

Committee Date	6 th June 2024	
Address	53 Jail Lane Biggin Hill TN16 3SE	
Application number	23/03484/OUT	Officer Agnieszka Nowak-John
Ward	Biggin Hill	
Proposal (Summary)	Outline application for demolition of existing dwellings (51 and 53 Jail Lane), formation of access off Jail Lane and construction of up to 50 new Discount Market Rent (DMR) dwellings (Use Class C3) with priority for ex-service personnel, forces families and key workers, comprising a mix of houses and maisonettes together with associated parking, amenity space, landscaping and refuse. All matters reserved.	
Applicant	Agent	
Stonegate (Stoke Road) Ltd C/o Solve Planning Ltd Cheyenne House West Street Farnham Surrey GU9 7EQ	Mrs Rosalind Gall Solve Planning Ltd	
Reason for referral to committee	Cllr call-in	Councillor call in Yes Cllr Michael

RECOMMENDATION	<u>REFUSE PLANNING PERMISSION</u>
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Summary

<p>KEY DESIGNATIONS</p> <ul style="list-style-type: none"> • Adjacent - Site Interest Nature Conservation • Article 4 Direction Biggin Hill Safeguarding Area • Green Belt • London City Airport Safeguarding • Local Distributor Roads • Smoke Control
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Residential Use – See Affordable Housing section for full breakdown including habitable rooms					
	Number of bedrooms per unit				
	1	2	3	4 Plus	Total / Payment in lieu
Market	0	0	0	0	
Affordable (Discounted Market Rent)	18	18	14	0	50
Total	18	18	14	0	50

Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	n/a	55	55
Disabled car spaces	n/a	0	0
Cycle	n/a	100 long stay 4 short stay	104

Electric car charging points	20% active, 80% passive
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Representation summary	Letters to neighbouring addresses were sent on 14/11/2023. Press advert was published in News Shopper on 22/11/2023 and a site notice was displayed on 28/11/2023.
Total number of responses	186
Number in support	3
Number of objections	181

Section 106 Heads of Term	Amount	Agreed in Principle
Carbon offset	£26,181	tbc
Affordable Housing <ul style="list-style-type: none"> o 35% of habitable rooms provided as DMR with 30% at London Living Rent and the remainder at a Genuinely Affordable Rent as defined by LB Bromley 	n/a	tbc

○ 65% of habitable rooms provided as DMR		
Early and late stage viability review mechanisms	n/a	tbc
On-Site measures to meet Air Quality Neutral requirements or, failing that, off-site measures / Air Quality Neutral offset payment	tbc	tbc
Healthy Streets/active travel improvements	tbc	tbc
Monitoring fee:	£500 per head of terms	tbc
Cost of legal undertaking	tbc	tbc
Total	tbc	tbc

SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposal would be inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt. The harm that would arise in this regard would result from the conflict with the Green Belt purpose of preventing urban sprawl by keeping land permanently open.
- Very special circumstances have not been demonstrated which would clearly outweigh the harm to the Green Belt and any other harm.
- The application fails to meet the criteria necessary to qualify for the Fast Track Route and in the absence of a Financial Viability Assessment the application fails to demonstrate that the proposal would maximise the delivery of affordable housing.
- Insufficient information was provided for an archaeological potential associated with the site to be assessed at the pre-determination stage.
- The application fails to adequately assess, mitigate and compensate the impact on the biodiversity value of the site, and in the absence of further surveys as recommended in the Preliminary Ecological Appraisal it is not possible to fully determine the impacts of the proposal on protected species.
- The trip rate generated by the development is higher than the transport emissions benchmark for an Air Quality Neutral development. On-site mitigation measures outlined by the applicant to reduce the emissions do not satisfy the AQN requirements and as there is no guarantee when and how the development would achieve air quality neutral.

1. LOCATION

- 1.1 The site has an approximate area of 1.17ha and sits behind several properties along Hawthorne Avenue and Jail Lane. The site is generally flat and roughly rectangular in shape. To the northern boundary there is Biggin Hill Airport and to the eastern boundary there is an undeveloped area of grassland.



Fig. 1.1 Site location plan.

- 1.2 The site comprises two semi-detached residential dwellings fronting Jail Lane, as well as a small paddock and a number of single storey outbuildings with a mix of stables and sheds at the rear.
- 1.3 Jail Lane consists of a row of dwellings that vary in scale between one and two storeys and have deep rear gardens that extend toward the southern boundary of the site.
- 1.4 Similarly, the properties along Hawthorne Avenue are predominantly single storey bungalows except for a two-storey cul-de-sac at the end of the road which borders the northern boundary of the site.

- 1.5 The land has a substantial tree line and hedgerow running along the entire eastern boundary. Similarly, there is a well-established hedge running along the western boundary that defines the rear boundary to the properties along Hawthorne Avenue.
- 1.6 The application site is located within the designated Metropolitan Green Belt.
- 1.7 The site is greater than 1 hectare in area and lies in Flood Zone 1, classified as having a low to negligible risk of flooding. A Site of Importance for Nature Conservation lies in the vicinity of the site.
- 1.8 The site does not contain or is nearby to any designated heritage assets, however it is located within a Tier III Archaeological Priority Area. The nearest listed buildings are within the Biggin Hill Airport site to the north.
- 1.9 Pedestrian and vehicular access to the site is available from Hawthorne Avenue to the west via an access road located between dwellinghouses at 23 Jail Lane and 2 Hawthorne Avenue. There is an existing right of way access path along the western site boundary.
- 1.10 Jail Lane is a classified road and a Local Distributor Road. There are no parts of the Transport for London Road Network (TLRN) or Strategic Road Network (SRN) nearby. There are no stations within reasonable walking distance of the site. There are five bus services (including two school bus services) stopping within reasonable walking distance from the site. The site has a Public Transport Accessibility Level (PTAL) of 1b, on a scale from 0 to 6b where 6b is the highest.
- 1.11 The site is approximately 0.6 miles (a 12-minute walk) northeast of the centre of Biggin Hill (a designated 'Local Centre').

2. PROPOSAL

- 2.1 This outline application proposes the demolition of existing dwellings (51 and 53 Jail Lane), formation of access off Jail Lane and construction of up to 50 new discount market rent dwellings (use class C3) with priority for ex-service personnel, forces families and key workers, comprising a mix of houses and maisonettes together with associated parking, amenity space, landscaping and refuse. All matters are reserved.
- 2.2 The proposed residential mix comprises:
 - 18 no. 1 bed Studio Apartments (36%)
 - 18 no. 2 bed Maisonettes (36%)
 - 14 no. 3 bed Houses (mix of semi-detached and terraced housing) (28%).
- 2.3 Plots 1-14, a mixture of rows of three houses and a pair of semis, would be sited perpendicular to the gardens to the properties along Hawthorne

Avenue. Plots 19-50 would be sited further to the east of the site and would comprise nine blocks of four apartments (two maisonettes on ground and first floor, and a studio flat at second floor).



Fig.2.1 Indicative Site Layout.

- 2.4 Materials are to reflect those of surrounding housing, being a mixture of red and yellow brick and render.
- 2.5 Off-street parking comprising 55 No. car parking spaces located in three areas of parking which are overlooked by residential properties and spaced to accommodate new trees. 20% of all car parking spaces would be provided with active electric vehicle charging points with the remaining 80% spaces with passive provision for electric vehicles in future. 2 cycle parking spaces per dwelling are provided throughout the development (100No.) in addition, to four bikes for visitors.



Fig.2.2 Indicative Sections.

- 2.6 A Public Open Space would be provided in the southern part of the site which would accommodate informal recreation area with footpath, seating area, and equipped play area.

3. RELEVANT PLANNING HISTORY

- 3.1 The site does not have any relevant or recent planning history.

4. CONSULATION SUMMARY

a) Statutory

- 4.1 **Greater London Authority (GLA)** – The application does not comply with these policies, as summarised below (a copy of the GLAs full report is attached at Appendix 1):

- **Land use principles:** The proposal constitutes inappropriate development in the Green Belt and as such should not be approved except in very special circumstances. Further information is required to assess the extent of the impact of the development on the openness of the Green Belt. The applicant must demonstrate that very special circumstances exist, prior to the Mayor's decision making stage.

- **Housing:** The proposed development includes 50 Build to Rent units as 100% affordable housing by habitable room at Discount Market Rent levels. Compliance with Policy H11 of the London Plan must be appropriately secured, including clawback mechanisms, covenant and rent levels. The scheme could be eligible to follow the Fast Track Route.

- **Urban design:** The development does not demonstrate that the site capacity and layout has been optimised through a design-led approach and impacts to openness of the Green Belt have been identified. A design code and further details on boundary treatments, landscaping, and public access should be provided.

- **Sustainable development and environment:** Further information is required on energy, circular economy whole life-cycle carbon, green infrastructure, water, and air quality.

- **Transport:** Further information is required on Healthy streets, car and cycle parking, delivery, servicing and construction, and Travel Plans.

4.2 **Transport for London (TfL) –** Further work is required on a number of strategic issues before TfL is able to confirm compliance with London Plan transport policies T1, T2, T4, T5, T6, and T7, including covering issues of policy-compliant cycle parking and car parking.

- **Site Description**

The site is on Jail Lane, which is borough highway and there are no parts of the Transport for London Road Network (TLRN) nor Strategic Road Network (SRN) nearby. There are five bus services (246, 320, 464, R2, and R8) stopping within reasonable walking distance from the site but no rail stations. Consequently, the site has a Public Transport Access Level (PTAL) of 1b, on a scale from 0 to 6b where 6b is the highest. The site also benefits from two school bus services.

The site is remote from the Strategic Cycle Network (SCN) and the London Cycle Network (LCN). National Cycle Route NCN 21 is within 3km of the site, however access to it is via narrow, steep, unlit and heavily trafficked country roads.

- **Healthy Streets & Active Travel Zone Assessment**

In order to meet London Plan mode share target (Policy T1) for outer London of achieving a 75% average of daily trips to be walking, cycling, and public transport mode share by 2041 it is essential that infrastructure for active travel both on and off the site and that for buses is good, and consequently improvements are necessary to contribute toward satisfying Policies T2, T4 and T5.

Policy T2 requires that transport assessments focus on embedding the Healthy Streets Approach within, and in the vicinity of, new development. Whilst a Transport Statement has been provided, it has not been prepared in line with TfL guidance. In particular, there is no Active Travel Zone assessment. An ATZ assessment should identify and audit walking and cycling routes to key destinations such as bus stops, shops, schools, and leisure and health facilities, and this should include an assessment

during the hours of darkness. This could include, but is not limited to, improvements to lighting, crossings and footway surfaces; tree planting and provision of benches; road safety improvements particularly focussing on those walking and cycling; and improvements for cycling on the route to NCN 21. Such improvements will support the active and sustainable travel among new residents and their visitors as well as for existing users of the area and ensure those modes are a more attractive option to them than using a car. There is guidance on TfL's website.

The ATZ assessment should be provided prior to determination and used by the Council to identify and then secure appropriate active travel improvements to be delivered through Section 106 funding and/or Section 278 works.

Our own examination of the area has identified a particular need for:

- . Repairs to the crossing outside of Charles Darwin School, in order to increase pedestrian safety when crossing the road.
- . The provision of bus shelters at the nearest stops, equipped with "Countdown" real-time bus arrival indicators, and ensuring that those stops meet TfL standards and guidance, for example ensuring the required kerb height and appropriate length of kerbside covered by bus stop clearway restrictions.

- **Cycle parking**

A total of 100 long-stay spaces and 4 short-stay spaces are proposed. That meets the minimum quantity standard outlined in Policy T5. However, the proposals do not comply at all with the quality standard requirement of T5, specifically that cycle parking meets the London Cycle Design Standards (LCDS), and so we recommend that this cannot be considered acceptable. The current cycle parking proposal consists of various Sheffield stands spread across the site which are not covered or secured. Further, there are inconsistencies in the layout in terms of which stand is assigned to which property.

We recommend that the cycle parking is completely redesigned taking account of the LCDS. The following issues should, in our view, be appropriately addressed:

- . To align with LCDS Chapter 8 Sections 2.8 and 5.3, long-stay cycle parking should be secure, accessed by residents only, and covered. As currently proposed none of these objectives are achieved.
- . The numerical standards in the London Plan are based on the assumption that cycle parking will be communal, so that a household with all occupants wanting to keep a cycle can utilise space which is not used by non-cycling households. If cycle parking is assigned to individual homes, as appears to be the case for stands which are in gardens, it is clear that two spaces will be insufficient for a 3-bed/5-person household if everyone is to keep a

cycle. Our recommendation is that cycle storage is provided in communal stores distributed around the site in close proximity to front doors to properties (so, for example, not placed at the back of a parking courtyard).

- . When provided in communal stores, the recommended spacing between Sheffield stands is 1.2 metres to accommodate two conventional cycles, with 1.0 metres as an absolute minimum for two cycles.
- . LCDS Chapter 8 is clear that five per cent of all cycle parking should be on spaces suitable for wider cycles. Such cycles include cargo cycles, cycle trailers, and a range of cycles typically used by disabled riders. While not covering every variant, we understand that the more common examples of these require at least 900mm width for the parking and access alongside it combined (or 1.8m for two such cycles). Sheffield stands are most likely to provide suitable locking points. LCDS Figure 8.1 sets out other access requirements for these spaces. Note that we would expect wider spaces to be reserved informally for use only for wider cycles through signage, the management plan and notices to residents.
- . LCDS Chapter 8 is also clear that not everyone can use two-tier racks. If that form of cycle parking is proposed, we recommend it makes up a maximum of 75 per cent, leaving a minimum of 20 per cent on Sheffield stands at normal spacing and a minimum of five per cent on Sheffield stands at wider spacing.
- . It is not clear which stands are intended to make up the provision of short-stay cycle parking spaces. They should be separate to the long-stay provision, and easily accessible to visitors. It should follow the spacing guidance above.
- . We recommend that cycle parking facilities are provided with a repair stand and basic maintenance tools and a pumps as an action within the Travel Plan.

The ultimately agreed cycle parking should be secured through a condition requiring installation in accordance with the approved details and maintenance as such for the lifetime of the development.

- **Car Parking**

The site is proposed to have a total of 55 car parking spaces, which equates to a parking ratio of 1.1 spaces per dwelling. This level of provision exceeds maximum London Plan standards for this site, and no justification has been provided to show that this is the minimum necessary provision (Policy T6 part B). This site is served by five bus routes and is within Biggin Hill, in proximity to village services and facilities such as schools and shops. A reduction in car parking could also enable concerns about cycle parking to be better addressed and could allow further 'greening' of the site. Furthermore, it would also help achieve the Mayor's strategic mode shift target outlined in Policy T1.

It should be noted that, from the 2021 Census in the Output Area containing this site, 17.5% of households had no car or van. This should be taken as a guide to the likely demand for parking on this site, although it should also be considered in the light of the restrictive policy environment introduced by the London Plan in 2021. Ultimately it needs to be demonstrated that the amount of parking is the minimum necessary for the development to be able to go ahead.

Any car parking which is ultimately provided should be let on a short term (we recommend monthly) rolling contract, and not sold or otherwise contractually attached to a particular property, in line with Policy T6.1 part B and supporting text in paragraph 10.6.14.

No disabled persons' parking bays have been proposed. This is contrary to Policy T6.1 which requires disabled persons' parking spaces for the equivalent of three per cent of homes provided from the outset, with a location(s) for up to a further seven per cent identified if demand arises in the future. It should be noted that disabled persons' parking bays are wider and longer than general ones and thus it cannot be assumed that sufficient of the proposed general car parking is suitable for conversion for that purpose. Furthermore, any on-plot private to a particular dwelling parking of sufficient size would not be sufficiently flexible to meet the needs of disabled people who could be living in or visiting any home within the development.

20 per cent of all car parking will be provided with active charging, and the other 80 per cent with passive charging. Whilst this meets the minimum requirement in the London Plan, we would encourage you to secure provision of active facilities at all disabled persons' parking spaces from the outset of the development (or their provision for spaces provided later). We would expect the management company to bring passive provision into active use at no direct cost to the person requesting it.

It is welcomed that car parking is set behind, rather than the front of, the homes, so that it minimises dominance and improves safety for pedestrians and cyclists. There is a good level of natural surveillance to the car parking from the other homes, but we would encourage the applicant to include measures in line with TfL's Streetscape Guidance to fully ensure the safe movement of pedestrians, cyclists, and vehicles in a shared space. This could include bollards or planting to provide a division between the pedestrian and vehicle routes, as well as clear signage to guide drivers.

A permit-free agreement should be secured within the Section 106 agreement, preventing occupiers of the new housing (other than disabled people) from securing a parking permit, in the event that Controlled Parking Zone (or similar) controls are extended to cover this area. This will ensure that existing residents are not placed at a disadvantage by any overspill parking from the proposed development.

- **Transport Network Impacts**

TfL does not foresee a significant impact on the local or strategic road network or on public transport capacity, other than in respect of our concerns outlined elsewhere in this email.

- **Delivery and Servicing and Construction**

A full delivery and servicing plan should be secured through condition to align with Policy T7. A full Construction Logistics Plan (CLP) should be secured through condition to align with Policy T7.

- **Travel Plan**

Given the concerns raised above regarding the ability of the development to meet London Plan mode share targets set out in Policy T1, an effective, full Travel Plan (TP) will need to be secured through condition, to follow best practice and practically support sustainable travel by occupiers and visitors to this development. This should include targets at years 1, 3 and 5 in line with the Mayor's Strategic Mode Shift target. The TP should include clear measures to increase active travel and use of buses, this could range from bus maps and timetables and walking and cycle information to subsidised travel on public transport, apps, cycle hire and cycle subsidies.

Ensuring the minimisation of car parking and the delivery of London Plan policy-compliant cycle parking would also help mode shift.

These measures and support for sustainable transport should be funded and secured via the s106 agreement. As proposed the development is highly unlikely to meet the 75% active travel mode-shift target outlined in Policy T1, a result of the location of the site having a poor transport links and, consequentially, a PTAL score of 1b.

Therefore, an effective and well-funded Travel Plan will be essential alongside improvements to active travel and bus infrastructure, to at least approach this target, despite the scale and nature of the development.

4.3 **Historic England – Recommend Pre-Determination Archaeological Assessment/Evaluation**

- Given the size of the site and that it has not been previously developed, it is recommended that the application requires archaeological desk-based assessment.
- Additional information is needed before advice can be given on the effects on archaeological interest and their implications for the planning decision.
- It is recommended that the applicant's failure to submit the assessment is added as a reason for refusal.

4.4 **Thames Water – No objection**

- Waste Comments - with regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection.
- We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Should the Local Planning Authority be minded to approve the planning application, Thames Water would like the following informative attached to the planning permission: “A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.
- Waste water network and sewage treatment works infrastructure capacity - no objection to the above planning application, based on the information provided.
- Water Comments - no objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. 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.

4.5 **London Fire Brigade – No comments received**

b) Local Groups

4.6 **Biggin Hill Airport - Objection**

- The Airport has no in-principle objection to the development of new housing within the Borough, particularly affordable housing for ex-service personnel. However, the Airport is not able to support this particular development proposal, incorporating 50 new homes, due to the impact it could have on the safe and continued effective operation of London Biggin Hill Airport. As a result, on behalf of the Airport, we set out the below objection to planning application ref: 23/03484/OUT.
- Agent of Change

The ‘agent of change’ principle is set out within Para 187 of the NPPF (2023) which states that: “Where the operation of an existing business

or community facility could have a significant adverse effect on new developments (including changes of use) in its vicinity, the application (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”

The London Plan (2021) provides specific policy on the agent of change principle. Policy D13 places the responsibility for mitigating impacts of existing development and operations on the new proposed noise sensitive development, with part B of the policy being of particular importance, and which states:

“development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue to grow without unreasonable restrictions being placed on them”

Biggin Hill Airport is currently home to over 70 commercial and aviation activities, 60 business jets, and over 150 other private aircraft and helicopters. The Airport is ranked in the top three in the UK and top ten in Europe for business aviation, and has grown to become a significant economic force in the aerospace sector. It is a key economic player in South London, Kent and Surrey. Recent tenant surveys, undertaken by the Airport, revealed that the Airport supports c. 900 full time equivalent direct jobs (excluding the wider business park that forms part of the Strategic Outer London Development Centre [SOLDC]) generating an estimated contribution to the economy of c. £90million.

The Airport expects to build on its recent growth and existing strengths (including its three pillars: (1) a London gateway, (2) an aircraft home base, and (3) an aircraft service centre), combining a mixture of established businesses with new industries that make the most of new and emerging technologies (such as Sustainable Aviation Fuels, eVTOL and greater use of electricity rather than combustion). The Airport’s vision for growth seeks to make the best use of land within the SOLDC, with the potential to grow significantly in the short to medium term, supported by the London Plan and adopted local plan.

As a major local employer, which has the potential to expand its operations to create further jobs and significant direct and indirect growth in the wider economy it is imperative that neighbouring development does have any undue impact on its ongoing operations. The following section outlines the Airport’s concerns as to how the proposed development for which permission is being sought would fail to comply with the Agent of Change principles.

- Potential Impacts and Issues
 - Security:

Security at the boundary of an Airfield is of the utmost importance. The proposed development would facilitate new and formal access to the

boundary of the Airfield, where it currently does not exist. It would reduce clear lines of sight to the boundary area, replacing open fields with dense and more easily navigable urban environment. In short, it would increase the opportunity for potential intruders to gain access to the secure line of the Airfield, unsighted.

Due to the very stringent Civil Aviation Authority requirements placed on an Airport, the proposals may lead to the Airport having to upgrade its security arrangements in this corner of the airfield, as a result of development outside of their control. This would not be acceptable.

The issue of security is a vital one to an airfield, one that could impact on the ongoing safe operations of the Airport. There is no recognition within the application submission of how the development would be designed to respond to this potential issue, to ensure that the security of the Airport is not impacted and that the Airport would not need to increase its own provision as a result. Absent that, planning permission should not be granted.

- Bird Strike:

The accompanying planning, design and access statement confirms that the proposals (presumably through RM submissions) would deliver the “planting of native and ornamental species proposals offering opportunities for shelter and habitat creation.” Whilst the increase in biodiversity through habitat creation is something which the Airport supports in principle, its increase in direct proximity of the Airport is a cause for concern.

The increase in foliage gives rise to the potential for the increase in birds, and the question should be raised as to whether suitable consideration has been given to bird strikes, both now and in the future as the Airport continues to expand its operations. The preliminary ecological appraisal cites the provision of nesting boxes for a variety of bird species within the existing trees on site as well as the creation of new ponds within communal areas. On its own site, the Airport does everything it can to minimise the potential for attracting birds, given the significant issues bird strikes can have on the safe operations at an airfield. The Council should treat with great caution any proposed development in the proximity of the Airport that increases this risk.

- Noise, Disturbance and Amenity:

Aviation activity creates emissions. London Biggin Hill Airport is making great strides in reducing these emissions through its operations and contain them as far as it practicable. In respect of noise in particular, the Airport is subject to stringent controls. The Airport’s own Noise Action Plan (NAP) sets out the framework with which the airport operates as well as the anticipated noise levels produced through operations. Development within these areas, where noise levels are heightened,

could give rise to issues and complaints that could disrupt the ongoing operations of the Airfield unless managed appropriately.

The applicants Acoustic Assessment provides little in the way of direct analysis other than to observe, on the day(s) of their site visit that “*the airport flight path is not over the site and there are relatively few aeroplanes given the size of the airport*” (pg. 4). There is no mention of the NAP (available online), the detailed study undertaken, the noise contour data nor the potential operations at the Airfield permitted under the NAP. In the Airport’s view, the noise report does not properly consider the potential noise that could emanate from the Airport in accordance with the NAP; therefore the acceptability or otherwise of new residential dwellings in this location has not been adequately tested.

To this end, the application has failed to demonstrate compliance with policy 110 of Bromley’s Local Plan.

- Green Belt

The application site falls within the Metropolitan Green Belt. The applicant’s case for how the scheme meets the threshold of demonstrating ‘Very Special Circumstances’ (VSC) is set out in the submitted Planning, Design and Access Statement. The applicant’s VSC is the delivery of a specialist type of housing. The Council will need to balance the VSC case against the harm caused, both to the Green Belt and ‘any other harm’, as required by para 148 of the NPPF. The harms to the Airport in terms of the ‘agent of change’ principle are properly harms to be weighed in the balance as part of consideration of Pg 4/4 27237584v2 whether VSC exist. The Airport trusts the Council will do so effectively, in light of the matters raised in this letter and any other issues raised through the consultation process.

- Conclusion

The Airport wishes to reiterate its support for the principle of the development of low-cost housing in LB Bromley, particularly for ex-service personnel, and looked at solely from that perspective, there are obvious benefits to the application proposal that the Airport recognises. However, the boundary of an Airfield is a highly sensitive location, and development proposals must be scrutinised appropriately, regardless of the benefits of the end use.

Economic growth of the Airport is supported by policy at a national, London and Bromley level and this is dependent on effective aeronautical operations. The Airport considers that its current and future operations would be adversely impacted by the proposed development. As a result, the development fails to address the agent of change principles enshrined in policy and, at least in its current form, they should not be approved.

c) Adjoining Occupiers

Objections

- loss of Green Belt land
- conflict with the purposes of the Green Belt land
- there are already houses for ex military nearby which instead of being given to them are being sold. We should use the facilities we already have instead of knocking down existing houses
- very little demand for housing ex-forces personnel and their families in Biggin Hill
- will not benefit the community or provide affordable housing
- unclear on rent levels
- out of keeping
- harm to the character
- there are no other flats on the road or surrounding it
- setting precedent for more to be built
- overdevelopment
- too dense
- an eye sore
- too high
- reduction in green space
- loss of privacy and overlooking
- loss of light to gardens
- loss of outlook and open views
- light pollution from the headlights of vehicles emerging from the proposed access/entrance
- impact on well being
- increase in noise/air pollution
- safety concern due to a new access to the rear of properties 26, 28 & 30 Hawthorne Avenue
- increase in fumes and light pollution both from the site and from removal of trees between site and airport
- impact on the airfield (increased light)
- impact of fuel aviation fumes on the new development
- the traffic report in support of the application has errors and is not correct on several items
- increase in traffic and congestion
- insufficient parking
- damage to the roads and the increase in the need for the road maintenance
- restricted access for emergency vehicles
- pedestrian and children safety due to increased traffic in close proximity to schools - there have already been numerous accidents
- insufficient local amenities and infrastructure (particularly educational and healthcare provisions) to support the scale of the development and the proposed number of residents
- impact of water and sewerage systems

- worsening of surface water run-off and flood issues
- current utility network/infrastructure, especially water and gas, cannot cope with the existing population
- impact on habitats and wildlife (grass snakes, badgers, birds, foxes, rabbits)
- loss of mature trees and hedgerows
- disruption during construction works
- loss of property values
- the background of the applicant questionable

Support

- doctor's and dental practices will be available to cope with the extra demand which this development will bring
- there will be not much traffic during school run times
- another 50 homes would not impact on local area that much
- desperate need new for small homes, ideally passive built energy efficient homes and they should be for local residents
- Green Belt needs updating
- appears reasonably well balanced and not unsympathetic to the local area
- benefit to the area especially if the homes were offered to local residents for affordable housing
- great for local businesses that are struggling.

5. POLICIES AND GUIDANCE

Planning and Compulsory Purchase Act (2004)

- 5.1 Section 38(5) states that if to any extent a policy contained in a development plan for an area conflict with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document [to become part of the development plan].
- 5.2 Section 38(6) requires that the determination of these applications must be made in accordance with the plan unless material considerations indicate otherwise.

National Policy Framework (NPPF) 2023

- 5.3 In accordance with Paragraph 47 of the Framework, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

National Planning Practice Guidance (NPPG)

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

The London Plan (March 2021)

5.5 The relevant policies are:

GG1 Building strong and inclusive communities
GG2 Making the best use of land
GG3 Creating a healthy city
GG4 Delivering the homes Londoners need
GG6 Increasing efficiency and resilience
D1 London's form, character and capacity for growth
D2 Delivering good design
D3 Optimising site capacity through the design-led approach
D4 Delivering good design
D5 Inclusive design
D6 Housing quality and standards
D7 Accessible housing
D8 Public realm
D11 Safety, securing and resilience to emergency
D12 Fire safety
D13 Agent of Change
D14 Noise
H1 Increasing housing supply
H4 Delivery affordable housing
H5 Threshold approach to applications
H6 Affordable housing tenure
H7 Monitoring of affordable housing
H10 Housing size mix
H11 Build to rent
S4 Play and informal recreation
G1 Green Infrastructure
G2 London's Green Belt
G5 Urban greening
G6 Biodiversity and access to nature
G7 Trees and woodlands
SI 1 Improving Air quality
SI 2 Minimising greenhouse gas emissions
SI 3 Energy infrastructure
SI 8 Waste capacity and net waste self-sufficiency
SI 13 Sustainable drainage
T2 Healthy Streets
T3 Transport capacity, connectivity and safeguarding
T4 Accessing and mitigating transport impacts
T5 Cycling
T6 Car parking
T6.1 Residential parking
T7 Deliveries, servicing and construction
DF1 Delivery of the plan and planning obligations
M1 Monitoring

Mayor Supplementary Guidance

5.6 The relevant SPGS are:

- 'Be Seen' energy monitoring guidance (2021)
- Accessible London: Achieving an Inclusive Environment SPG (2014)
- Air Quality Neutral LPG (2023)
- Air Quality Positive LPG (2023)
- Cargo bike action plan (2023)
- Character and Context SPG (2014)
- Energy Assessment Guidance (2022)
- Fire Safety LPG (Draft) (2022)
- Green Infrastructure and Open Environments: The All London Green Grid SPG (2021)
- Homes for Londoners - Affordable Housing and Viability (2017) Housing Design Standards LPG (2023)
- Housing SPG (2016)
- London Environment Strategy (2018)
- Mayor's Environment Strategy (2018)
- Mayor's Transport Strategy (2018)
- Sustainable Design and Construction (2014)
- Sustainable Transport, Walking and Cycling LPG (2022)
- The Control of Dust and Emissions During Construction and Demolition (2014)
- Urban Greening Factor LPG (2023)
- Whole Life Carbon LPG (2022)
- Draft Affordable Housing LPG (2023)
- Draft Development Viability LPG (2023)
- Draft Digital Connectivity Infrastructure LPG (2023)

Bromley Local Plan (2019)

5.7 Relevant policies are:

- 1 Housing Supply
- 2 Affordable Housing
- 4 Housing Design
- 8 Side Space
- 30 Parking
- 31 Relieving Congestion
- 32 Road Safety
- 33 Access to Services for All
- 34 Highway Infrastructure Provision
- 37 General Design of Development
- 49 Green Belt
- 69 Development and Nature Conservation Sites
- 70 Wildlife Features
- 72 Protected Species
- 73 Development and Trees

75 Hedgerows and Development
77 Landscape Quality and Character
79 Biodiversity and Access to Nature
113 Waste Management in New Development
115 Reducing Flood Risk
116 Sustainable Urban Drainage Systems
117 Water and Wastewater Infrastructure
119 Noise Pollution
120 Air Quality
122 Light Pollution
123 Sustainable Design and Construction
124 Carbon Reduction, Decentralised Energy Networks and Renewable Energy
125 Delivery and Implementation of the Local Plan

Bromley Supplementary Guidance

5.8 Relevant Guidance are:

- Urban Design Guide (2023)
- Planning Obligations (2022)
- Affordable Housing

6. Assessment

6.1 Principle of development - Unacceptable

Green Belt

6.1.1 The site lies within land designated as Green Belt. Policy G2 of the London Plan seeks to protect the Green Belt from “inappropriate development”, affording the strongest possible protection to the Green Belt land in line with the requirements of the NPPF in which paragraph 137 of the NPPF states “the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.

6.1.2 The construction of new buildings in the Green Belt is inappropriate unless it meets the defined exceptions in Paragraphs 154 and 155 of the NPPF. As none of the exceptions outlined in these paragraphs apply, the proposal represents inappropriate development.

6.1.3 Paragraph 152 of the NPPF states that “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”. Therefore, the main issue in the assessment of the acceptability of the principle of the proposed development is whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to

amount to the very special circumstances necessary to justify the proposal.

- 6.1.4 In order to undertake an assessment of Very Special Circumstances, it is first important to understand the level of harm to the Green Belt resulting from the proposed development.

Level of Harm

- 6.1.5 The applicant argues that whilst there would clearly be an impact on openness through the introduction of built form on a predominantly undeveloped site, this harm is tempered by the low contribution the existing site has to the purposes of the Green Belt and the negligible impact on wider views due to the topography of the site and existing trees and vegetation which screen the site.

- 6.1.6 The applicant's summary of the characteristics of the site against the five purposes of the Green Belt listed in Paragraph 143 of the NPPF is included below:

- (a) *to check the unrestricted sprawl of large built-up areas:* the site is an inset area of the built form of Biggin Hill. It is enclosed by the Airport to the north and north-east and residential development to the west and south. The eastern boundary has a strongly defined boundary of trees and vegetation. The applicant considers that the land has only a limited perceptual and physical connection to the open Green Belt to the east. They consider, therefore, it performs poorly against this purpose of the Green Belt.
- (b) *to prevent neighbouring towns merging into one another:* The applicant considers the site has no function in relation to separation from neighbouring towns. They state it is an inset part of the built-up area of Biggin Hill, surrounded by development apart from the eastern boundary which is strongly defined. Neighbouring development to the north and south extends much further to the east than the proposal site. The applicant considers the development of the site will have no impact on the proximity of Biggin Hill to surrounding settlements.
- (c) *to assist in safeguarding the countryside from encroachment:* The applicant states that the site is formed of land to the rear of residential properties. Due to the site's containment, they consider it has limited perceptual and physical connection with the open countryside to the east. They conclude that the site is considered to have a negligible role in relation to this purpose.
- (d) *to preserve the setting and special character of historic towns:* the site is not related to the setting or special character of a historic town.

- (e) *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land:* the site is not formed of urban land - wider views of the site are limited by the boundary vegetation and the flat topography of the site. Where the site is viewed along Jail lane, the applicant contends that there would be a minor beneficial effect from the removal of the two existing houses and an overall negligible impact on wider views.

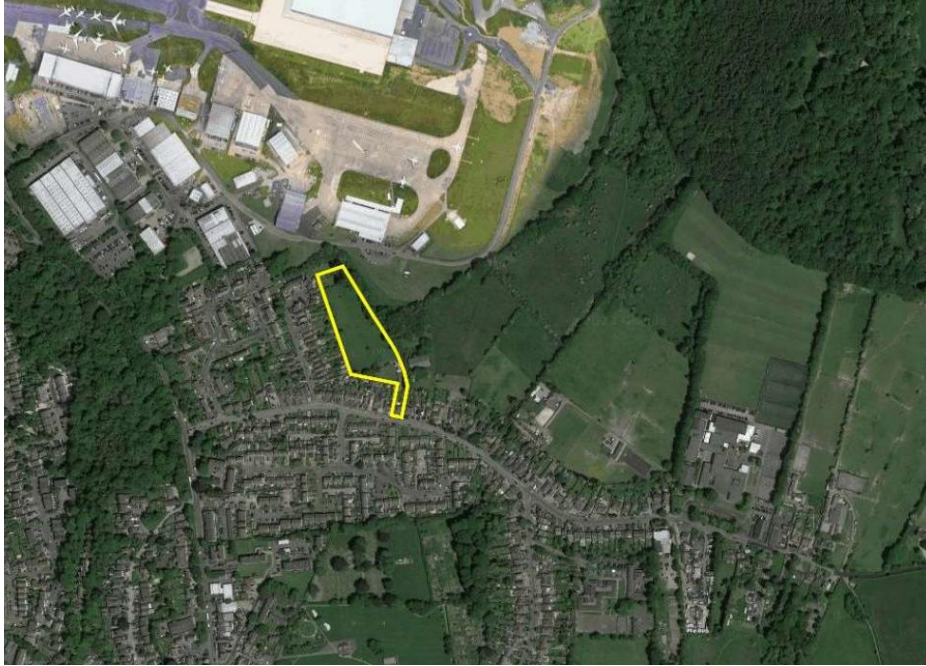


Fig.6.1.1 Aerial View of the Site.

- 6.1.7 Officers have considered the above. The existing properties facing Hawthorne Avenue have a seamless interface with the Green Belt with the rear gardens transitioning into the open space. The proposed development would introduce the expansion of existing built form and hard surfacing / road infrastructure to this undeveloped site between the residential gardens and open land (Fig.6.1.1).
- 6.1.8 In officers' view the application site appears as a continuum of the adjacent Green Belt land, thereby contributing to the openness of the wider Green Belt and contributing to the important transition between built-up areas of Biggin Hill and the sparsely developed Green Belt land extending beyond its eastern boundary.
- 6.1.9 Whilst the scale of development would be broadly consistent with the existing context, the proposed development would conceivably read as an continuation to the existing urban edge/residential fringe. The proposal would effectively turn this open greenfield site that limits the extent of the urban area, into an extension of the surrounding built-up area. The erosion of openness and the urban character of the proposed development would demonstrably lead to a permanent, urbanising effect.

- 6.1.10 Although the urban context surrounding the site is acknowledged, this does not alter the Green Belt designation of the site and the need to maintain the Green Belt's characteristics of openness and permanence. The site is a contributor to the openness of the Green Belt, both in terms of the site itself and in respect of the transition it provides between the undeveloped Green Belt and the built-up area beyond.
- 6.1.11 Despite the applicant's claim that there would be a minor beneficial effect in views along Jail Lane resulting from the removal of the two existing houses and an overall negligible impact on wider views, no Townscape and Visual Impact Assessment has been provided as part of the application submission.
- 6.1.12 In any case, openness is characterised by the absence of buildings notwithstanding the degree of visibility from the public realm and in this instance, due to the context, quantum and scale the proposed development would erode the openness of the Green Belt in both visual and spatial terms.
- 6.1.13 As such, it is considered that the harm in respect of openness would be significant and irreversible. Whilst the site is not undeveloped countryside, it is largely devoid of built development and hard surfacing and the proposal would undermine the fundamental aim of the Green Belt to prevent urban sprawl by keeping land permanently open. This would be at odds with the Green Belts essential characteristics of openness and permanence. On that basis officers conclude that the proposal would therefore lead to substantial harm to the openness of the Green Belt as is referred to in the Framework.

Very Special Circumstances (VSC)

- 6.1.14 The following arguments asserting very special circumstances have been set out in the Planning, Design and Access Statement submitted in support of the proposal:
- I. The Council is currently only able to identify 3.99 years of housing land supply according to the latest position statement in June 2023.
 - II. The recent Regulation 18 consultation document recognises that whilst the Bromley Corporate Strategy aims to deliver 1,000 new affordable quality homes, Bromley's affordable housing completions have been low with only approximately 400 affordable units completed since 2017.
 - III. The proposed form of affordable development (DMR) in accordance with Policy H11 (Build to Rent) offers longer-term tenancies and more certainty over long-term availability, ensuring a commitment to, and investment in, place-making through single ownership and provides better management standards and better-quality homes than much of the mainstream private rented sector.

- IV. The DMR housing will be targeted to ex-service personnel, forces families and keyworkers. As set out in the evidence in the accompanying research undertaken by Three Dragons these groups have a particular need in the borough. This will be secured via a legal agreement with a cascade approach to prioritising these groups.
- V. This uniquely tailored scheme will meet an acute housing need which results in very special circumstances that outweigh the harm to the Green Belt.
- VI. The level of harm to the Green Belt resulting from the proposed development is tempered by the low contribution the existing site has to the purposes of the Green Belt (outlined in the preceding section of this report).

6.1.15 With regard to housing supply, paragraph 11(d)(i) needs to be read with the footnote [7] which lists relevant policies in the NPPF including those relating to land designated as Green Belt. Consequently, notwithstanding the absence of a five year supply of housing and the diminution of weight afforded to Local Plan Policy 1, Paragraph 11(d) limb (i) prioritises the application of "Footnote 7" policies for the protection of the relevant "areas or assets of particular importance", and where the application of those policies produces a clear reason for refusal there is no role for 11(d)(ii). In such circumstance, the presumption in favour of the development that might otherwise exist (titled balance) is effectively disapplied.

6.1.16 Further to that, the London Plan Strategic Housing Land Availability Assessment identifies that London's housing needs can be met without developing on sites within Green Belt.

6.1.17 The contribution towards meeting affordable housing needs could attribute more substantial weight in support of the proposal as part of the overall balancing exercise (see Conclusion and Planning Balance section of this report), as long as genuinely affordable housing is to be delivered and there is clarity on what is proposed, and what can be secured in the legal agreement. However, a delivery of mandatory baseline policy requirements necessary to make the proposal acceptable would not normally extend beyond compliance with relevant development control policies and would not, therefore, comprise very special circumstances.

6.1.18 In this instance, as the scheme is intended to deliver 50 affordable units which would be available at a discount market rent to veterans and possibly other key workers, the priority need for affordable rented accommodation has not been addressed in the proposal. The affordable housing need within the borough is greatest for social-rent and affordable rent tenures.

6.1.19 The Council do not have a Key Worker allocation policy, however, there is a general need for intermediate housing within the borough. It would therefore only attract limited weight in terms of affordable housing

delivery. Greater weight could be attached to a policy compliant scheme that included units at London Living Rent levels (see affordable housing section, below).

6.1.20 In any case, weight can only be given to the guaranteed provision which needs to be secured in the legal agreement.

6.1.21 As set out in paragraph 153 of the NPPF local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Alongside the reasons set out in the previous sections of this report concluding that the proposal would lead to substantial harm to the openness of the Green Belt, Paragraph 145 of the NPPF confirms that it is not appropriate to consider the function of the Green Belt boundary through the planning application process. The procedure through which Green Belt boundary changes should be considered is explained as follows:

“Once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process [...]”.

6.1.22 To this end, it is considered that the above points do not justify the development of 50 build to rent housing units within the Green Belt and they do not amount to Very Special Circumstances that would clearly outweigh the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal.

Housing

6.1.23 Policy H1 of the London Plan sets 10-year housing targets for each borough including a target of 7,740 for Bromley.

6.1.24 The applicant proposes to deliver all the 50 residential homes as Build to Rent. Policy H11 of the London Plan outlines the criteria that must be met to qualify as Build to Rent which include:

- the development, or block or phase within the development, has at least 50 units;
- the homes are held as Build to Rent under a covenant for at least 15 years;
- a clawback mechanism is in place that ensures there is no financial incentive to break the covenant;
- all the units are self-contained and let separately;
- there is unified ownership and unified management of the private and Discount Market Rent elements of the scheme;
- longer tenancies (3 years or more) are available to all tenants. These should have break clauses for renters, which allow the

tenant to end the tenancy with a month's notice any time after the first six months;

- the scheme offers rent and service charge certainty for the period of the tenancy, the basis of which should be made clear to the tenant before a tenancy agreement is signed, including any annual increases which should always be formula-linked;
- there is on-site management. This does not necessarily mean full-time dedicated on-site staff, but that all schemes need to have systems for prompt resolution of issues and some daily on-site presence; and
- providers have a complaints procedure in place and are a member of a recognised ombudsman scheme.

6.1.25 A planning statement submitted references the above criteria. Notwithstanding the matters concerning the acceptability of the proposed development within the Green Belt, the addition of 50 residential dwellings could be supported in principle, subject to compliance with other relevant planning policies.

Affordable Housing

6.1.26 Policy H11(A) of the London Plan advises that where a development meets the criteria set out in Part B (listed above), the affordable housing offer can be solely Discounted Market Rent (DMR) at a genuinely affordable rent, preferably London Living Rent level. DMR homes must be secured in perpetuity.

6.1.27 Part C of the policy clarifies that to follow the Fast Track Route, Build to Rent schemes must deliver at least 35 per cent affordable housing, or 50 per cent where the development is on public sector land or industrial land appropriate for residential uses in accordance with Policy E7 Industrial intensification, co-location and substitution. The Mayor expects at least 30 per cent of DMR homes to be provided at an equivalent rent to London Living Rent with the remaining 70 per cent at a range of genuinely affordable rents. Schemes must also meet all other requirements of Part C of Policy H5 'Threshold approach to applications'.

6.1.28 Part C of Policy H5 states to follow the Fast Track Route of the threshold approach, applications must meet all the following criteria:

- 1) meet or exceed the relevant threshold level of affordable housing on site without public subsidy
- 2) be consistent with the relevant tenure split (see Policy H6 Affordable housing tenure)
- 3) meet other relevant policy requirements and obligations to the satisfaction of the borough and the Mayor where relevant
- 4) demonstrate that they have taken account of the strategic 50 per cent target in Policy H4 Delivering affordable housing and have sought grant to increase the level of affordable housing.

- 6.1.29 Policy H11(D) confirms that where the requirements of C of Policy H5 are not met, schemes must follow the Viability Tested Route. Viability assessments on such schemes should take account of the differences between Build to Rent and Build for Sale development and be undertaken in line with the Affordable Housing and Viability SPG.
- 6.1.30 In response to officer's request for additional information on the exact tenure of the proposed DMR provision, the applicant has provided a letter outlining further detail of the affordable housing provision.
- 6.1.31 A total of 146 habitable rooms are proposed across the scheme. A letter dated 26th April 2024 confirms that 35% (51) of total habitable rooms would be affordable, of which:
- 30% (16 habitable rooms) would be Discount Market Rent at London Living Rent Levels:
 - 2 x 1 bed studios;
 - 3 x 2 bed maisonettes
 - 1 x 3 Bed house;
 - The remainder (35 habitable rooms) would be Discount Market Rent at 'Genuinely Affordable Rent' as defined by the LB Bromley
- 6.1.32 This potentially meets part of the criteria C of Policy H11 in terms of 35% affordable housing at the correct tenure split. However, no detail has been provided as to what exactly the "*Genuinely Affordable Rent' as defined by the LB Bromley*" would involve. Had the application been considered acceptable overall, the LPA would seek to secure rent levels which would be genuinely affordable to households on low and medium incomes, i.e. as a general rule, housing costs should not exceed one third of gross household income or, for households in receipt of housing benefit, that housing costs should not exceed the level of benefit received. This would need to be secured in a S106 legal agreement.
- 6.1.33 As set out in paragraph 6.1.27 of this report, to Follow the Fast Track Route, Build to Rent schemes *must also meet all other requirements of Part C of Policy H5*. To this end, officers consider that in the absence of any evidence of seeking grant availability for the scheme, as well as the conclusions relating to the Green Belt and the failure to demonstrate the compliance with other strategic policies, the proposal fails to meet Part C(3) and C(4) of Policy H5 and the proposal does not qualify for the Fast-Track Route.
- 6.1.34 The applicant has not provided a Financial Viability Statement to support the current proposal in accordance with Policy H11(D). In the absence of a Financial Viability Assessment the application fails to demonstrate that the proposal would maximise the delivery of affordable housing, thereby contrary to Policy H5 (C3) and (C4) and H11 (C) and (D) of the London Plan.
- 6.1.35 The applicant states that the remainder of the proposed dwellings (i.e 65% of the total) would be provided as Discount Market Rent. The rents

would be discounted by 20% of the open market rent (95 habitable rooms) as summarised below:

- 8 x 1 bed studio
- 10 x 2 bed maisonettes
- 12 x 3 bed houses.

6.1.36 The applicant states that they are open to discussions with the Council policy team regarding the most desired mix of dwellings to meet the habitable room percentage requirement for each tenure and would welcome discussion with the Council's Housing Officers to discuss the proposed affordable offer in more detail. Notwithstanding the failure to comply with Policies H5 and H11, some weight can be attributed to the provision of affordable housing (Discount Market Rent) for the remainder of the proposed dwellings. This will be weighed into the overall planning balance in the conclusions section of the report.

Housing Mix

6.1.37 London Plan Policy H10 states that schemes should generally consist of a range of unit sizes and sets out several factors which should be considered when determining the appropriate housing mix of a scheme. These factors include housing need and demand, the nature and location of a site, the requirement to optimise housing potential and deliver mixed and inclusive neighbourhoods.

6.1.38 Supporting paragraphs to Local Plan Policy 1 (paras 2.1.17 and 2.1.18) highlight findings from the 2014 Strategic Housing Market Assessment (SHMA) that the highest level of need across tenures within the Borough up to 2031 is for one bedroom units (53%) followed by 2 bedroom (21%) and 3 bedroom (20%) units. Larger development proposals (i.e. of 5+ units) should provide for a mix of unit sizes and considered on a case by case basis. Bromley's Housing Register (December 2019) also shows affordable need for social/affordable rented 3 bed units.

6.1.39 The proposed residential mix comprises:

- 18 no. 1 bed Studio Apartments (36%)
- 18 no. 2 bed Maisonettes (36%)
- 14 no. 3 bed Houses (mix of semi-detached and terraced housing) (28%).

6.1.40 Officers do not consider studio flats intended for single person occupation to provide long term, sustainable solutions to housing need. Studio units are also more suited to more accessible town centre locations, i.e. occupying spaces within larger flatted developments as opposed to less accessible suburban fringe locations. It is considered that a scheme focusing on the provision of 2-3 bedroom houses would be more appropriate for this site location which has a relatively poor connectivity and a PTAL rating of 1b.

6.2 Quality of proposed housing - Acceptable (subject to the acceptability of a future Reserved Matters Application)

- 6.2.1 The NPPF Paragraph 135 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users.
- 6.2.2 London Plan Policy D6 sets out a number of requirements which housing developments must adhere to in order to ensure a high-quality living environment for future occupants.
- 6.2.3 Bromley Local Plan (2019) Policy 4 Housing Design requires all new housing developments will need to achieve a high standard of design and layout whilst enhancing the quality of local places.
- 6.2.4 The Housing Design Standards LPG (June 2023) places a greater emphasis on delivering housing quality and healthy homes which includes aspect, outlook, daylight and sunlight, thermal comfort and outside amenity space.
- 6.2.5 Whilst the scheme is in an outline form, the applicant has provided an indicative residential floorplans and sections for the housing typologies proposed. The plans contain details of furniture and layouts for each of the proposed residential units and the accompanying accommodation schedule indicates the total GIA for each unit.
- 6.2.6 The submission confirms that the proposal would comply with the minimum internal space standards, as set in Table 3.1 of the London Plan and Nationally Described Space Standards.
- 6.2.7 The internal layouts for the larger 2/3 bedroom properties appear to be well considered providing dual aspect homes with appropriate storage. However, the studio units appear to have no built-in storage and therefore do not meet London Plan requirements.
- 6.2.8 Local Plan Policy 4 c requires 'sufficient external, private amenity space that is accessible and practical. Para 2.1.60 refers to the London Plan minimum standards and requires that ground floor flats have access to private gardens and upper floors should have access to private amenity space. Para 2.1.60 also indicates that developments should relate to the character of existing amenity space.
- 6.2.9 London Plan Policy D6. F.9 requires a minimum of 5sqm of private outdoor space for 1-2 person dwellings (and an extra 1sqm for each additional occupant) – para 3.6.9 advises that this private space can be in the form of a garden, terrace, roof garden, courtyard garden or balcony. Additional private or shared outdoor space (roof areas, podiums and courtyards) is encouraged.

6.2.10 The larger 2/3 bedroom dwellings would benefit from appropriately sized private outdoor amenity spaces, however, the studio units appear to have no external amenity spaces provided, and therefore do not meet London Plan requirements.

6.2.11 The detailed design for the internal layout of the units and provision of policy compliant private outdoor space for all units would need to be agreed through any subsequent reserved matters application should outline planning permission be granted. The applicant would also need to demonstrate adequate ventilation is provided for the kitchen areas, which do not have direct access to a window.

Children's Play Space

6.2.12 London Plan Policy S4 Play and Informal Recreation sets out the policy requirements, including in clause B2 for at least 10sqm of good quality accessible play space should be provided per child that:

- a) provides a stimulating environment
- b) can be accessed safely from the street by children and young people independently
- c) forms an integral part of the surrounding neighbourhood
- d) incorporates trees and/or other forms of greenery
- e) is overlooked to enable passive surveillance
- f) is not segregated by tenure

6.2.13 Supporting text at para 5.4.5 states that formal play provision should normally be made on-site. Paragraph 5.4.6. advises that off-site provision, including the creation of new facilities or improvements to existing provision, secured by an appropriate financial contribution, may be acceptable where it can be demonstrated that it addresses the needs of the development whilst continuing to meet the needs of existing residents.

6.2.14 Based on the proposed housing mix and tenure, and the site's PTAL level, the estimated child yield of this proposal would be around 24 children. This gives rise to a total child play space requirement of approximately 204sqm, of which at least 104sqm should be allocated to an onsite doorstep play to cater for under 5s.

6.2.15 The public open space shown on the proposed site layout would extend to approximately 380sqm, therefore it is considered that the play space requirements generated by the development can be met on site. Further information and design details would be required at Reserved Matters Stage in the event of an approval being granted.

Noise/Agent of Change

6.2.16 London Plan Policy D13 places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. It states that

development should ensure good design mitigates and minimises existing and potential nuisances generated by existing uses and activities located in the area; explore mitigation measures early in the design stage, with necessary and appropriate provisions, including ongoing and future management of mitigation measures secured through planning obligations; and separation of new noise-sensitive development where possible from existing noise generating businesses and uses through distance, screening, internal layout, sound proofing, insulation and other acoustic design measures.

6.2.17 London Plan Policy D14 seeks to mitigate and minimise the existing and potential adverse impacts of noise within new development. Policy 119 of Bromley's Local Plan seeks to ensure that the design and layout of new development ensures that noise sensitive areas and rooms are located away from parts of the site most exposed to noise wherever practicable. The policy also requires external amenity areas to incorporate acoustic mitigation measures such as barriers and sound absorption where necessary.

6.2.18 An acoustic assessment undertaken by Pulsar assessed the potential noise source of Biggin Hill Airport and concludes that that suitable internal noise levels should be achievable using conventional glazing and ventilation methods. It also concludes that that suitable external noise levels would be achievable for outdoor amenity space.

6.2.19 However, no consideration appears to have been given to the nature of the noise being recorded (i.e. whether maximum levels were from the various adjacent commercial land uses), assessment uncertainty or the potential for the business operations to expand. This would need to be addressed further at the reserved matters stage.

Accessibility and Inclusive Living Environment

6.2.20 Local Plan Policy 4 Housing Design addresses the accessibility of residential units requiring:

- i* Ninety percent of new housing meets Building Regulation requirement M4 (2) 'accessible and adaptable dwellings; and
- j* Ten percent of new housing meets Building Regulation requirement M4 (3) 'wheelchair user dwellings' i.e. is designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users.

6.2.21 Policy D5 of the London Plan seeks to ensure that new development achieves the highest standards of accessible and inclusive design, not just the minimum. Policy D7 of the London Plan requires that at least 10% of new build dwellings meet Building Regulation requirement M4(3) 'wheelchair user dwellings' (designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users); and all other new build dwellings must meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.

6.2.22 Paragraph 3.7.3 clarifies that to ensure that all potential residents have choice within a development, the requirement for M4(3) wheelchair user dwellings applies to all tenures. Wheelchair user dwellings should be distributed throughout a development to provide a range of aspects, floor level locations, views and unit sizes.

6.2.23 The accommodation schedule does not include any details of the accessible units provision and none are indicated on the indicative residential floorplans. Should permission be granted, compliance with Policy D5 would be secured by condition, with further information and design details to be provided at Reserved Matters Stage.

6.3 Design – Acceptable (subject to the acceptability of a future Reserved Matters Application)

6.3.1 The application is submitted in an outline form with all matters other than access reserved for later submission and approval. The accompanying Illustrative Masterplan defines the overall layout and form of development.

Optimising Development Capacity and Indicative Layout

6.3.2 Paragraph 96 of the NPPF (2023) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

6.3.3 Policy D3 of the London Plan requires all development proposals to make the best use of land by following a design-led approach that optimises the capacity of sites. Optimising means ensuring that development is of the most appropriate form and land use for the site. Understanding the site and surrounding area is a key element of the design-led approach.

6.3.4 In accordance with Policy D3, the design-led approach also requires consideration of design options to determine the most appropriate form of development that responds to a site's context.

6.3.5 Policy D3 also advises that regard should be had to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity, including transport. The density of development proposals should consider, and be linked to, the provision of future planned levels of infrastructure rather than existing levels and be proportionate to the site's connectivity and accessibility by walking, cycling, and public transport to jobs and services (including both PTAL and access to local services), in accordance with Policy D2 'Infrastructure requirements for sustainable densities'.

- 6.3.6 Policy 4 of the Bromley Local Plan seeks to ensure that all new housing developments achieve a high standard of design and layout whilst enhancing the quality of Local Places, and Policy 37 of the Bromley Local Plan requires a high standard of design in all new development, and states that the scale and form of new residential development should be in keeping with the surrounding area.
- 6.3.7 The rationale for providing predominantly studios and maisonettes is questionable. Whilst the inclusion of studios is sometimes inherent of compromised layouts within severely constrained redevelopment schemes in densely build-up areas, positive planning for and increasing the number of units by incorporation of studios especially on this previously undeveloped greenfield site appears unjustified and raises concerns on maximising rather than optimising of the site capacity. The provision of predominantly flatted accommodation would also result in increased car parking requirements placing an additional constraint on site layout options. Officers consider that the nature of the site and its location, a development focusing on the provision of 2-3 bedroom houses would be a more appropriate response.
- 6.3.8 No evidence has been provided to indicate that a contextual analysis has been carried out as part of the design process. The Design and Access Statement does not include a detailed site appraisal demonstrating how site opportunities and constraints have informed the design rationale and/or design principles. Similarly, no preliminary design work/testing of options to support/underpin the proposed development form has been provided.
- 6.3.9 The relationship with existing residential properties to the south and west is a key design consideration. The rear gardens of existing properties in Hawthorne Avenue currently have a seamless interface with the Green Belt transitioning into the open space. The design intent to create (in part) back garden-back garden relationships is acknowledged, however, little detail on existing and proposed boundary treatments has been provided. It is noted that there is an existing right of way access path along the western site boundary.
- 6.3.10 There is an opportunity to enlarge the area of open space to the east, reducing the quantum of housing being proposed in order to allow for a more direct back garden-back garden arrangement with existing properties to the west, condensing the built form envelope and siting the buildings closer to the western (urban) edge.
- 6.3.11 As stated by GLA Design Officers, opportunities for stitching the proposed development into the existing context, improving access/permeability, and creating benefits for the wider area do not appear to have been fully explored. It is important to consider what the redevelopment of the site could 'give back' to the existing community in the form of wider public benefits (i.e. those that surpass policy

requirements) in order to potentially offset the impact on the Green Belt setting.

6.3.12 Whilst this is an outline application with all matters reserved, it is reasonable to assume that the layout, form, scale and massing which the residential buildings would eventually take, would need to take a similar approach to that set out in the application in order to achieve the quantum of development being proposed (up to 50 units).

6.3.13 The site measures 1.17ha and the 50 unit scheme (146 habitable rooms) would have a density of 42.7 units or 124.8 habitable rooms per hectare. Although officers recognise that the resulting density may appear unobjectionable in numerical terms, the proposals inability to demonstrate the compliance with various policy requirements amounts to the contention that this proposal is an overdevelopment.

6.3.14 Had the application been considered acceptable in all other respects, there would be some scope at the reserved matters stage to develop a more sensitively designed layout.

Height, Scale and Massing

6.3.15 The proposed building heights of 2-3 storeys would be largely in keeping with the surrounding context and the traditional building forms would be contextually appropriate in terms of their scale and design. Nonetheless, a Townscape Visual Impact Assessment would be required to fully assess the impact, with viewpoints agreed with officers.

Appearance

6.3.16 The Planning, Design and Access Statement advises that the proposed materials are to reflect those of the surrounding area, being a mixture of red and yellow brick and painted render walls. The design intent to reflect the scale and character of existing neighbouring properties is acknowledged, however, the use of external render would not be acceptable. A high-quality brick finish should rather be used.

6.3.17 Given the proposed development has been submitted as an outline planning application with all matters reserved, a submission and approval of a design code including architectural details and materials, would have been required in any permission at the Reserved Matters Stage to ensure that a high-quality built scheme is delivered.

Fire Safety

6.3.18 London Plan Policy D12 states that all major development proposals should be submitted with a Fire Statement, which is an independent fire strategy, produced by a third party, suitably qualified assessor. The policy states in the interest of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest

standard of fire safety and a fire statement detailing how the development proposal will function is required.

6.3.19 Paragraph 5.4.1 of the London Plan Draft Fire Safety LPG states that; “Outline planning applications should be accompanied by an Outline Fire Statement which, as a minimum should commit to meeting the highest standards of fire safety in the proposed development. The level of detail included within the Outline Fire Statement will vary depending on which (if any) reserved matters are submitted with the application”.

6.3.20 There are no reserved matter submitted with this application. A fire statement has been completed by Fire Risk Assessments Limited which sets out the fire strategy considerations for the site in relation to the indicative layout. Each dwelling would be within 45m from the internal access roads, thus ensuring fire appliances can reach each dwelling at the time of emergency.

6.3.21 The GLA officers requested that the fire statement must be updated to confirm compliance with Policy D12 and include details of construction methods and materials. If approved, a revised fire statement would be secured by condition and any subsequent reserved matters applications would need to demonstrate the relevant detailed requirements as to how the development would meet Policy D12 in relation to all other matters.

Secured by Design

6.3.22 London Plan Policy D3 states measure to design out crime should be integral to development proposals. Development should reduce opportunities for anti-social behaviour, criminal activities, and terrorism, and contribute to a sense of safety without being overbearing or intimidating. This approach is supported by BLP Policy 37 (General Design).

6.3.23 The design out crime officer was consulted, and no objection was raised, subject to a planning condition requiring the proposed development to achieve Design Out Crime accreditation.

6.4 Heritage - Unacceptable

6.4.1 The application site is located within a Tier III Archaeological Priority Area and the development could cause harm to archaeological remains.

6.4.2 Section 16 of the NPPF and London Plan Policy HC1.D requires that a development proposal should identify assets of archaeological significance and use this information to avoid harm or minimise it through design and appropriate mitigation.

6.4.3 Historic England (Archaeology) Team recommended a pre-determination archaeological assessment/evaluation given the size of the site and the fact that it has not been previously developed. To this

end, an archaeological desk-based assessment has been requested (February 2024) to aid the consideration of likely effects on archaeological interests and their implications for the planning decision.

6.4.4 The applicant has declined to provide the required assessment and consequently officers are unable to establish whether there is a definable archaeological interest within the site and whether that interest can be secured by condition or whether certain site evaluation is necessary to inform the decision regarding the application.

6.4.5 The expectation for archaeology to be assessed at the pre-determination stage is set out in NPPF and consequently the applicant's failure to provide the information requested is included in the reasons for refusal of the planning consent.

6.5 Impact on residential amenities - Acceptable (subject to the acceptability of a future Reserved Matters Application)

6.5.1 Local Plan Policy 37 requires development to respect the amenity of occupiers of neighbouring buildings and those of future occupants, providing healthy environments and ensuring they are not harmed by noise and disturbance, inadequate daylight, sunlight, privacy or by overshadowing.

6.5.2 The majority of dwellings to the west along Hawthorne Avenue and to the south along Jail Lane have substantial rear gardens with numerous outbuildings and are separated from the site by a rear access path. Officers agree that the separation distances between these dwellings and the proposed dwellings would be acceptable ensuring there would be no privacy, outlook or daylight/sunlight infringement.

6.5.3 In terms of No.30 Hawthorne Avenue and to a lesser degree Nos. 28 and 32, which feature shorter gardens, the semi-detached pair of houses would be positioned very close to the site's boundary. At 9.5m – 13.2m (ground floor and first floor respectively) the resulting spatial relationship would be uncomfortable and likely to materially affect the amenities currently enjoyed by the occupiers of these properties (Fig. 6.5.1).



Fig. 6.5.1 Spatial relationship with Nos. 28-32 Hawthorne Avenue.

6.5.4 Notwithstanding, bearing in mind the outline form of the application and the fact that the proposed layout is indicative at this stage, any subsequent detail design development should address this proximity as well as the overall contention that the proposed quantum represents an overdevelopment of the site. It would also be necessary to ensure that an obscure glazing is utilized for the flank windows on the upper levels.

General Noise and Disturbance

6.5.5 In terms of the use of the site, the proposed development would introduce a greater level of activity to the surrounding area, however, in officers view, it would not be of such significance as to result in a harmful impact on the amenity of existing neighbours. Nonetheless, as the main point of residential access would be located between the existing properties fronting Jail Lane which does not experience significant level of activity from both existing pedestrian and vehicular sources, further consideration should be given to the noise impacts arising from the use of the access.

6.5.6 Measures to minimise noise from the use of the proposed open space in the form of an appropriate boundary treatment would need to be secured in any approval in order to protect the amenity of existing neighbours.

6.6 Highways – Acceptable (subject to the acceptability of a future Reserved Matters Application)

- 6.6.1 The application is an outline application with all matters reserved, including access. The site has a low (1b) PTAL. The proposal is for 18 studio apartments, 18 x 2 bed maisonettes and 14 x 3 bed houses.
- 6.6.2 Paragraph 109 of the NPPF requires significant development to be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
- 6.6.3 Policy T1 of the London Plan advises that development proposals should facilitate the delivery of the Mayor's strategic target of 80 per cent of all trips in London to be made by foot, cycle or public transport by 2041.
- 6.6.4 London Plan Policy T2 relates to Health Streets and states that development proposals should demonstrate how they will deliver improvements that would support the TfL Healthy Streets Indicators, as well as being permeable by foot and cycle and connect to local walking and cycling networks as well as public transport.

Access

- 6.6.5 Jail Lane is a classified road. Two properties would be demolished to provide a new access to the site. A simple priority junction via Jail Lane is proposed which would be subject to a S278 agreement. The access road would not be adopted by the Council.
- 6.6.6 Although the Transport Statement maintains that the access achieves visibility splays of 2.4m by 49m in both directions and the pedestrian visibility splays of 2m x 2m would also be achieved, in line with the requirements of Local Plan Policy 34 (b) a Road Safety Audit would need to be secured in any approval.

Impact on Highway Network

- 6.6.7 The impact on the highways network is assessed in the accompanying Transport Assessment by Magna Transport Planning. This concludes that the proposed development will not have any adverse traffic impact on the local road network.

Traffic Generation/Congestion

- 6.6.8 TRICS has been used to estimate the trip generation from the site. The Highways Team raised concerns in relation to the age of data provided and comparability of the sites surveyed. There are 3 schools in or near Jail Lane resulting in heavy traffic at certain times of the day. Consequently, a more detailed assessment of the impact on the school peak hours including any queuing / congestion was requested.
- 6.6.9 In response to the above concerns the applicant provided further information in terms of trip generation corresponding with schools' start

and finishing time more using more up to date TRICS surveys (letter dated 11th March 2024).

6.6.10 The updated surveys showed about 240 one-way vehicular trips per day resulting from the development. Table 6.6.1 below shows the estimated trip generation at school pick hours.

Hour	Trip Rates		Trips (50 Dwellings)		
	In	Out	In	Out	Two-way
AM Peak Hr 08:00-09:00	0.128	0.320	6	16	22
PM Peak Hr 15:00-16:00	0.292	0.183	15	9	24

Table 6.6.1. Proposed Vehicular Trip Generation

6.6.11 Further to the above, the applicant confirmed the willingness to provide the following measures to encourage sustainable transport:

- