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| Committee Date | 23 rd November 2023 | Agenda Item: |
| Address | Cyphers Indoor Bowling Club Kings Hall Road Beckenham BR3 1LP | |
| Application number | 21/05715/FULL1 | Officer: Jessica Lai |
| Ward | Penge and Cator | |
| Proposal (Summary) | Demolition of existing buildings, erection of a part one, part two storey building to provide a day nursery, erection of a 3 storey building to provide 18 residential units with associated play space, hard and soft landscaping, car parking and ancillary works (Revised scheme). | |
| Applicant | | Agent |
| Fennies Day Nursery Ltd (FAO Agent) | | Mark Batchelor 4TY Planning Ltd Gainsborough House, 59-60 Thames Street Windsor SL4 1TX |
| Reason for referral to committee | Link applications over 20 residential units | Councillor call in No |

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|-----------------------|---------------------------------------|
| RECOMMENDATION | Planning permission be refused |
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|---|
| Metropolitan Open Land Green Chain Smoke Control SCA 25 Biggin Hill Safeguarding Area London City Airport Safeguarding |
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| Existing and proposed use and floor area | | | |
|---|-------------------|--|----------------------------|
| Use | Existing | Proposed (approximately by square metres) | Difference (+ or -) |
| Residential | N/A | 1,299sq.m | (+)1,299sq.m |
| Indoor bowls | 978sq.m | N/A | (-) 978sq.m |
| Nursery | N/A | 883.4 sq.m (This excludes the 1 st floor staff garden 102. 5sq.m and all other nursery play areas) | (+) 883.4 sq.m |
| TOTAL | 978m ² | 2182.4m ² | + 1204.4m ² |

| | |
|--|-------------------------------------|
| Electric Vehicle charging point | 2 Active spaces 9 Passive spaces |
|--|-------------------------------------|

| Vehicle parking | Existing number of spaces | Total proposed including spaces retained | Difference in spaces (+ or -) |
|------------------------|----------------------------------|---|--------------------------------------|
| Standard car spaces | 10 and a garage | 2 for nursery 9 for residential | 0 |
| Disabled car spaces | 0 | 2 residential 0 for nursery | +2 |
| Cycle | N/A | 35 for residential 30 for nursery | +65 |

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|-------------------------------|---|--|--|
| Representation summary | Neighbour letters were sent on 03.05. 2023; Neighbour consultation letters were sent on 24.02.2023; Site notice was placed by the applicant. The application was also advertised in the press in the News Shopper on the 11 th May 2022. | | |
| Total number of responses | 118 | | |
| Number in objection | 88 | | |
| Number in support | 27 | | |
| Number of comment | 3 | | |

SUMMARY OF KEY REASONS FOR RECOMMENDATION

- This is a full planning permission for the redevelopment of a vacant and former indoor and outdoor bowls site which is located on Metropolitan Open Land and land and subject to flood risk. A link application at No. 62 Kings Hall Road for the conversion of a nursery to 4 flats should be considered and determined simultaneously.
- The Development plan which Bromley Local Plan forms part of, sets out the planning requirements to ensure that development of a right scale happens in the right place. Whilst the proposal would provide additional nursery spaces and housing which would contribute to the Council's current 3.38 years housing supply and aim to meet the needs of the Borough, the proposed development does not fall within any exceptions as defined under paragraph 149 of the National Planning Policy Framework and in the Bromley Local Plan. The proposal including the introduction of substantial buildings on Metropolitan Open Land (MOL) is considered to be inappropriate development and harmful to the visual and openness of the MOL. The benefit of the proposal is limited and does not contribute to very special circumstances (VSC) or outweigh its harm.
- The site is subjected to flood risk (Flood Zone 2) and the proposed uses are both categorised as "More Vulnerable" uses by the Environment Agency and NPPF. Irrespective of the result of any flood risk assessment, inappropriate development in areas at risk of flooding should be avoided by directing development to lower risk areas. The proposal has failed to demonstrate there are no reasonably available alternative sites at lower risk of flooding (sequential test) to accommodate the proposal. In line with the National Planning Policy Framework and Planning Practice Guidance, the absence of a 5YHLS is not relevant in sequential test. Footnote 7 of the NPPF defines this flood risk site as "protected area", the presumption of sustainable development does not trigger in this case under paragraph limb (i) of the NPPF and permission should be refused in line with the Development Plan.
- The proposal represents an over-intensive development as the proposed nursery building would be sited behind the proposed residential building with a nursery entrance door located over 60 metres from the road with no nursery disabled parking spaces to achieve an inclusive environment for the future users/staff. The proposed residential building would also fail to provide adequate outlook and/ or privacy to the prospective occupiers and the neighbouring properties, due to the siting of the residential building and relationship with its adjoining land/building. The existing trees within the site would all be removed and would be harmful to the openness and visual function of the MOL. Inadequate and inconsistent information is proposed to conform the recommended urban greening factor and biodiversity net gain proposed. Due to the number of car trips, type and scale of the proposal and

location of the site with a PTAL rating of 3, the proposal fails to demonstrate the traffic emission would achieve air quality neutral and the traffic noise associated to the access road and noise from the nursery would have an adverse impact on the neighbouring properties.

- The priority to achieve the scale of the proposed development appears to be highest. The provision of housing to fund this proposal is irrelevant in sequential test and there are no adequate reasons to demonstrate housing cannot be developed/delivered outside this heavily constrained site. The Council's planning application records indicate that new nursery, additional nursery spaces and/or new housing can be met and/or delivered outside MOL and/or within areas with lower flood risk.
- Given the fundamental site constraints associated to this site, the impacts of the proposal and the fact that the benefits arising from this development can be delivered elsewhere within the Borough, it is considered that the proposal should not be supported for the reasons outlined in this report.

1. LOCATION

- 1.1 The site is designated as Metropolitan Open Land and measures approximately 4,342sq.m in area. The site is located on the northern side of Kings Hall Road. It comprises of a former single storey bowls club building, a former outdoor bowling green, a garage and shed, an observer hut and a car park located to the east of the indoor bowls building. The access is located at the southwestern corner of the site, off Kings Hall Road.
- 1.2 Knights Court is a three-storey residential building, containing 16 residential units and is adjoining to the west of the site.
- 1.3 To the east of the site is an area of publicly accessible open space, also designated as Metropolitan Open Land. No. 1 to No.9 Bailes Place is a group of semi-detached and detached houses. There is a green chain route located to the rear of these houses.
- 1.4 To the rear/ north of the site is Cator Park. There are no listed buildings in the vicinity. There are no trees subject to any Tree Preservation Orders within or adjacent to the site. Aldersmend Road Conservation Area is adjoining to the west of the site.
- 1.5 The site has a PTAL rating of 3, on a scale between 0 to 6b where 0 is worst and 6b is best. Kent House Railway Station and New Beckenham Railway Station are located approximately 445m and 751m from the site respectively. Beckenham tram stop is located approximately 950m from the nursery. The closest section of Strategic Road Network (SRN) is Beckenham Road, approximately 920m from the site. There are no bus

stops on Kings Hall Road and the nearest are located on Bridge Road or the A243.

- 1.6 Chaffinch Brook river is located to the rear of the site. The site is located within Flood Zone 2 and is subject to low risk of surface water flooding.
- 1.7 The site and building are vacant. The outdoor bowling green is covered with dense vegetation with mature trees along the boundaries.



Fig 1. Aerial image of the site (source: Design and Access Statement)

2. PROPOSAL

- 2.1 Full planning application for the redevelopment of a former and vacant indoor and outdoor bowls club site (Use Class Order Class Sui-Generis) to provide a 150 spaces day nursery with 40 staff and 18 residential units including 10 intermediate units. A separate and linked planning application for the conversion of a day nursery to 4 private flats at 62 Kings Hall Road should be considered and determined simultaneously.



Fig 2. Proposed site layout

2.2 The proposed nursery building would be two storey in height, comprise of 26 rooms measuring approximately 883.1sq.m with a further staff garden measures approximate 102.5sq,mn and three further outdoor play spaces. The babies, toddler and pre-school rooms would be located on the ground floor. A staff room (78.6sq.m), manager office (30.4sq.m) parent consultation room (41.2sq,m), staff garden (102.5sq,m),and a kitchen (27.7sq.m) would be provided on the first floor. Solar panels and a green roof would be installed at roof level.



Fig 3. Proposed nursery – East elevation (top image) and West elevation (bottom image)

2.3 A three storey residential building proposing 18 residential units, including 10 intermediate units with 11 residential parking spaces is also proposed. The residential building would be facing Kings Hall Road. The residential car park would be located to the rear of the proposed residential building, in between the residential building and nursery building. The proposed housing unit, size and tenure are as follows:

| Tenure and size by unit (by habitable room) | 1 bed | 2 bed | 3 bed | Total |
|---|----------|----------|----------|-----------|
| Private | 2 / (4) | 5 / (15) | 1 / (4) | 8 / (23) |
| Intermediate | 4 / (8) | 3 / (9) | 3 / (9) | 10 / (26) |
| Total by Units (total by habitable room) | 6 / (12) | 8 / (24) | 4 / (12) | 18 / (48) |



Fig 4. Proposed residential building – south elevation.

3. RELEVANT PLANNING HISTORY

3.1 Ref: 15/05530/FULL1 – refused on the 3rd March 2016

Construction of two detached and a pair of semi-detached four bedroom plus roof accommodation dwellinghouses with car parking, refuse store and associated landscaping. The application was refused for the following reasons:

1. *The proposal is considered to constitute inappropriate development which would have a substantially detrimental impact upon the openness of the Metropolitan Open Land (MOL) and the purposes of including land within it for which no very special circumstances are considered to exist to outweigh the harm to the MOL contrary to Policy G2 of the Unitary Development Plan, Policy 7.17 of the London Plan and the National Planning Policy Framework (2012).*
2. *The proposal would, by reason of its scale, mass, height, bulk and detailed design, represent an unacceptable level of development which would be detrimental to the open character and setting of the site within the locality and its contribution to the openness and*

character of the MOL contrary to Policies BE1, G2 and H7 of the Unitary Development Plan, Policies 7.1, 7.4, 7.5 and 7.17 of the London Plan and the National Planning Policy Framework (2012).

3. *The proposed development by reason of its prominent siting, sub-standard spatial relationship to existing dwellings in the locality and between proposed dwellings within the site in this prominent location represents a cramped overdevelopment of the site which would appear detrimental to and out of character with surrounding development and harmful to the visual amenities of the area contrary to Policies BE1, H7 and H9 of the Unitary Development Plan, Policies 7.1 and 7.4 of the London Plan and the National Planning Policy Framework (2012).*

- 3.2 Ref: 01/00196/OUT – refused on 25th November 2001
Outline planning permission was refused for a single storey front extension to the bowling club plus 55 additional parking spaces and cycle parking area.
- 3.3 Ref: 98/01851/FUL – granted in 1998
Single storey rear extension
- 3.4 Ref: 96/00604/FUL – granted 17th June 1996
Change of use from Council parks maintenance depot to car parking for bowling club with layout out of additional hardstanding
- 3.5 Ref: 89/01155/FUL – granted on 28th July 1989
Single storey club house extension
- 3.6 Ref: 89/00578/FUL – granted on 3rd April 1989
Single storey detached store.

- **Joint application site at No. 62 Kings Hall Road**

- 3.7 The following are relevant to the existing operator/applicant at No. 62 Kings Hall Road. A fuller list is set out in the linked report:
- 3.8 Ref: 16/04331/RECON – refused and planning appeal allowed on the 7th June 2017

Variation of Condition 4 of planning permission Ref: 09/03023/FULL1 to (a) allow up to 72 children and 20 staff to be accommodated at any one time and (b) allow the use of the premises as a children's nursery between 7.00am and 7.30pm Monday to Fridays inclusive at 62 Kings Hall Road, Beckenham.

- N.B.** Condition 1 and 2 limit the age group between 0 to 6 years old, no more than 72 children and 20 staff at any one time. Operating hours between 7am to 7:30pm Mondays to Fridays. Condition 3 to 5 requires details of acoustic fence, hard and soft play and a travel plan detail submitted and approved within 3 months. There are no formal records of approval.

- 3.9 Ref: 14/01672/VAR - refused and planning appeal dismissed on the 26th June 2015

Variation of Condition 4 (a) of permission ref: 09/03023/FULL1 to allow up to 86 children and 25 staff to be accommodated at any one time.

- 3.10 Ref: 11/01600/FULL1 – granted on 19th July 2011

Detached single storey building rear for use as ancillary playroom

- 3.11 Ref: 09/03023/FULL1 – granted on the 8th April 2010

Single storey side and part one/two storey rear extensions to children's nursery to increase number of children from 36 to 58.

N.B. Condition 3 requires a travel plan be submitted prior to the commencement. There is no formal approval of this condition recorded in relation to condition 3. Condition 4 set the age group of the nursery between 0 to 6 years old, and no more than 58 children and 17 staff at any one time.

4. CONSULTATION SUMMARY

a) Statutory

4.1 Environment Agency – No objection

- 4.1.1 All relevant revised documents have been reviewed and no objection is raised. Planning conditions requiring the finishes floor levels of both nursery and residential be set at 26.95m and 27.22m above the Ordnance Datum, compliance with mitigation measures in the Flood Risk Assessment should be attached should planning permission be granted.

- 4.1.2 The site is located more than 8 metres from the main river. However, the newest submitted plans includes fencing and cycle storage within 8m of Chaffinch Brook River. Therefore, a Flood Risk Activities Permit is required and an informative should be attached.

4.2 Drainage (Lead Local Flood Authority) – No objection

Should planning permission be recommended, a condition requiring the development to be implemented in full accordance with the submitted "Flood Risk Assessment" prepared by Lustre consultation (Ref NO. 3969-211-019SS dated Nov 2021) should be secured by planning condition.

4.3 Sport England – No objection

Sport England does not wish to raise an objection to this application. The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.

The proposal would result in the loss of an indoor bowls facilities and as such Sport England has consulted the English Indoor Bowling Association to assess whether this facility is surplus to requirements, The English Indoor Bowling Association accept the loss of this facilities and confirmed that the Club closed in 2019 as there were no longer able to operate.

4.4 Greater London Authority

Strategic Issues summary (Appendix 1 for full report)

1. Land Use principle:

The proposal would be inappropriate development and therefore harmful by definition as well as causing harm to the openness of the MOL. The development does not meet any of the NPPF exceptions tests and very special circumstances have not been demonstrated. The proposal therefore does not currently comply with the requirements of Policy G3 and the NPPF. The Council's assessment in relation to the loss of the bowling club will also be reported to the Mayor at Stage II.

2. Housing

22 units are proposed including 9 intermediate affordable units (First Homes). The application must follow the viability test route and GLA officers do not currently accept the proposed tenures mix or affordable offer proposed. The application should clarify the affordable housing offer by habitable room and robust evidence should be provided to demonstrate that a housing provider would not take on affordable units within the scheme. The Council should confirm whether there is an identified need for First Homes in the LPA area and whether the proposed units are genuinely affordable in its assessment. Additional details on play space should be provided and the Council's review of the unit mix will also be reported at Stage 2 Mayoral consultation.

3. Urban design and heritage

The development would reduce the openness of MOL and is inappropriate in principle. Notwithstanding this, the applicant should address comments in relation to housing quality and fire safety. At this stage, it is not anticipated that harm would result to nearby heritage assets, however the Council's assessment will also be reviewed prior to Stage II.

4. Transport

The applicant should seek to address comments in relation to healthy streets, vehicle access and movement, trip generation, parking, delivery and servicing and construction. Key details should be secured and contributions sought in relation to parking controls and the delivery of Cycleway 18.

5. Sustainable development and the environment

The applicant must address comments in relation to energy strategy; WLC; circular economy; green infrastructure and urban greening; biodiversity; trees; sustainable drainage and flood risk; and air quality prior to Stage II.

Recommendation:

The development constitutes inappropriate development on MOL and VSC have not been demonstrated. The applicant does not comply with the London Plan for the reasons set out in paragraph 98. The Mayor does not need to be consulted again if the Council decides to refuse the application.

b) Non-statutory

4.5 Thames Water – No objection

- Waste water comment

Based on the information provide, Thames Water would have no objection to the Waste water network and sewage treatment works infrastructure capacity. There are public sewers crossing or close to the development. The applicant is advised to read the guidance published by Thames Water which relates to working near or diverting Thames water pipe. The proposal is located within 15 metres of a strategic sewer. No development shall take place until a piling method statement is submitted and approved in writing the LPA and a condition should be attached.

The developer is expected to demonstrate what measures will be undertaken to minimise ground water discharges into the public sewer. It is deeded illegal to discharge water without a groundwater risk management permit from Thames Water. An informative advised this should be attached.

o Surface water drainage comments

No objection if the developer follows the sequential approach to disposal of surface water. A prior approval from Thames Water Developer

services will be required should there be any discharge of surface water to a public sewer.

- Water comments

Based on the information provided, no objection is raised with regard to water network and water treatment infrastructure capacity, Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development and an informative should be attached.

Prior approval is required for any use of main water for construction purpose. There are water mains crossing or close to the site, any significant works near to Thames Water Main (within 3m) will require confirmation that the proposal would not reduce capacity, limit repair or maintenance activities during and after construction, or inhibited the serves provided by Thames Water in any way.

The proposal is located within 15m of Thames Water assets. Informative advised this should be attached.

4.2 Bromley Early Years - support

In general, Bromley Early years supports the expansion of our own childcare providers within Bromley. The existing nursery at 62 Kings Hall Road can take up to 77 children from 0 to 5 years of age, Bromley are currently funding Early Education for 22 children to attend this nursery, which has been graded Good by Ofsted on the 22/11/22.

The proposal would provide up to 150 children. It is unclear whether there will be sufficient spaces for the number of children. The proposed space is as follows:

- Babies 152.1sq.m: Babies are required to have 3.5 m2 of space per child, so the maximum number of children without much equipment in the room would be 43 children with 15 staff.
- Toddlers 128sq.m: Toddlers are required to have 2.5 m2 of space per child, so the maximum number of children without much equipment in the room would be 51 children and up to 13 staff, depending on if they operate a 1 to 4 ratio or a 1 to 5 ratio for two-year-olds.
- Pre-School 116.2sq.m: Pre-School children aged three and over are required to have 2.3sq.m of space per child, so the maximum number of children without much equipment in the room would be 50 children with 7 staff members.

Based on the above calculation, this would be a maximum number of 144 children at any one time, not 150. However, the provider may use the space differently, to that detailed in the plans.

A nursery of this size would generate a lot more traffic in the area, with busy times during drop offs and pickups, some parents do stagger their times of arrival and departure, however it looks to be a long and narrow drive to the nursery, this may cause some congestion, I also have a concern that the nursery works are planned for phase one, with the housing development planned for phase two, this would mean that there would be parents dropping off and collecting while significant building works were going on in front of the nursery.

Revised ward level sufficiency data published June 23 shows that Penge and Cator Ward have an estimated number of children aged 0-4 years in this Ward of 1,178. At present, the current childcare places is 803. There are 8 day nurseries, 11 pre-schools, and 15 childminders in this ward. Currently the Penge and Cator Ward is not seen as a priority area to develop more childcare places. However, with the expansion of Education funding over the next two years, that position may change.

4.3 Heritage –objection

The proposal would cause harm to the setting of the Designated heritage asset and the scale of the proposal should be re-considered. NPPF defines two categories of harm, and the proposal would result in less than substantial harm. Para 3.2 of the Aldersmead Road Conservation SPG is relevant: “3.2 The special character of Aldersmead Road is derived from the visual unity and common form of the Whiffen houses, within the high quality landscaped and planted setting of Cator Park. There are fine views outwards from the houses over the parkland. Equivalently, the houses provide a harmonious backdrop to the park; a visual asset not just to residents, but to the many people that use the park on a daily basis.”.

4.4 Environmental Health – objection

The submitted noise assessment does not included sufficient information regarding the proposed access and playground noise.

With regards to air quality, the London Planning Guidance Air Quality Neutral guidance advises that the applicant should identify measures that are demonstrably effective and show how they will reduce local emissions or concentrations. Further consideration is therefore required in regards transport emissions.

With regards to land contamination, no development including demolition of the building shall be commenced until a remediation strategy is submitted by the approved by the Council. The development shall not be occupied until a verification report including samples, monitoring and verification report shall be submitted and approved by the council.

4.5 Highway - No objection

The site is located in an area with a PTAL rating of 3 on a scale between 0 to 6b where 6b is the most accessible. The proposed access via the existing access road is acceptable. The submitted Road safety audit highlight the parking space on the north side of Kings Hall Road should be removed, the southern side of the parking bay should be removed to accommodate the proposed access. The cost of any highway works and amendment of traffic order shall be met by the applicant and secured by legal agreement.

11 residential parking spaces is proposed and would not be unacceptable. A 2 years car club free membership and 20 hours free driving should be secured by planning legal agreement. A nursery pick-up and drop off area with 2 parking spaces is proposed which is acceptable.

The proposal will result in 374 two way person trips in the AM peak hour and 364 two way person trips in the PM Peak hours. In terms of vehicle trips, the proposal is likely to result in 153 two way trips in the AM hour and 151 two-way vehicle trips in the PM peak hour. The majority of the trips to site are attributed to the development of the nursery at the site, the majority of these trips will involve drop-off and pick-up trips with trips to the site making up part of a multi-purpose trip. The applicant is stating that the nursery school currently operates a safe, drop-off and pick-up system for pupils to and from the nursery school. A similar scheme will be implemented at the new nursery school site at the former Cyphers Club.

The Council's waste services should be consulted regarding to waste collection. The proposed cycle storage should comply with the London Plan Standards. It is stated that the servicing to the nursery would be infrequent. The servicing for residential to the rear of the residential building. NO objection in principle. The following should be secured by planning conditions and any highway cost incurred shall be met by the applicant/developer. Conditions: (1) Stage 2 and 3 Road Safety Audit; (2) provision of parking (3) waste storage; (4) cycle storage; (5) lighting scheme (6) travel Plan (7) car club); (8) new car club space, 2 years free car club membership and 20 hours free driving hours (9) highway drainage (10) visibility splays (11) service and delivery plan (12) construction management plan.

4.6 Secured by Design - No objection

Prior to occupation of development, details requiring the development to achieve Secured by Design accreditation shall be secured by a planning condition.

4.7 London Fire Brigade – comment

The development is required to demonstrate Fire Brigade access, facilities and the provision/location of hydrants that demonstrate compliance with the functional requirements of the Building Regulations,

particularly in regard to B5: Access and facilities for the fire service. If there are any deviations from the guidance in ADB Volume 1 and 2: B5 Access and facilities for the fire service in relation to water provisions, then this information needs to be provided to the Water Office (water@london-fire.gov.uk) to discuss the proposed provision. If there are any deviations to Brigade access and facilities then this information needs to be provided to Fire Safety Regulation (FSR-AdminSupport@london-fire.gov.uk) to review the proposed provision. Once we have received this information then the LFB can provide a response on the consultation. advice in regard to hydrants upon receipt of an appropriate site plan showing premises layout, access to it, and water supply infrastructure if available.

c) Adjoining Occupiers

(i) Letter of support

4.8 Twenty-seven (27) neighbouring support letters have been received, of which 11 of these letters did not provide any reasons. The grounds of support are summarised as follow:

- The proposal would provide affordable housing for first time buyers on brownfield site and additional housing. The site is derelict at present.
- The proposal would provide enough parking spaces.
- There is a lack of much needed good quality nursery in Bromley with a 18 month waiting time for nursery. Fennies is a very professional group. The existing nursery facilities has great facilities and no doubt the proposal would provide the same. The proposal is great and would support local economy and provides job.

(ii) Letter of comment

4.9 Three (3) letter of comments have been received and summarised as below:

- The site including the park keepers shed was leased by the Council some years ago to Cyphers as an overflow car park. It is unclear whether the land will revert back to Cator Park.

N.B The application site is under the freehold of the applicant and does not include the site outside the red boundary.

(iii) Letter of objection

4.10 Eighty-eight (88) letter of objections haven been received and the grounds of objections are summarised as below

1. Housing

- There is no very special circumstance demonstrated in this submission to bring substantial buildings including new housing at

this MOL site. The Council have approved a number of new housing developments outside of MOL land.

- Affordable rent is much needed in this borough, not unaffordable shared ownership units proposed.

2. Marketing

- Limited marketing evidence to confirm the marketed price and time period were robust enough to identify a suitable new owner. The guide price of 1 million would have ruled out any sports clubs or facilities that may have wanted to take on the site. No evidence that any local sports clubs were approached, or that any contact was made with the Council or Sport England to ensure the sports facilities can be continued.

3. Air quality

- No assessment to demonstrate the traffic emission would achieve air quality neutral.
- The Air Quality Assessment report states that "*The proposed development is considered to be air quality neutral with respect to building emissions, but the transport emissions are likely to exceed the benchmark*" (paragraph 5.22)". Mitigations for this statement are not addressed in the conclusions. Paragraph 6.5 suggests the burden of mitigations be put upon future occupants rather than being applied in the development proposals. This seems speculative at best, and unenforceable in practice.

4. Scale of the proposed development, out of keeping and character

- The addendum does not address the justification for placing a large commercial building in the middle of a residential area.
- Design of the buildings is industrial in character.
- Overdevelopment with mixed uses. Housing should be excluded to provide parking spaces for parents and staff.
- The revised scheme does not address the scale of the development. More residents should be informed regarding to the revised submission.

5. MOL and Flood Zone

- The proposal represents substantial harm to MOL and is not considered to be negligible as suggest in the submitted statement.
- Loss of MOL and not appropriate development on flood zone 2
- Overdevelopment in MOL
- Loss of natural habitat for the local widdle life and sense of green space in the locality. There is no very special circumstances that can be demonstrated.
- An earlier application to provide 2 houses was refused on MOL. There is no special circumstances for this excessive development.

6. Nursery

- Nursery is not a community asset, but a profit-seeking enterprise. A 150 nursery space is excessive.
- The provision of nursery and housing is noted. However, there are 2 nurseries within 100m from the site and several more within a mile radius and where is the need for this scale of nursery.
- Private cars are often used to drop off and pick up children, particularly in the winter.
- No evidence to show there are 150 pre-school children within walking distance of the site.
- A letter from the Council sent to the developer dated May 2021 indicates that there were no 'Bromley Childcare Sufficiency Reports to indicate that there is no capacity issue for 30 hours nursery provision of the Penge & Cator ward'.
- A site visit between 4 to 7pm by Officers with Councillors of committee should take place to see the true traffic conditions associated to the nursery.

7. Highway

- The existing nursery has 2 parking spaces in the front garden. No parking is provided for the required 40 staff at the site. It is hard to believe all staff will be using public transport at this location.
- The earlier application at No. 62 Kings Hall Road suggested that 46% of parents drove their children to and from the nursery. There is nothing to suggest there is a travel behaviour change in the submitted assessment and it is not unreasonable to expect parents will drive their children to the nursery.
- The proposal would significantly increase the traffic volume. The existing nursery traffic has caused a number of incidents of road rage, bad driving and long tailbacks.
- Existing trees near the entrance would reduce the visibility.
- Inadequate parking provision will put the children and parents at risk.
- The proposal would increase parking congestion. The nursery drop off/collection loop / access road will become clogged and overspilled onto highway.
- There is already a car club in the area, the provision of a car club does not provide benefit to the existing community.
- The access road is 5.4m, the minimum width for 2 way cars and light vehicles is 5.5m. The existing entrance is 3.4m and is not indicated on the submitted plans. Location of kerbs are not indicated.
- There are 2 on-street parking spaces opposite the site and these spaces should be removed in order to allow right turn into the site.
- This road has masses of traffic hurtling down it throughout the day and especially between 08.00-09.00 and 17.00-19.00. Cars park haphazardly to avoid paying and to use both local stations.
- There is no changes to the parking allocation for staff and residents

- Traffic to the current Alexander infants and Cator secondary schools already causes huge disruption without another large nursery adding yet further.
- Inaccurate traffic data as the data was gathered during a period of unusual road activities during the height of Covid pandemic.
- The unmet demand for parking associated to the development will overflow onto the highway and compete with the commuter parking.
- The parking stress study was carried out in September 2021 and including residential car parks. This will have underestimated the amount of highway parking because train commuters had not returned to normal due to Covid 19 restrictions.
- Transport assessment is misleading. Figure 4, the labelling and suggestion the walking time between the site and Bromley is 30 mins, it should be noted that it is actually showing Kelsey Park and Beckenham Place Park. It includes the residents parking at Densole Close and Eastwell Close within the on street parking quota. In Table 13, it suggests there will be a net increase of 770 two way journeys daily, including 275 by car to and from the site this is significant and very concerning that the proposed access runs within metres of my property which I work from daily, including car queues of up to 32 cars. – impact on air quality due to car trips
- The reports submitted in support of this application contain many errors which undermine the credibility of the reports:
 - o 3.2.22: Bus stop at Kent House station not true. The nearest bus stop is in Beckenham Road.
 - o 3.2.26: Clock House Station is a 2 minute cycle ride away. This is not true. The route Evoke use is down an alleyway between Kings Hall Road and Thayers Farm Road. No cycling is permitted down this alleyway.
 - o 3.2.28: Beckenham Road Tram Stop is a 2 minute cycle ride - not true. Cycling is prohibited down the alleyway.
 - o 3.2.40: 13 Parking spaces in Densole Close and 25 in Eastwell Close. Not true. Eastwell Close is Residents Parking only. Densole Close has only 4 non-residents parking spaces which are anyway mostly used by residents of the Close.
 - o 3.3.9: Assessment of weekly deliveries. The 11 deliveries is based on information 3 years old and is a gross underestimate.
 - o 3.6.11: Low car ownership ratio for the proposed flats - claims that ownership rates have gone down since the 2011 Census. No evidence to support this claim.
 - o 3.6.16: The developers have offered to contribute financially to a consultation for a controlled parking zone near the site. Why do this if they are 100% confident that there will be no increase in traffic or parking requirements if given the go-ahead.
 - o 5.2.4: Bowls Club trip generation - claims there were 98 trips per day. This is wrong. Cyphers was only open twice a week and was used by a handful of people.

- Traffic survey: This was done in Sept. 2021 when most people were working from home due to covid. According to TFL the number of commuters has increased dramatically since then. The figures relied on by Evoke are out of date and inaccurate.

8. Impact on residential amenities

- Loss of sunlight and day lights to the adjacent residential block
- Overlooking and loss of privacy. The Court decision Fearn and others (Appellants) v. Board of Trustees of the Tate Gallery (Respondent) [2023] UKSC 4, should be taken into account.

9. Noise

- Noise generated from the nursery has not been included in the noise assessment.
- The Noise Assessment report states that the measured ambient noise levels are already higher than "normally deemed reasonable". Paragraph 3.2 recommends "a barrier fencing of sufficient mass could be considered" but no such fencing is shown on any of the proposal plans to the south serving as a barrier to the properties on the opposite side of Kings Hall Road. It is noted that the assessment is designed to indicate the impact on new residents within the proposed development, however the reciprocal should also be considered that the proposed development will have a noise impact on existing neighbours. The noise assessment does not consider the traffic increase numbers from the other reports.

10. Others:

- Unclear why this proposal is allowed to be amended a few times.
- The submitted drawing are limited and of poor quality.
- Worsley bridge development was on previously industrial land and not compatible to this site. No. 89 Kings Hall Road was a burnt down cricket pavilion and ground. The site was rebuilt with a public accessible parking and tennis courts. These two examples are not comparable to this development.
- The existing Fennies nursery is not a neighbouring development. Residents have raised issues regarding to litter parking, noise traffic, alarms gone off during weekends , number of children and adults in one buildings. The responses were completely unsympathetic, and they have never tried to welcome any feedback or make changes to improve local relations.
- As a former councillor of Penge and Cator, the former club provided recreation for approximately 80 people. The creeping erosion of such facilities should be reduced. The proposal does not any replacement facilities. The neighbouring development provide a new public and open space and is not comparable to this proposed development. The proposal should only be considered if all other planning

considerations are considered acceptable. The loss of community benefit is relevant and should be considered.

- There was zero contact between Fennis and the local residents. No consultation on this project was carried out by the applicant.

5. POLICIES AND GUIDANCE

- 5.1 In line with S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990), planning applications are required to be determined in accordance with the development plan and any national development management policies taken together, unless material considerations strongly indicate otherwise”.
- 5.2 National Planning Policy Guidance (NPPG)
- 5.3 National Design Guidance 2019
- 5.4 National Planning Policy Framework (NPPF) 2023
- 5.5 The London Plan (March 2021)

The relevant policies are:

| | |
|-------------|--|
| Policy D1 | London’s form, character and capacity for growth |
| 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 D11 | Safety, security and resilience to emergency |
| Policy D13 | Agent of change |
| Policy D14 | Noise |
| Policy H1 | Increasing housing supply |
| Policy H4 | Delivering affordable housing |
| Policy H6 | Affordable housing tenure |
| Policy H10 | Housing size mix |
| Policy S1 | Developing London’s social infrastructure. |
| Policy S3 | Education and childcare facilities |
| Policy S4 | Play and informal recreation |
| Policy S5 | Sports and recreation facilities |
| Policy G1 | Green infrastructure |
| Policy G3 | Metropolitan Open Land |
| Policy G5 | Urban greening |
| Policy G6 | Biodiversity and access to nature |
| Policy G7 | Trees and woodlands |
| Policy SI-1 | Improving air quality |
| Policy SI-2 | Minimising greenhouse gas emissions |
| Policy SI-3 | Energy infrastructure |
| Policy SI-4 | Managing heat risk |
| Policy SI-5 | Water infrastructure |

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|--------------|--|
| Policy SI-7 | Reducing waste and supporting the circular economy |
| Policy SI-8 | Waste capacity and net waste self-sufficiency |
| Policy SI-12 | Flood risk management |
| Policy SI-13 | Sustainable drainage |
| Policy T4 | Assessing and mitigating transport impacts |
| Policy T5 | Cycling |
| Policy T6.1 | Residential parking |
| Policy T6.5 | Non-residential disabled persons parking |
| Policy T7 | Deliveries, servicing and construction |
| Policies DF1 | Delivery of the plan and planning obligations |

5.6 London Plan Guidance and Supplementary Planning Guidance

- Housing planning guidance (2016)
- Housing design standards (2023)
- Accessible London: Achieving an Inclusive Environment (2014)
- Planning for Equality and Diversity in London SPG (2007)
- Character and Context SPG (2014)
- Air quality positive guidance (2023)
- Air quality neutral guidance (2023)
- Be Seen energy monitoring guidance (2021)
- Circular economy statement LPG
- Energy Planning Guidance
- Whole life carbon LPG
- The Control of Dust and Emissions During Construction and Demolition (2014)
- Sustainable Transport, Walking and Cycling LPG (2022)
- Shaping Neighbourhoods: Character and Context (2014)
- Practice Note on contaminated land
- Fire Safety LPG (Draft)
- Affordable housing LPG (Draft)
- Development viability LPG (Draft)
- Affordable housing and Viability SPD
- Play and informal Recreation SPG
- Social Infrastructure SPG
- Urban Greening factor LGP
- Sustainable Transport walking and cycling LPG

5.7 Bromley Local Plan 2019

The relevant policies are:

| | |
|-----------|--|
| Policy 1 | Housing supply |
| Policy 2 | Provision of Affordable Housing |
| Policy 4 | Housing Design |
| Policy 5 | Parking of Commercial Vehicles |
| Policy 10 | Conversion of non-residential buildings to residential use |
| Policy 20 | Community facilities |
| Policy 21 | Opportunity for community facilities |
| Policy 22 | Social Infrastructure in New Developments |

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|------------|--|
| Policy 27 | Education |
| Policy 28 | Educational Facilities |
| Policy 30 | Parking |
| Policy 31 | Relieving congestion |
| Policy 32 | Road safety |
| Policy 33 | Access for all |
| Policy 37 | General design of development |
| Policy 42 | Development adjacent to a conservation area |
| Policy 43 | Trees in Conservation Areas |
| Policy 50 | Metropolitan Open Land |
| Policy 54 | South East London Green Chain |
| Policy 58 | Outdoor Sport, Recreation and Play |
| Policy 72 | Protected Species |
| Policy 73 | Development and Trees |
| Policy 79 | Biodiversity and access to nature |
| Policy 99 | Residential accommodation |
| Policy 113 | Waste management in new development |
| Policy 115 | Reducing Flood risk |
| Policy 116 | Sustainable urban drainage system |
| Policy 118 | Contaminated land |
| Policy 119 | Noise pollution |
| Policy 120 | Air quality |
| Policy 122 | Light pollution |
| Policy 123 | Sustainable design and construction |
| Policy 124 | Carbon Dioxide Reduction, Decentralised Energy Networks and Renewable Energy |
| Policy 125 | Delivery and Implementation of Local Plan |

Bromley Supplementary Guidance

- 5.8 The relevant SPGs are:
- Urban Design Guide SPD
 - Affordable housing SPD
 - Planning obligations SPD

6. ASSESSMENT

6.1 Land use / Principle of development (Unacceptable)

- Metropolitan Open Land (MOL)

6.1.1 The application site is designated as MOL in the Bromley Local Plan. The mapping records and land registry record indicate that the site has a long history as a sports and athletic ground. The MOL designation covers the entire site. It also covers the adjoining land to the east of the site and Cator Park to the North. The southern part of the site is surrounded by fence and is covered by plants and trees. The existing layout is designed to reflect the status of the MOL and maintain the openness of the site which is clearly distinguishable from the built-up area. The site also adjoins to an area of open space to the east.

6.1.2 LP Policy G3.B outlines the criteria for extension of MOL designations. The site contributes to the physical structure of London by being clearly distinguishable from the built-up area. The site consists of a vacant single storey indoor bowls building and an outdoor bowling area. The main building and car park occupy the northern portion of the site near to Cator Park. The outdoor bowling area occupies the southern half of the site. It is mainly open in nature facing Kings Hall Road and echoes the adjacent open space to the east. There is a garage, an ancillary car park, an observer hut and a shed within the site. It is noted that this vacant land is under private ownership. The existing indoor and open-air facilities for recreation and sport facilities with maintenance, is capable to continue its established and historic use.

