate, enter into legal agreements with developers, and seek the attainment of planning obligations in accordance with Government Guidance.

6.13.4 Planning obligations, in the form of section 106 agreements and section 278 agreements, should only be used where it is not possible to address unacceptable impacts through a planning condition.

6.13.5 The applicant has identified the following Heads of Term for this application:

- Affordable Housing
- Highways and Transport
- Education
- Local Labour and Employment
- Play

6.13.6 It is noted that the applicant has included 'Education' as a potential Head of Term, however, Education infrastructure is captured by the Council's Local CIL charging schedule and therefore should not be repeated as an obligation.

6.13.7 Notwithstanding the applicant's suggested Heads of Term, the Council has identified a number of planning obligations which it considers necessary to mitigate the impacts of this development, the reasons for which have been set out in this report. These are identified in Table 7. Officers consider that these obligations meet the statutory tests set out in Government guidance.

6.13.8 Whilst the applicant has agreed in principle to the proposed heads of term, they have not submitted a draft legal agreement. As such, should Members be minded to refuse the application as recommended, an additional reason for refusal relating to the lack of acceptable planning obligations is suggested.

## 7. Conclusion

- 7.1 The provision of 50 high quality new homes, resulting in a net gain of 46 homes, (at least 5 of which will be affordable, 5 will be wheelchair user dwellings and the remainder accessible and adaptable dwellings) on a small, brownfield site in a highly accessible metropolitan town centre location, along with 131sqm of flexible commercial floorspace is supported, in principle, in strategic land use terms. The development would make a significant contribution to the Borough's housing target.
- 7.2 The development also involves notable public realm enhancements, within and outside of the red line site boundary and significant ecological enhancements. Furthermore, it would be required to contribute towards improvements to the local pedestrian and cycling environment, ensuring ease of access for all in line with the Mayor's Healthy Streets Approach. On balance, it is therefore considered that the limited harm to the significance of the designated heritage assets (to which great weight is given), the harm to the visual amenities of the street scene resulting from the overall scale of the development fronting Masons Hill and the minor adverse impact on views of the Keston Ridge, would be clearly outweighed by the public benefits of the development. Furthermore, it is not anticipated that granting permission would adversely affect the objectives of the public sector equality duty.
- 7.3 Notwithstanding the above, the development, as proposed, would fail to retain an acceptable, continuous unobstructed area between the culverted main river and the footprint and foundations of the development which is an essential requirement for future maintenance and upgrades. Consequently, the Environment Agency have sustained an objection to the proposal.
- 7.4 The 'golden thread' through the NPPF, London Plan and the Local Plan is balancing and seeking positive gains for the economic, environmental and social well-being of the Borough. For the reasons set out in the report, officers are of the view that the proposal is contrary to the London Plan, the Bromley Local Plan and the overarching objectives of the NPPF in relation to planning and flood risk. Therefore, whilst it is the case that the Council cannot currently demonstrate a five-year housing land supply, meaning that the housing policies of the development plan are regarded as 'out-of-date', in this instance it is not necessary to apply the approach set out in paragraph 11d) ii. of the National Planning Policy Framework because the Framework, and other material considerations, provide a clear reason for refusing the development.
- 7.5 The application is therefore recommended for refusal, subject to any direction by the Mayor of London.

7.6 Given the Environment Agency's objection, if members are minded to approve the application, contrary to the officer's recommendation, it will be necessary to consult the Secretary of State first. He will then decide to either "call-in" the application for his own determination or allow the Council to issue the permission.

**RECOMMENDATION      REFUSE SUBJECT TO ANY DIRECTION BY  
THE MAYOR OF LONDON**

**Reasons for refusal:**

- 1. The proposed building and its foundations would be in too close proximity to the culverted River Ravensbourne, failing to provide an acceptable buffer to facilitate work on the culvert structure, including emergency works, maintenance, upgrades and repairs. The development would therefore be contrary to the London Borough of Bromley's Strategic Flood Risk Assessment (SFRA) (2017), Policy SI 12 of the London Plan, Policy 115 of the Bromley Local Plan and the overarching objectives of the NPPF.**
- 2. An acceptable planning obligation for provision of the affordable housing, early and late-stage affordable housing viability reviews, car club membership and the payment of carbon off-set, highways, public realm and play space contributions and monitoring and legal costs has not been entered into. The application is thereby contrary to Policies DF1 of the London Plan (2021) and 125 of the Bromley Local Plan (2019), and Bromley Planning Obligations Supplementary Planning Document (June 2022).**

**Informative**

**CIL liable  
Flood Risk Activity Permitting (EA)  
Waste to be taken off-site (EA)**