6.1.3 BLP Policy 50 states MOL will be given the same level of protection as Green Belt. The exceptions to inappropriate development are consistent with Green Belt policy and permission will not be given for inappropriate development except in very special circumstances. This is supported by London Plan Policy G3 which highlighted MOL land should be protected from inappropriate development, in line with the national planning policy test that applies to the Green Belt.

6.1.4 NPPF para 49 states that the local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) building for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments, as long as the facilities preserve the openness of the Green Belt and does not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original buildings;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exceptions sites); and
- g) limited infilling or the partial or complete redevelopment of previously development land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where development would re-use previously developed land and contribute to meeting and identified

affordable housing need within the area of the local planning authority.

6.1.5 The proposal does not fall within any exceptions of the above. The proposal is regarded as inappropriate development in MOL. In line with the development plan, planning permission should be refused unless very special circumstances can be demonstrated that is clearly outweighed by other considerations.

6.1.6 The submitted planning statements set out the following suggested VSCs and it is stated that the key benefits of the following would outweigh the harm that arises from this proposal:-

- A 150 spaces nursery (73 additional spaces from current provision at No. 62 Kings Hall Road) to meet the need;
- Contributes to the 5 years housing land supply;
- Economic and job benefits;
- Positive townscape effect and improvement to biodiversity;
- Carbon off-set contributions;
- Highway works and car club; and,
- Enhanced surveillance of public open space to the east.

6.1.7 The Council's Early year division was consulted and have advised that Penge and Cator Ward is not considered as a priority area for additional nursery spaces/nursery uses. This is based on the latest published data in June 2023 It is noted that the proposal would provide additional nursery spaces and with the increase in population, the direction of travel is clear. However, it should be noted that the introduction of new buildings is considered to be inappropriate development and would result in significant harm to the openness of the MOL. Furthermore, there are concerns in relation to the proposed tandem design and layout, scale of the proposed new buildings, and their relationship within the site and its surroundings Further consideration of the above are set out in the following relevant sections of this report.

6.1.8 Furthermore, it should be noted that a number of planning applications have been granted for either a new nursery or additional spaces by the Council in the Borough. This demonstrates that new nursery provision can be achieved without causing major conflict with the Development Plan or without introduction of substantial new buildings in the MOL. The recent planning approval relating to nursery developments is listed as follows:

- Ref: 23/01381/FULL1 - St John's Coptic Orthodox Church, 11 Dunbar Avenue, Beckenham, BR3 3RG

Change of Use of existing church (Use Class F.1(f)) to children's nursery (Use Class E(f)) and associated minor external works. Change of Use of existing church (Use Class F.1(f)) to children's nursery (Use Class E(f)) and associated minor external works.

N.B. The nursery will cater for up to 108 children from the ages of 3 months to 5 years.

- Ref: 22/00496/FULL1 - 193 High Street, St Mary Cray, Orpington, BR5 4AX

Demolition of part of existing single storey nursery building and erection of single storey side/rear extension, canopy and access ramps, and regularisation of existing numbers of children attending the nursery on any one day to a maximum of 53

- Ref: 21/00814/FULL1 – Schoolkeepers House, Anerley Road, Penge, London

Proposed two storey extension to side of existing nursery building with single storey extension to front entrance and to increase the total provision of places from 64 to 90 children.

- Ref: 20/01960/SCHPA - 48 - 50 London Lane

Change of use from a care home (Use Class C2) to a children's day nursery (Use Class D1) (56 day application for prior approval in respect of transport and highways impacts, noise impacts and contamination risks, under Class T, Part 3 of the G

N.B. The nursery will cater 70 nursery spaces.

- Ref: 20/02322/FULL1 - Old Dunstonians Sports Club, St Dunstan's Lane, Beckenham, BR3 3SS

Redevelopment of 1960's squash courts within the Old Dunstonian RFC complex, providing the following - Change of use from Class D2 (Squash Courts) to Class D1 (Day nursery), additional changing/WC facilities to be used by the tennis courts, refurbishment of existing building and alterations to the external building fabric to meet building regulations.

N.B. The nursery will cater 65 nursery spaces.

- Ref: 20/02853/FULL1 – GlaxoSmithKline, Langley Court, South Eden Park Road, Beckenham

Change of Use of Existing Pavilion building and associated car park from D2 (Assembly and Leisure) to D1 (Non-residential institution) for children's nursery use and medical facility. Existing parking and access to be retained. MOL land to be retained.

N.B. The nursery will cater 120 nursery spaces up to age 5.

- Ref: 20/04101/FULL1 - 202 Venner Road, Sydenham, London, SE26 5HT

Increase the number of children attending the nursery from 30 to 43 between the ages of 0 months -5yrs.

- Ref: 20/02322/RECON - Old Dunstonians Sports Club, St Dunstan's Lane, Beckenham, BR3 3SS

Minor material amendment under Section 73 of the Town and Country Planning Act 1990 for the Variation of Condition 2a of planning permission 20/02322/FULL1 (granted for the Redevelopment of 1960's squash courts within the Old Dunstonian RFC complex, providing the following - Change of use from Class D2 (Squash Courts) to Class D1 (Day nursery), additional changing/WC facilities to be used by the tennis courts, refurbishment of existing building and alterations to the external building fabric to meet building regulations in order to vary the ages of the children able to attend the nursery from the ages of 2 and 5 years to 6 months to 5yrs.

- Ref: 20/00310/RECON – Chislehurst Sports and Country Club, Elmstead Lane, Chislehurst, BR7 5EL

Variation of condition 4 (limit on hours of operation and numbers and ages of children) of permission ref.20/00310/FULL1 granted for proposed additional use of clubhouse as a day nursery from Mondays to Fridays between 07.30 hours and 18.30 hours, in order to allow an increase in the number of children from 40 to 64.

- Ref: 23/03861/FULL3 - 185 Elmers End Road

Use of first floor as day nursery for under 5's (Class D1) with opening hours to be 7:30am to 6:30pm Monday-Friday (amendment to application permitted under ref: 11/00829 for Change of Use of first floor offices (Class B1) to play/learning space for under 5's (Class D1)

N.B. This application is pending at the time of writing this report. It should be noted that the ground floor is already used as a day nursery.

6.1.9 As such, it is considered that the provision of 150 nursery spaces is not considered to constitute very special circumstances.

6.1.10 New development is required to be assessed in line with the development plan, taking into account any material considerations. The other suggested benefits are not uncommon as new development is required to mitigate its impacts. The proposed and required mitigation measures such as carbon offset and biodiversity are required as part of any new development. Proposals to meet the policy requirements are not considered to be very special circumstances. It is noted that additional staff would be required to accommodate the additional nursery

spaces. The economic and job benefits that can be derived from this proposal is not uncommon and is considered to hold limited, if any, weight in terms of the planning balance and whether any special circumstances exist.

6.1.11 The proposed site layout plan indicates that the proposal would extensively cover the site with buildings and hard surfaces, with patches of planting and garden areas proposed along the front and east boundary of the site. In addition, all existing trees and vegetation on the site would be removed, including some category B trees. It is noted that a nursery does exist in this residential area as per the existing nursery address at No. 62 Kings Hall Road, however, 62 Kings Hall Road is outside of the MOL designation. The introduction of two substantial buildings including a residential car park, and access road with pick-up and drop-off area would significantly remove the openness of MOL to an extreme level.

6.1.12 With regards to the provision of housing and affordable housing, the Council does not currently have a 5 year housing land supply and 3.38 years can be demonstrated. As such, the housing policies in the Local Plan are deemed to be out-of-date. NPPF paragraph 11(d)(ii) states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

6.1.13 The planning merits of additional housing elements should be assessed in line with the development plan taking into account the site constraints being located in MOL and other harm that arises from this proposal. The relevant planning considerations are outlined in the following sections of this report.

- Loss of community facilities

6.1.14 BLP Policy 58 seeks to retain and resist the loss of sports facilities unless it can be demonstrated that the facilities are surplus to the requirements. This approach is in line with LP Policy S5. BLP Policy 20 also resists the loss of community facilities which states "*planning permission should be refused unless alternative enhanced provision is to be made in an equally accessible location for the community it serves, or it can be demonstrated that there is no longer a need for them or other forms of social infrastructure. Where a proposal for alternative social infrastructure involves a change of use not permitted under the GPDO Use Classes Order, the lack of need for the specific use class must first be demonstrated. Additionally, in respect of facilities identified by local communities as having significant value, planning permission for alternative uses will only be considered where it can be demonstrated that no prospective purchasers exist that would be willing to pay both a suitable price and maintain the existing use*".

6.1.15 The proposal would result in a net loss of indoor and outdoor bowls facilities at this site. A letter along with a leaflet prepared by an estate agent (SHW) have been received which states that *“The formal marketing campaign commenced on 14 September 2020 and the sales was completed on 31st March 2021”*. It also indicates that the site was placed on the market with a guide price of £1 million. Seven unconditional offers ranging between £775,000 and £980,000 were received. It is stated that *“With the 2 top offers essentially being at the same level, we were instructed to return to the top 2 bidders seeking their best and final offers in the days following, further to which Fennies Day Nurseries were selected on the basis of their revised offer of £1,000,000 (One Million Pounds) being the best offer received”*.

6.1.16 The current land registry record indicates that a unilateral notice in respect of a contract of sale of the site was dated 22nd December 2020 between the previous freeholder Cyphers Indoor Bowling Company Limited and the current freeholder Albrin Property Ltd. The land was exchanged on the 31st March 2021. This record does not contradict with the marketing materials submitted. However, the marketing period of the site is considered to be relatively limited. Nonetheless, a Bowling Facilities Need Assessment is submitted which indicates there are 6 other bowling facilities within 1 mile from the site. Given that Sports England does not wish to raise an objection to this application, it is considered that the loss of sports facilities cannot be resisted.

- Other

6.1.17 In March 2016, planning permission for the construction of 4 houses (two detached and a pair of semi-detached houses) was refused (ref: 15/05530/FULL1) for the following key reasons:

- Inappropriate development and substantial impact on MOL
- impact on its open character and setting of the site and locality, and;
- cramped development due to its spatial relationship with the existing surroundings

6.1.18 The site layout and elevation plan of the refused scheme are attached as follows:



Fig 5: Refused scheme ref 15/05530/FULL1 – Elevation plan facing Kings Hall Road.



Fig 6: Refused scheme ref 15/05530/FULL1 – site location plan (left) and layout plan (right).

6.1.19 It is noted that the internal floor space of the proposed nursery floor space would be less than the total floorspace of existing indoor bowl building. However, the existing single storey indoor bowls club building would be replaced with a two storey nursery building and a three storey residential block facing Kings Hall Road. The impact of this proposal would be more significant when compared with the earlier refused scheme.

6.1.20 Paragraph 27 of the GLA Stage 1 consultation letter states *“The proposal would result in a considerable increase in built form across the site which would impact on the spatial and visual openness of the MOL”*. *“The visual assessment does not include views of the proposed residential building in relation to the tree canopy to the east. However, given the massing and height proposed and the proximity of the building to the site boundary, it appears that the massing of the building could also result in some additional intrusion of the built form and further enclosure to the adjacent MOL land to the east. The Council should also carefully consider whether peripheral vegetation will retain adequate canopy to minimise the visual impact of the proposal”*.

6.1.21 The above views are shared by officers. The existing trees within the site would all be removed, including the trees along the site boundaries currently providing a good degree of screening between the site and the adjoining land. Whilst replacement trees would be provided within the site to achieve meeting the requirement of other policies such as the urban green factor and biodiversity net gain, the introduction of new and substantial buildings at this site would have a negative visual impact on and negatively impact on the openness of the MOL and substantial weight should be given to this factor when considering any planning merits derived from this proposal.

6.1.22 Whilst any housing development would contribute to the Council’s 3.38 housing land supply with more nursery spaces proposed, these benefits are limited when considering its impacts of this protected MOL. The impacts and considerations on sequential test and flood risk, residential and neighbouring amenities in terms of outlook, privacy, noise and air

quality are set out in this report. Furthermore, the provision of planning mitigation measures as part of the applications is required to comply with the requirements of the Development Plan. This does not in itself represent a very special circumstance or justify a precedent being set to introduce inappropriate development on MOL.

6.2 Flood Risk

- Sequential approach and test

- 6.2.1 PPG paragraph 023 (revision date 25.08.2022) states *“The purpose of sequential approach is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including area of risk of surface water flooding. Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied”*. This approach is consistent with the Council strategic flood risk assessment and Bromley Local Plan Policy 115 which states “the Council will apply the sequential test to avoid apocopated development in relation to flood risk.”
- 6.2.2 NPPF para 162 states *“The aim of the sequential test is to steer new development to areas with the lowers risk of flooding from any sources. Development should not be allocated or permitted if there are reasonable availability sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding”*.
- 6.2.3 Table 1 of the NPPG set out the flood zone categories and Table 2 of NPPG and Annex 3 of the NPPF sets out the vulnerability of different uses to flood risk. The application site is located within Flood Zone 2. The proposed nursery and residential uses are both categorised as “More Vulnerable” uses and in line with the development plan, a sequential test is required to demonstrate there are no reasonable alternative sites to accommodate the proposal.
- 6.2.4 PPG Paragraph 028 (Revision date 25th August 2022) defines **reasonable available sites** *are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be*

considered “reasonable and available”. The absence of a 5 year land supply is not a relevant consideration for the sequential test for individual applications”.

- 6.2.5 The applicant has been advised that “the Council’s starting point in considering the area of the search are lower risk sites in the whole of the borough (for the residential element). Depending on the type of use(s), the search area may be extended beyond the administrative area of Bromley. However, in this case, officers have reviewed the submitted documents and considered that the nursery uses can be limited to relevant wards in line with the submitted planning statement. The sequential test requires the applicant/developer to compare the site that is proposed to be developed with other alternative sites to ascertain which carries the lowest flood risk. The onus is on the developer/applicant to demonstrate the acceptability of the proposed development to introduce the proposed uses”.
- 6.2.6 A Sequential Test (prepared by prepared by 4TY Planning: dated July 2023) is submitted which suggested that there are no other sequentially preferable alternative sites within the agreed search area to accommodate a new nursery and new housing. It also indicated that the proposed housing is essential to fund the proposal at this site.
- 6.2.7 The suggested alternative sites put forward by the applicant, including officers’ considerations are tabled as follows.

| Alternative sites | Address / officers comment |
|--------------------------|--|
| 1 | Bromley Local Plan Site 7: Orchard Lodge, William Booth Road, Penge |
| 2. | Bromley Local Plan Site 28: Kentwood Site, High Street Penge |
| Officers’ comment | The Council’s planning application records indicates that planning permission was granted for 252 residential units in 2016 on Site 7 and subsequent conditions have been discharged. Site 28 is listed in the BLP to facilitate up to 4FE of secondary education. It is unclear why these sites are included or considered to be relevant in the sequential test. |
| 3. | Ref: 20/01749/RESPA: Kelsey House: 77 High Street, Beckenham |
| 4 | Ref: 21/00854/RESPA Midas House: 2 Knoll Rise, Orpington |
| 5. | Ref: 21/03220/FULL1: 32-36 Homefield Rise, Orpington |
| Officers’ comment | Site 3 to site 5 are both development sites under implementation /construction for hotel and residential uses. It is unclear why these sites are included or considered to be relevant in the sequential test. |
| 6 | No.76a and 76b The Avenue (under planning reference 20/05047/FULL1) |

| | |
|-------------------------|--|
| Officers comment | Residential development was allowed at 76a and 76b The Avenue. The associated planning statement under ref: 20/05047/FULL1 states “ <i>The applicant hopes in due course to acquire 76C, which can then be promoted for redevelopment alongside 76D, which is already in their ownership (this being “phase 2”)</i> ”. |
| | Officers consider that the proposed housing element on Kings Hall Road has the potential to be provided at this site, as this site is located at a lower risk and there is no formal application submitted to the Council to redevelop 76c and 76d The Avenue. It may therefore be considered ‘reasonably available’. |
| 7 | 20/04101/FULL1: 202 Venner Road (Penge East Day Nursery) |
| Officers comment | This is a converted building currently occupied by an existing/different nursery operator since 1986. It is unclear why this site is included or considered to be relevant in the sequential test. |
| 8 | 15/04610/FULL1: North Orpington Pumping Station, East Drive |
| 9 | 18/03990/RESPA: Insurance House, Insurance House, 38 Croydon Road |
| 10 | 22/00856/FULL1: 46 High Street, Orpington |
| Officers comment | Site 8 to Site 10 are sites already granted with permissions/prior approved either occupied or conditions submitted or discharged. It is unclear why these sites are included or considered to be relevant in the sequential test. |
| 11 | Beckenham Public Hall, 4 Bromley Road |
| Officers comment | This Grade 2 listed building is being sold subjected to the occupational leases with MyTime Active and ‘The Club’. The applicant has discounted this site as there is no outdoor space. |
| 12 | Land at Churchfields Road, Beckenham |
| Officers comment | The site is located in flood zone 3. It is unclear why this higher flood risk site is included or considered to be relevant in the sequential test. |

6.2.8 The majority of the considered sites above are either recent developments already lived-in or under implementation for the consented uses such as hotel or residential. Sites located at a lower risk area are provided but a higher flood risk area is also included. Based on the information above, it is considered that inadequate information is submitted to demonstrate there are no other sequentially preferable sites to accommodate a new nursery and additional 18 units at this site.

6.2.9 Planning policy both at a National, London and Local level set out policy requirements in assessing new development subject to flooding. PPG

Paragraph 028 states that the absence of 5 year housing land supply is not relevant in considering sequential test. The provision of housing at the same site to fund this proposal is also irrelevant in considering the availability of alternative sites. Footnote 7 of the NPPF defines this flood risk site as “protected area”, the presumption of sustainable development does not trigger in this case under paragraph 11d limb (i) of the NPPF and permission should be refused in line with the Development Plan.

6.2.10 Based on the information submitted above, it is considered that inadequate and insufficient information is provided to demonstrate there are no alternative locations in the Borough. The introduction of “more vulnerable” development in Flood Zone 2 is therefore not acceptable and is contrary to policy 115 of the Bromley Local Plan and NPPF

- Possible alternative sites

6.2.11 The Use Classes Order has been updated in 2021 which enables a much greater flexibility for change of use of development falling within the same Use Class Order at a national level. Furthermore, the existing day nursery was originally converted from a single dwellinghouse to the current use. There are a number of domestic houses in the local area, similar to the current nursery site at 62 Kings Hall Road that could be converted into a nursery, subject to planning permission. There is no evidence to suggest there are no alternative sites with lower risk that cannot be located to support the additional nursery spaces proposed.

6.2.12 For non-residential sites, No 113 Anerley Road, Penge and 8 Oakwood Avenue are both vacant and located within a lower flood risk (Flood Zone 1). No. 113 Anerley Road is a former medical centre and an advertisement consent was granted in 2019 as a place of worship. No.8 Oakwood Avenue is a former care home.

6.2.13 With regards to additional housing and affordable housing provision, a number of sites are allocated for housing development in the Bromley Local plan, including Site 1 Bromley Civic Centre, Site 2 Land adjacent to Bromley North Station, Site 3 The Hill Car Park and adjacent lands, Site 4 Gas holder site on Holmesdale Road,; Site 5 Land adjacent to Bickley Station, Site 6 Bromley Valley Gym and adjacent land, Chipperfield Road and adjoining land, Site 9 Former Depot Bruce Grove, Site 10 West of Bromley High Street and land at Bromley South. The applicant has failed to address these alternative sites as part of the sequential test. There is no evidence to suggest additional 18 residential flats cannot be provided elsewhere within the borough.

6.2.14 Officers note that the Council's properties are advertised on the Council website. Land at Goddard Road, Elmers End, Beckenham could be a potential site with lower flood risk. With regards to housing, Site 6 (76a, 76b, 76c, and 76d The Avenue) as listed in the above table, this site could be a potential site to provide additional housing.

6.2.15 The Environment Agency (EA) was reconsulted and did not make comment on the sequential test as this is an assessment for the Council to reach a conclusion on its acceptability. The EA have required mitigation measures be secured by planning conditions, as outlined in the planning consultee section of this report.

- Flood risk assessment (FRA)

6.2.16 A updated Flood risk assessment is submitted which indicates the majority of the site remains flood free during a 1,000-year event, with the exception of the northern most area and the area immediately adjacent to the Chaffinch Brook are shown to be affected. A range of flood risk management measures is proposed which includes:

- Nursery finished floor level set at 26.95m AOD which would be 330mm above the peak 100year plus 20 percent fluvial flow scenario,.
- Residential finished floor level of the residential building would be raised 600mm above this design flood event and sets at 27.22 m AOD.
- Water butts and downpipe planters to be provided on all downpipes to encourage water re-use. There is additional commitment to provide further water reuse on the nursery building
- Biointention/raingarden below the proposed child play area adjacent to the car park and dry swales to be used throughout the site
- Attenuation tank system limiting runoff rates from the site to 2 l/s

6.2.17 The Council's drainage officer and the Environment Agency have reviewed the FRA and no objection has been raised, provided that the detailed design of the flood risk management measures, finished floor levels including landscaping management plan are secured by planning conditions.

6.2.18 The NPPF supports the presumption in favour of sustainable development and aims to steer development to lower flood risk areas. In line with the NPPF, Planning Policy Guidance and the development plan, the proposal fails to fully demonstrate there are no alternative sites in the borough to accommodate the proposed additional nursery space and housing, contrary to BLP Policy 115 and NPPF.

6.3 Design - Unacceptable

- Site Layout

6.3.1 BLP Policy 37 expects all development proposals to be of a high standard of design and layout. Development should complement the scale, proportion, form, layout and materials of adjacent buildings and the area.

- 6.3.2 Kings Hall Road is mainly residential in character with open recreation and sports facilities. The residential buildings are mainly two to three storeys detached, semi-detached houses or purposely built residential buildings ranging between two to three storeys in height. The existing buildings are mainly designed with a principal building facing Kings Hall Road and supported by spacious gardens and parking spaces. Eastwell Close and Densole Close are modern pure residential development, which occupies a relatively larger area of land.
- 6.3.3 Kings Hall Road benefits from a rich street-based urban fabric which new development should seek to reinforce. The proposed residential and nursery building would be sited in tandem, with a three storey residential building facing Kings Hall Road and a large scale nursery building located to the rear of the residential building. The access to the nursery would be via an access road within the site. The front door of the nursery would be located approximately 61 metres from the road, obscured and disconnected to the road. The main entrances to buildings are usually located on the principal elevation of the building and directly connected to the road. It is noted that the existing indoor bowls club is located further into the site and is of a similar arrangement to the proposed nursery. It should be noted that the nursery is located behind a three-storey residential block and obscured from the road. Due to the siting of the proposed buildings, distance between the nursery entrance door and Kings Hall Road, the relationships between the proposed building and its surroundings, it is considered that the proposed layout would appear at odds with the surroundings and would represent an over-intensive development.
- 6.3.4 Furthermore, the proposed site layout plan indicates that the proposal would almost occupy the full site with built form, with a residential car park located in between the proposed buildings and an expanded access road. It is noted that a pick-up and drop off area and two off-street parking spaces would be provided within the site for a manager and visitor. Whilst there are no London Plan parking standards for nursery and the London Plan seeks to promote and implement sustainable transport modes, consideration should be given to the type of the development, scale of the proposal and accessibility of the site. The site is not located within any town centre or with an excellent level of public transport. The capacity of the proposed nursery spaces including the required staff would be twice that at 62 Kings Hall Road. there is no additional off-street car park provided to accommodate the travel demand arising from the increased number of staff (from 20 to 40 staff) and the proposed increase in the number of nursery spaces from 77 to 150 spaces when compared to the existing nursery at 62 Kings Hall Road. It is uncertain whether the needs arising from the scale of this proposal can be adequately met within the site with the number of proposed staff and parents attending or visiting the nursery. It is considered that the layout and scale of the proposal for both uses would be excessive, constitute overdevelopment.

6.3.5 The proposed residential floor plans indicate that a number of side bedroom windows would be located close to its side boundaries or access road. Due to its siting being located close to its side boundaries or path on the access road, it is considered that the proposal would give rise to amenities issues for the future occupiers in terms of outlook, privacy and availability of light. The side bedroom primary windows would also be facing the habitable room windows at Knights Court. The reliance of neighbouring land for outlook and privacy is not considered to be sustainable. The proximity between the bedroom windows and the habitable room windows on the flank wall of Knights Court is not considered sustainable. The proposed layout would represent a cramped form of development.

- Scale and Massing

6.3.6 The proposed residential building would measure approximately 34 metres wide, 23.5 metres deep and 11.9 metres high to the top of the pitched roof. The width of the proposed buildings would be approximately 5 metres wider than the adjacent Knights Court.

6.3.7 The footprint of the proposed nursery building would be broadly in a cross shape. The proposed building would measure 31.5 metres wide, 34 metres deep and 6.6 metres at its maximum. The proposed building is considered to be a significant sized building, particularly given the nature of the setting.

6.3.8 The proposed ground floor internal floor space of the nursery measures approximately 634.8sq.m. The external outdoor play areas measure approximately 357.8sq.m. The proposed first floor would comprise of a staff room, consultation room, manager office, kitchen and toilets with a floor space measuring approximately 248.3. A first floor staff garden measuring approximately 102.5sq.m would also be provided. At pre-application stage, a training hub for nursery staff from outside the area, in addition to its function as a local nursery was proposed. Irrespective whether the first floor would be used as a training hub, the proposed floor plans highlight the scale of the facilities being proposed, with the entire first floor allocated for staff ancillary accommodation.

6.3.9 The proposed landscaping plan indicates new planting would be introduced. Whilst new planting could provide a degree of seasonal dependent screening, this should not be used as a justification to support excessive and out of scale development. Overall, it is considered that the proposed development would appear visually prominent by virtue of its size and when compared with its current open setting, particularly when viewed from Kings Hall Road, Cator Park and the adjoining open space.

6.4 Housing (Unacceptable – layout, scale and relationship within the site and surroundings)

- Housing Supply and Affordable Housing

- 6.4.1** London Plan Policy H1 sets Bromley's housing target at 774 homes per annum. 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.
- 6.4.2 The current FYHLS (covering the period 2021/22 to 2025/26) is 3,245 units or 3.99 years supply. This position was agreed at Development Control Committee on the 2nd of November 2021 and acknowledged as a significant undersupply. Subsequent to this, an appeal decision from August 2023 (appeal ref: APP/G5180/W/23/3315293) concluded that the Council had a supply of 3,235 units or 3.38 years. The Council has used this appeal derived figure for the purposes of assessing this application. This is considered to be a significant level of undersupply. It is noted that the appeal derived FYHLS figure assumes the new London Plan target of 774 units per annum applies from FY 2019/20 and factors in shortfall in delivery against past targets since 2019.
- 6.4.3 Paragraph 11 of the NPPF relates to presumption in favour of sustainable development and part (d) states that where there are no relevant policies or the policies which are most important for determining the application are out of date, planning permission should be granted unless:
- (i) "The application of policies in this Framework that protect areas or assets of particular importance provided a clear reason for refusing the development proposed" or
 - (ii) "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole".
- 6.4.4 For the purposes of assessing relevant planning applications this means that the presumption in favour of sustainable development would ordinarily apply. However, Footnote 7 of the NPPF defines "areas at risk of flooding" as protected areas within the framework. New development should be steered away from areas subjected to flood risk. In this instance, the application of policies in the NPPF that protect areas or assets of particular importance in areas at risk of flooding (in this case Flood Zone 2) provide a clear reason for refusing the development because the proposed development has failed to demonstrate there are no sequentially preferable alternative sites to accommodate the development. Consequently, the presumption in favour of sustainable development does not apply.

6.4.5 Bromley Local Plan 2 and London Plan Policy H6 sets out the requirements for affordable housing and tenure. A minimum of 30 percent social rent, a minimum of 30 percent of London living rent and the remaining 40 percent to be determined by the borough as rented or intermediate product.

6.4.6 This application includes the provision of 18 dwellings and 4 further dwellings at No. 62 Kings Hall Road and would represent a moderate contribution to the supply of housing within the Borough.

6.4.7 Revised and updated proposals along with updated viability assessments have been reviewed by the GLA and the agreed viability consultant. Based on the quantum of the proposal, the scheme would not be viable to provide 35% affordable units and comply with a tenure split between 60% rented units and 40% intermediate units.

6.4.8 Ten (10) intermediate units are proposed, achieving 45 percent affordable housing by unit, including the 4 private units at N0.62 Kings Hall Road. Whilst the intermediate unit is not the most needed tenure type and the proposal would remain unviable with a deficit of circa £24k, this is the maximum level of affordable housing that can be provided by the applicant.

6.4.9 The proposal would provide 18 units including 10 intermediate units. A further 4 private units would be provided at No. 62 Kings Hall Road. Overall, the proposal would attract a moderate contribution to the Council's housing stock. Should planning permission be forthcoming and in line with the London Affordable housing guidance, this provision along with the Council's nomination rights, early and late stage should be secured by a S106 legal agreement.

- Wheelchair unit

6.4.10 The proposed floor plans indicate that 3 wheelchair units (Flat 1, Flat 6 and Flat 12) would be provided. Should planning permission be forthcoming, detailed drawings confirming all internal fixtures, car park allocations and standard of disabled parking spaces complying with the South East London Housing Partnership standards should be secured by planning conditions. A car park management plan should also be secured by a planning condition.

- Housing mix

6.4.11 London Plan Policy H10 (Hosing size mix) promotes a range of unit sizes in new development, having regard to robust relevant evidence. Paragraph 2.1.17 of BLP states the 2014 SHMA highlights that the highest level of need across tenures within the Borough up to 2031 is for

one bed units (at 53%) followed by 2 bed units (at 21%) and 3 bed units (at 20%). The proposal would provide 35 x 1 bed, 28x 2 bed and 12 x 1 bed units. It is considered that the proposed housing mix and size are acceptable and would not be contrary to London Plan Policy H10.

- Living space standard

6.4.12 The London Housing Design Standard LPG sets out the recommended living spaces standards. London Plan Policy D6 sets the minimum internal/living space standards for new dwellings, across all tenures. The required gross internal area (GIA) of all new dwellings depends on the number of occupancies, number of floors and housing size. It also sets out size requirements for bedrooms, storage and floor-to-ceiling heights. The above targets are reflected at the local level by Policy 4 of the Local Plan which seeks to ensure that all new residential units meet the minimum standards prescribed within the London Plan. The proposed internal living space and private outdoor spaces would meet with the minimum requirements.

- Child Play

6.4.13 LP Policy S4 states a minimum of 10sq.m play space per child should be provided. A child play area located adjacent to the residential car park is proposed and would meet the policy requirements. Should planning permission be forthcoming, the details of play equipment should be secured by a planning condition.

- Outlook and privacy

6.4.14 The proposed floor plan indicates that a row of communal cycle stores would be located approximately 2.7 metres from all the main habitable room windows of Flat 3. Due to its distance and relationship with Flat 3, it is considered that the proposed layout would fail to provide adequate outlook and privacy for this unit.

6.4.15 Flat 2 is a ground floor three bed unit and all the bedroom windows would be facing the access road and path. It is noted that a defensible space approximately 1.6 to 1.7m would be provided between the bedroom windows and the path. Planting or a fence could be provided to mitigate the privacy. However, due to its limited distance, it is considered that the proposed layout would fail to provide adequate outlook and privacy for this unit.

6.4.17 Flat 8 is a first floor two bed unit and Flat 14 is a second floor 2 bed unit. The proposed layout indicates that all bedroom windows of these units would be facing the habitable room windows of Knights Court. Due to its proposed layout and relationship with its surroundings, it is considered that the proposal would represent over-development and fail to provide a good quality living environment for the future occupiers.

6.5 Highway

A) Access

- 6.5.1 The existing access is located at the south-west corner of the site which leads to an existing car park located to the east of the indoor bowls building. The vehicular access to this existing car park is reliant upon the freeholder of neighbouring land at Bailes Place (Land Registry Record SGL 761416).
- 6.5.2 It is proposed to widen the existing access road to 5.4 metres, with a further footpath which measures 2 metres wide at the south east corner of the site to provide a communal access to the proposed residential and nursery buildings. The Transport Assessment states a proposed nursery pick up and drop off zone capable for 5 to 6 cars would be provided near to the north-west corner of the site. Two off-street parking spaces for the nursery manager and a visitor is located to the north of the nursery building.
- 6.5.3 A Stage 1 Road Safety Audit is submitted which outlines a range of highway issues and designer responses required. The submitted waste collection vehicle swept path analysis indicates that the southern side of the on-street parking spaces located opposite to the entrance of the site would be impeded and this parking bay along with the on-street parking spaces on the northern side of Kings Hall Road should also be removed. The Council's highway officers have advised that a Stage 2 and 3 Road Safety Audit, including the cost to amend the traffic order and the cost of any required highway works shall be met by the developer. These details shall be secured by planning condition and/or planning obligations.

B) Parking

o Residential

- 6.5.4 Table 10.3 under LP Policy T6 sets a maximum parking standard for residential development. For outer London sites with a PTAL rating of 3, a maximum ratio of 1 space per 3 bed and 0.75 spaces per 1 to 2 bed should be provided. The submitted Transport Assessment provides a modelling which suggests the site has a PTAL rating of 4. TfL have advised that the site has a PTAL rating of 3. The suggestion of PTAL 4 is therefore not accepted.
- 6.5.5 The proposal would provide 11 residential parking spaces and this is within the maximum parking provision of 13 residential spaces including 2 residential disabled parking spaces are proposed meeting the maximum standards in the London Plan. Should planning permission be recommended, a car park management plan, and a minimum of 3 active electric charging spaces should also be secured by a condition and/or planning obligations.

- Nursery

- 6.5.6 There is no parking standard for a nursery. The Transport Statement and the proposed site plan indicate that a pick up and drop off point providing 5 to 6 car spaces would be provided near the north-west corner of the site. Two off-street parking spaces would be provided for the nursery manager including a visitor's parking space.
- 6.5.7 LP Policy T6 states car-free development should be the starting point for all development proposals in places that are well-connected by public transport. Paragraph 10.6.5 states where no standard is provided, the level of parking should be determined on a case-by-case basis taking account of Policy T6 Car parking, current and future PTAL and wider measures of public transport, walking and cycling connectivity.
- 6.5.8 The application site has a PTAL rating of 3. Whilst there are railway and tram stations in the wider area, there is no bus stop on Kings Hall Road and the nearest bus stops are located on Bridge Road and Beckenham Road (A234).
- 6.5.9 The parking demand associated to the proposed nursery would be mainly derived from the number of staff attending the site, parents dropping and picking up their children, servicing, and delivery. The proposed number of nursery spaces would be increased from 72 to 150 spaces and the proposed number of staff would be increased from 20 to 40 staff.
- 6.5.10 The Transport Assessment states "*The nursery school currently operates a safe, drop-off and pick-up system for pupils to and from the nursery school with staff on hand to meet pupils from cars / parents which helps to minimise the dwell time of vehicles. Similarly, staff assist with the pick-up process to safeguard the children*".
- 6.5.11 It is noted that young children are likely to be physically carried by parents via a pram and/or push chair when compared with primary or secondary school pupils, where older aged pupils have more ability to walk or are more independent. The public transport accessibility rating of the application site is rated at 3 which is lower than the current operating address at No.62 Kings Hall Road. The Council's Highway division have not raised concern of the above. Whilst the scale of the proposed 150 spaces nursery is of concern, it is on balance considered that the proposed arrangement would not be unacceptable.

- School Travel Plan

- 6.5.12 The 2016 allowed scheme at No. 62 Kings Hall Road sets a limit of no more than 72 children and 20 staff at the premises at anytime. A further condition required the car park in the forecourt of the building to be kept available for nursery parking. There is no application record that relates to the school travel plan. Should planning permission be forthcoming, a

planning condition requiring the full details of a school travel plan including monitoring should be secured by a planning condition.

- Non-residential disabled parking spaces

6.5.13 London Plan Policy T6.5 states disabled persons parking should be provided in accordance with the level set out in Table 10.6, ensuring that all non-residential elements should be provided access to at least one on or off-street disabled persons parking bay. The standard for designated disabled parking bays and enlarged bays is 5 percent of the total parking provision.

6.5.14 No designated disabled persons parking bays are indicated for the nursery use. The entrance door of the nursery is located over 60 metres from the road and is not considered acceptable for on-street provision which further reduces the availability of on-street parking on Kings Hall Road. A further parking space could be provided adjacent to the staff and visitor parking spaces. However, the spaces are located away from the entrance door. A dedicated disabled person bay and enlarged bays could be provided in the pick-up and drop-off area. However, this would reduce the designed pick-up and drop-off capacity for the proposed nursery. Due to the compact layout of the proposal, it appears the priority to meet the policy requirements is low and would fail to provide adequate disabled parking space and enlarged bays for the nursery, contrary to London Plan Policy T6.5. This could impact on the developments ability to accommodate people with a disability which is a protected characteristic.

- Trip generation

6.5.15 BLP Policy 32 states the Council will consider the potential impact of any development on road safety and will ensure that it is not significantly adversely affected. The proposed development will result in 374 two-way person trips in the AM peak hour and 364 two-way person trips in the PM peak hour. In terms of vehicle trips, the proposed development is likely to result in 153 two-way trips in the AM peak hour and 151 two-way vehicle trips in the PM peak hour. The majority of the trips to site are attributed to the development of the nursery at the site, the majority of these trips will involve drop-off and pick-up trips with trips to the site making up part of a multi-purpose trip. No objection is raised by the Council's highways team regarding to the impact on the highway network.

- On-street parking stress survey

6.5.16 A parking stress survey was carried out on the 21st September 2021 (Tue) and 22nd September 2021 (Wed) between hours of 00:30am to 05:30am, 07:00am to 10:00 am and 15:00am to 18:00pm. The survey indicates that there are 93 car parking spaces on Kings Hall Road. The average occupation is 19 percent during the AM peak hour and 21

percent during the PM peak hour. Kings Hall Road is a residential road with a relatively large number of suburban houses. Objection from residents' states that the parking stress survey included residential car parks on Eastwell and Densole Close. Based on the survey on Kings Hall Road without taking into account the availability of residential parking spaces on Eastwell and Densole Close, it is considered that the impact upon on-street parking would not be unacceptable.

- Servicing and delivery

6.5.17 Servicing and delivery for the proposal would be located within the site. The Transport Assessment indicates that where feasible they will seek to use one supplier and will undertake bulk delivery once or twice a month to minimise the number of deliveries to the nursery. The residential services and delivery would be likely to take place in the car park. No objection is raised by the Council's highway team and the details along with a construction management plan should be secured by a planning condition.

- Cycle parking and storage standard

6.5.18 LP Policy T5 sets a minimum long and short stay cycle storage requirement for new development, based on the proposed use and scale of the proposal. The policy requirements and proposal are tabled as follows:

- Residential

6.5.19 A minimum of 33 long stay and 2 short stay is required based on the proposed housing unit, mix and policy requirements (1 space for each studio or 1 bed unit, 1.5 spaces per 2 person 1 bed unit; 2 spaces per all other dwellings). The proposal would provide 33 cycle storage spaces including 2 cargo bike storage spaces which would be located to the rear of the residential building. A Sheffield stand providing 2 short stay cycle storage spaces would be provided and would meet the minimum policy requirements.

- Nursery

6.5.20 Policy requires a minimum of 1 space per full time staff and 1 space per 8 students. A minimum of 24 long and short stay spaces is required for the proposed 150 pupils and 40 staff. A total of 15 Sheffield stands provides 30 cycle spaces. Two of the Sheffield stands would provide 20 spaces for scooters.

6.5.21 The London Cycle Design Standards set out the principles of well-designed cycle parking for staff which should be:

- Secure with access for staff only;
- Designed to allow the frame and at least one wheel to be securely covered;

- Conveniently located, with step-free access from outside and inside
- Fully accessible, for parking all types of cycle;
- Introduced with complementary facilities: showering and changing facilities with accessible features, storage (lockers) and equipment for basic maintenance, such as pumps;
- Consideration should be given to storage within buildings, cycle compounds, areas with controlled access and cycle lockers, in order to help serve the need for long-stay cycle parking.

6.5.22 The proposed number of residential and nursery cycle spaces would meet the minimum requirements. However, the proposed Sheffield cycle stands for the nursery element is not designed with secure cover and would be located outdoors with some of the stands not conveniently located near to the nursery entrance. There is no shower, changing room and storage facilities for staff attending the nursery by bicycle. The provision of bicycle parking should ideally be within buildings with controlled access to the cycle and storage facilities for staff.

6.5.23 With regards to the proposed 20 spaces for scooters and an indoor buggy and scooter storage provision, there is no policy requirement to provide scooter storage.

6.5.24 Overall, it is considered that the proposed nursery cycle storage provision would not all be fit for purpose, secure and well-located and would not comply with the London Cycling Design Standards and LP Policy T5. However, in the event planning permission was forthcoming, it is considered that planning conditions could be used to overcome these issues by requiring further details to be submitted and approved by the Council at a suitable stage in the construction. It should be noted that any further or new structure and/or building would have an impact on MOL.

- Waste storage

6.5.26 A residential waste storage area would be provided in the car park which indicates the size can accommodate 6 waste bins. A swept path analysis confirms waste vehicles can leave the site in a forward gear. Subject to the enclosure details with a green roof and a minimum of 3 x 1100 litres bins for non-recyclable, 3 x 240 litres for paper and 3 x 240 for bottle, it is considered that the provision would be acceptable and should be secured by a planning condition. The commercial waste associated to the nursery would be privately collected and no objection is raised by the Council's Waste Services.

6.6 Neighbours residential amenities

- Sunlight and daylight

6.6.1 A sunlight and daylight report is submitted which indicates the proposal would provide a good quality living environment for the future occupants and an acceptable sunlight and daylight can be maintained to the neighbouring properties. The report indicates that the proposal would result in a marginal reduction of lights to the neighbouring windows on Kings Hall Road and would remain acceptable.

- Outlook and privacy

6.6.2 The proposed layout plans indicates that a number of the proposed primary bedroom windows on the west elevation would be facing the side habitable room windows of the neighbouring property at Knights Court. It is noted that the neighbouring side windows at Knights Court includes primary, secondary/non-habitable room windows. Due to the location of the proposed bedroom windows and their relationship with the neighbouring properties, it is considered that the proposal would appear to be unneighbourly development and result in loss of outlook and privacy.

- Noise

6.6.3. The existing nursery at 62 Kings Hall Road operates between 7am to 6pm. A noise assessment is submitted which indicates the proposal would be suitable for the proposed uses. However, information relates to the proposed access to the 150 spaces nursery and noise from the playground has not been included. As such, it is considered that the proposal fails to demonstrate that it would not have an adverse impact on the neighbouring residential amenities. It is therefore contrary to BLP Policy 37.

6.7 Environmental Issues - Unacceptable

- Land contamination

6.7.1 A Phase 1 Desk Study has indicated that it is possible contamination is present on site in a circumstance. Based on historical mapping records, the northern part of the site likely suffered bomb damage in WWII, which could have led to significant ground disturbance and the generation of ashy made ground, with common contaminants such as asbestos, metals and polyaromatic hydrocarbons. The potential presence of thick ashy made ground may also represent a source of ground gas, particularly carbon dioxide. A Phase 2 site investigation is required to refine the risk assessment, including sampling of soils and groundwater.

6.7.2 The Council's Environmental Health Officers have reviewed the submitted document and considered that no development including demolition of the building shall be commenced prior to a remediation strategy and required verification is submitted and approved by the Council.

- Noise

6.7.3 A noise assessment including an on-site survey is submitted which indicates that the site would be suitable for the proposed uses. The site is surrounded by residential uses with green open park and spaces to the north and east of the site. As such, it is considered that proposal would not be unsuitable to accommodate the proposed uses, subject to the details of glazing and external plants/equipment details being secured by planning conditions.

6.7.4 However, there is insufficient information relating to traffic and outdoor playground noise associated to the proposed nursery, in particular during the week day early hours where ambient noise is expected to be lower. Due to its proximity of the access road, hours of operations and scale of the proposed nursery, it is considered that the impact on neighbouring residential amenities cannot be fully assessed, contrary to BLP Policy 37.

- Air quality

6.7.5 LP Policy SI-1. E states *“Development proposals should ensure that where emissions need to be reduced to meet the requirements of Air Quality Neutral or to make the impact of development on local air quality acceptable, this is done on-site”*. This approach is supported by the London Air Quality Neutral London Plan Guidance (Feb 2023).

6.7.6 An updated air quality assessment including air quality neutral assessment is submitted which indicates that the building emissions associated to this proposal would be air quality neutral as there is no gas fired plant installed. However, the transport emission associated to the proposal would be above the benchmark with an average daily car trip generation of 351 two-day movements, of which 288 car trips would be associated to the nursery.

6.7.7 Paragraph 5.1.2 of the Air quality Neutral London Plan Guidance states *“development fails to meet one or both benchmarks, details of the development should be amended to meet the benchmarks as a first step. This could include changes to the energy or transport strategies or changes to the overall design of the development.”*

6.7.8 As part of the air quality and transport assessment, on-site mitigation measures such as electric vehicle charging points, over-provision of cycle storage requirements and a school travel plan are proposed to encourage the use of alternative means of transport. However, the nursery car trip generation in the transport statement indicates that there is a higher dependency of car trips, and the number of cycle trips is as little as 8 two way for the nursery or 12 two way including the proposed residential element. It is uncertain whether the overprovision of cycle parking could reduce the number of car trips. Due to the nature of the

proposed use; being a nursery with young children, the PTAL rating of the site at 3 and the nursery building being located over 60 metres from Kings Hall Road and the nearest bus stops being located on the neighbouring road, it is uncertain how the suggested mitigation measures can achieve air quality neutral in terms of transport emissions. As such, it is considered that the proposal would fail to demonstrate the proposal would achieve air quality neutral, contrary to BLP Policy 120 and London Plan Policy SI1.

6.8 Trees, urban greening, biodiversity net gain and protected species

- Trees

6.8.1 London plan policy G7 states development proposals should ensure that where possible, existing trees of values are retained. Footnote 140 states category A, B and lesser category trees where these are considered by LPA to be of importance to amenity and biodiversity, as defined by BS 5837:2012.

6.8.2 The site is currently well covered by trees and plants at present. There are 6 Ash trees (G24- Ash; Category B) located near to the north-east corner of the site. There is also an established tree line located along the existing access road, which comprises of Common Oak, Lime, Elder, Ash, Privet and Hazel (T4, T5, T6, T7 and G8 under category B, C or U). There is a further line of Ash trees located near the north-east corner of the site.

6.8.3 All the existing trees located within the site are proposed to be removed. The submitted arboricultural report indicates 11 individual trees and 3 tree groups would be removed (Group G8, G24 and G41). The condition of these trees and tree groups are as reported as follows:

| | Species | Tree height in metres | Category / Condition |
|-----------------------------------|--------------------|-----------------------|----------------------|
| Individually recorded tree | | | |
| 1 | T4 – Elder | 3 | U |
| 2 | T5 – Lime | 12 | B |
| 3 | T6 – Oak | 12 | C |
| 4 | T7 – Oak | 12 | B |
| 5 | T14 – Ash | 8 | U |
| 6 | T15 - Ash | 8 | U |
| 7 | T16 - Ash | 9 | C |
| 8 | T17 – Ash | 12 | C |
| 9 | T18 – Ash | 12 | C |
| 10 | T26 - Ash | 5 | C |
| 11 | T27 – Locust | 12 | C |
| Tree groups | | | |
| 1 | G24 – 6 Ash | 9 | B |

| | | | |
|---|--|--------|---|
| 2 | G8 – Privet, Ash, Elder, Hazel, Oak | 3 | C |
| 3 | G41 – Cheery, Laurel, Ash, Liime, Oak, Dog Rose, Goat Willow | 4 to 6 | C |

6.8.4 BLP Policy 73 states proposal for new development will be required to take particular account of existing trees on site and on adjoining land which in the interests of visual amenity and/or wildlife habitat, are considered desirable to be retained.

6.8.5 The existing trees are not protected under any tree preservation order. Whilst the proposal would incorporate replacement trees within the site, the level of screening between the site and its adjoining land is considered to be limited due to the proposed layout, location of replacement trees, indicative tree species and height. The layout and footprint of the proposal appears to maximise the built environment to accommodate the scale of the proposed commercial and residential uses. It is noted that there is a line of trees located outside the site on Balies Close, the proposal would result in the loss of a number of significant trees including 8 category B trees up to 12 metres in height and result in a loss of visual amenity when viewed from Kings Hall Road and its surroundings, contrary to the aim of BLP Policy 73.

- Urban Greening Factor (UGF)

6.8.6 LP Policy G5 state a recommended target score of 0.4 for developments that are predominantly residential and 0.3 for commercial. The submitted Urban Greening Factor Calculations Plan indicates that the UGF would be 0.48 and comply with policy requirements. It is stated that the permeable paving area would measure approximately 1, 533sq.m within the site. However, this is inconsistent with the submitted Flood Risk Assessment which indicates the proposed footway would be impermeable. The ground surface at the main entrance of the nursery building and cycle storage area to the north of the proposed nursery building are also inconsistent with the submitted site plan.

6.8.7 The outdoor play area of the proposed nursery is categorised under amenities grassland. Officers note the outdoor play space at 62 Kings Hall Road is covered by artificial materials. It is unclear whether the surfacing materials of the proposed nursery outdoor play areas would be covered by hard or soft play surface. The inclusion of all nursery outdoor play as amenity grassland is unlikely to be practical in such a setting and there is no information to confirm the play area would all be covered by lawn without any hard surface play area or safety surfacing. It would not be appropriate for officers to limit the surfacing materials of outdoor play as lawn/amenity grassland in order to achieve the target UGF score.

6.8.8 The submitted urban greening factor calculations plan indicates that a total of 37 trees will be planted and each of the new tree is expected to have a canopy area of 12.2sq.m. The number of proposed replacement trees is inconsistent with the submitted CAVAT assessment which indicates 36 new trees will be planted.

6.8.9 It is also indicated that a green wall would be provided along the front of boundary of the site and the eastern side wall of the proposed residential building would also be provided with green walls. In the absence of a calculation break down of this provision, the suggested 106sq.m green wall coverage cannot be confirmed.

6.8.10 Overall, it is considered that inadequate and inconsistent information has been submitted and this part of the proposal cannot be fully assessed.

- Biodiversity net gain (BNG)

6.8.11 LP Policy G6 states development should manage impacts on biodiversity and aim to secure net biodiversity gain.

6.8.12 Metric 3.0 is used to assess and calculated BNG. Version 4.0 was published in March 2022 and an update to date version should be used.

6.8.13 Drawing 14118/P14 in the submitted ecology assessment reflects the suggested baseline linear habitat the submitted assessment which states: -

- "Line of trees(0.08km) along the eastern site boundary and is being in poor condition.
- "Line of trees (0.06km) along the north western site boundary assessed as being in moderate condition".

6.8.14 It should be noted the line of existing trees within the application site does not run the full length along the eastern boundary of the site. The arboriculture survey indicates that the existing trees near to the north east corner of the site/part of the eastern boundary of the site is categorised under B category and is not considered to be a poor condition.

6.8.15 The submitted arboriculture report also indicated that there are trees located next to the existing access road and the former outdoor bowl area. This information is not included in the habitat feature plan (drawing 14118/P14 in the ecology assessment)

6.8.16 Furthermore, drawing 14118/P14 in the ecology assessment outlines the size and shape of the existing buildings (indoor bowls and garages). This does not fully correspond to the submitted Existing Overall Site Plan.

6.8.16 Based on the submitted information and in the absence of an up-to-date BNG metric calculations, it is considered inconsistent and inadequate information has been submitted and this element of the proposal cannot be fully assessed.

- Protected species

6.8.17 BLP Policy 72 seeks to ensure protected species are not adversely affected, An Ecological Impact Assessment indicates that the site does not have suitable habitat for breeding amphibians. There were two results of badgers within 1 km from the site. There was no evidence of any badgers recorded within the site and it concluded there was limited suitable habitat for sett excavation and limited feeding and foraging opportunities.

6.8.18 There were two European Protected Species licence applications for bats within 1km of the site which indicates roosting bats are present in the area.

6.8.19 A nocturnal dusk emergence survey was carried out and there were no bats observed emerging from the existing buildings.

6.8.20 Table 2.5 of the Preliminary Bat Roost Assessment for trees indicates that an Ash tree located near to the north -west corner of the site has a crack within the trunk of the tree which could lead into a cavity. If the crack leads into a cavity there could be roosting opportunities for multiple bats due to the spaces, shelter and conditions. A climbing inspection should be carried out from a qualified ecologist and a licence from Natural England would be required. Should planning permission be forthcoming, these details shall be secured by a planning condition.

6.9 Energy

- Carbon reduction

6.9.1 LP Policy SI-2 requires major development to achieve zero-carbon in line with the GLA energy hierarchy. A minimum 35 percent on-site reduction is required and a minimum energy efficiency measure of 10 percent for non-residential and 15 percent for resident development are required. Any shortfall should be provided either through a cash in lieu contribution to the borough's carbon offset fund. A Whole Life-Cycle Carbon Assessment demonstrates action taken to reduce life-cycle carbons emissions is also required for Mayor referable scheme.

6.9.2 A Sustainability and Energy Strategy is submitted which indicates a range of design measures such as passive solar gains, natural daylighting, fabric of the building envelope, efficient lighting and controls, space heating and hot water would be used. The proposed nursery element and residential element would achieve a 18 percent and 11.98 percent reduction respectively and meet the policy requirement. No

carbon reduction can be awarded under the Be Clean category as there is no established heat network in the area.

6.9.3 Air source heat pump and solar PV panel are proposed for the nursery and residential buildings. Mechanical ventilation is also proposed for residential buildings. A total of 139 x 400W solar panel is proposed and would be installed at the roof level of the buildings.

6.9.4 The proposal would achieve 87.23% onsite carbon saving against Part L 2013 of the Building Regulations with a short fall of 12.77% (3.758 tonnes). In line with the GLA "Be Seen" energy monitoring guidance LPG, an automated monitoring system should be installed to allow for the monitoring of energy consumption and operations performed over a 5-year period post development. Should planning permission be forthcoming, a planning obligation of £10, 710 and "Be Seen" should be secured by a s106 legal agreement.

- Overheating

6.9.5 LP Policy SI4 states proposal should demonstrate through an energy strategy how they will reduce the potential of internal overheating and reliance on air conditioning system through design, elevational design, passive ventilation, mechanical ventilation (where essential) and other measures. Thermal Modelling (CIBSE TM52 for nursery and CIBSE TM 59 for residential) have been submitted and would comply with the policy requirements with the proposed mitigations. Should planning permission be forthcoming, details of the mechanical ventilation system and glazing details shall be secured by a planning condition.

- a) Ground floor residential windows with a G- Value of 0.2;
- b) All other windows with a G Value 0.5; and,
- c) Mechanical ventilation system achieving 4 Air changes per hour.

- Whole Life-Cycle Carbon Assessment (WLC)

6.9.6 Policy SI2.F states proposal referable to the Mayor should calculate whole life-cycle carbon emission through a nationally recognised Whole Life -Cycle Carbon Assessment and demonstrate actions taken to reduced life-cycle carbon emissions.

6.9.7 The GLA have reviewed the submitted details and advised that the WLC assessment should be prepared and fully followed the London Plan Guidance for Whole Life-cycle Carbon Assessment published in (March 2022). These details should be secured by planning condition, if permission is recommended.

- Circular economy

6.9.8 LP Policy SI-7B states referable applications should promote circular economy outcomes and aim tot be net-zero-waste. Whilst a Circular

Economy Statement (dated 30th Jan 2023) is submitted, this is neither with adequate reference to the Draft for Consultation (October 2020) or adopted guidance version (March 2022). The reporting tables have not been completed.

6.9.9 The GLA have advised that should the application is recommended for approval by the Council and prior to the Stage II, the applicant should provide a Circular Economy Statement with reference to the London Plan Guidance: Circular Economy Statements (March 2022). The applicants are expected to submit the completed CE template (as an Excel document) and an accompanying written report in line with the GLA guidance. Following review of the update statement, it may be the case that revised material or supporting information could then be conditioned, if agreed with the Council. Therefore, the submitted document does not demonstrate compliance with London Plan Policy S17.

6.10 Planning obligations and CIL

6.10.1 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. The application is liable to both Mayoral and Local CIL.

6.10.2 BLP Policy 125 and the Council's Planning Obligations SPD state that the Council will, where appropriate, enter into legal agreements with developers, and seek the attainment of planning obligations in accordance with Government Guidance. Should planning permission is forthcoming, the following planning obligations should be secured by a legal agreement and the identified Head of Terms as follow:

- 10 intermediate units and council nomination rights
- Carbon offset and Be Seen measures
- S278 Highway works (Removal of 2 on street parking spaces on Kings Hall Road and associated required highway works)

7. CONCLUSION AND PLANNING BALANCE

7.1 The proposal would provide a 150 spaces nursery and 18 flats. The Council's planning application records indicates that these benefits are not uncommon and can be derived outside the designated Metropolitan Open Land and outside an area which is subject to flood risk.

7.2 The proposed uses including introduction of substantial buildings and required surfacing to provide a residential car park and access road would constitute inappropriate development in Metropolitan Open Land which falls outside the exceptions as defined by the Council's Local Plan and Development Plan and would cause substantial harm to the openness of the MOL.

- 7.3 The proposed uses are categorised as more vulnerable uses by the Environment Agency, and it is defined in the National Planning Policy Framework that these developments should be steered to areas with the lowest risk of flooding. PPG 028 states *“The absence of a 5 year land supply is not a relevant consideration for the sequential test and development could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development”*.
- 7.4 Given that there are alternative sites identified, the greater flexibility of Use Classes Order introduced by the Government in 2021 and the successful conversion of existing residential buildings to provide a nursery at No.62 Kings Hall Road, it is considered that the proposal would constitute inappropriate development in MOL land and no very special circumstances can be demonstrated at this site which is also subjected to flood risk.
- 7.5 The layout of the proposed buildings is designed in tandem with the main nursery door located over 60 metres from Kings Hall Road, behind the proposed residential car park. The proposal also fails to provide an inclusive environment for all groups of future users without disabled parking spaces for the nursery use and due to the nursery front door being located over 60 metres away from the road. The existing trees currently providing a good degree of screening between the site and neighbouring properties will all be removed, resulting in a loss of green infrastructure at the site. Supporting green infrastructure and enhancing the open environment is one of the key roles which the MOL plays within urban areas such as this. In contrast, the proposed nursery and residential buildings would introduce extensive built development into currently open parts of the MOL, appearing as visually prominent and eliminating the openness of the MOL land. As a result the site would no longer be clearly distinguishable from the built-up area.
- 7.6 The siting of the proposed main bedroom windows and its relationship with the neighbouring properties would result in loss of outlook and privacy. The location of the proposed ground floor windows would also be positioned close to its side boundaries or residential cycle storage resulting in lack of outlook and privacy. The compact layout of the proposal along with the scale of the commercial building indicates that the proposal would constitute over-intensive development.
- 7.7 The proposed nursery cycle storage would all be Sheffield stands, located outside the nursery building with no showering facilities provided for cyclist/staff. Whilst improvement of these details could be secured by planning conditions, it is unclear whether the layout and design of the proposal would encourage sustainable modes of transport given the nursery is located away from the road with a PTAL rating of 3 and given the nursery’s higher dependency on car trips (as indicated in the Transport Assessment). As it has not been demonstrated that the

development would be capable of achieving air quality neutral in terms of transport emissions through on-site mitigation measures the proposal would fail to comply with BLP Policy 120 and London Plan Policy S11.

- 7.6 The residential amenities to the neighbouring properties in terms of noise associated to the proposed nursery, the access road and nursery playground have not been included in the noise assessment. Given the proximity to the adjoining properties, it is considered that the proposal would have a negative impact on the residential amenities in terms of noise, air quality, privacy and outlook.
- 7.7 Insufficient, inconsistent and inadequate information has been submitted to demonstrate the proposal can achieved the urban greening factor and biodiversity net gain outlined within its submission.
- 7.8 Having regards to the provision of the development plan, it is considered that the planning merits of this proposal is limited and would not outweigh the harm that would arise. As such, there is no very special circumstances can be demonstrated and demonstrably outweigh the harm and planning permission should be refused.
- 7.9 The public sector equality duty requires the decision maker to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include age and disability. While the proposal would benefit children by providing additional nursery places, it has not been demonstrated that the proposed development could not be provided elsewhere where it would not be inappropriate and harmful to the openness of the MOL and would be in an area at lesser risk from flooding. Furthermore, the lack of disabled persons parking for the nursery use has the potential to disadvantage those with a disability.

RECOMMENDATION Planning permission to be refused.

Reasons of refusal

1. Metropolitan Open Land

The proposed development including the introduction of new residential and nursery buildings would constitute inappropriate development in Metropolitan Open Land (MOL) and would significantly harm its openness and purposes of being included in the MOL. There are no very special circumstances which can be demonstrated or outweigh the harm, contrary to BLP Policy 50, London Plan Policy G3 and Chapter 13 of the National planning Policy Framework

2. Sequential approach and test

The proposal fails to demonstrate there are no sequentially preferable alternative sites to accommodate the proposed housing and day nursery development in areas with the lower or lowest risk of flooding, contrary to Bromley Local Plan Policy 115, the London Borough of Bromley's Strategic Flood Risk Assessment (SFRA) (2017) and Chapter 14 of the National planning Policy Framework

3. Layout, design, scale and massing of buildings

The proposal, by reason of the scale, siting, layout and tandem relationship between the proposed buildings, together with the proliferation of hard standing for parking and access, would amount to an overdevelopment of the site, at odds and harmful to the character and appearance of the area, contrary to Bromley Local Plan Policy 37 and London Plan Policy D3 and Policy S3 and the London Borough of Bromley's Urban Design Guide SPD

4. Residential amenities of future occupants and neighbouring properties– outlook and privacy

The proposal, by reason of its layout, siting and relationship with its surrounding would fail to provide adequate outlook for the prospective occupiers and would have an adverse impact on the privacy and outlook of the neighbouring properties, contrary to Bromley Local Plan Policy 37 and London Plan policy D6.

5. Noise and air quality

Insufficient information has been submitted to demonstrate that the proposed development would not have an adverse impact on neighbouring amenities by way of noise and disturbance or that the development would be 'Air Quality Neutral' for development transport emissions. As such, the proposal would be contrary to BLP Policies 37, 119 and 120 and London Plan Policy SI 1.

6. UGF and BNG

Insufficient and inconsistent information have been submitted to demonstrate the proposal would achieve the required or stated urban greening factor and biodiversity net gain, contrary to BLP Policy 37, 79 and London Plan policy G5 and G6.

7. Planning obligations

Insufficient information is provided to confirm the required planning obligations necessary to mitigate the impacts of the development. As such, the proposal would be contrary to London Plan Policies DF1 and M1, Bromley Local Plan Policies 125 and Planning Obligations SPD (2022) and subsequent addendums.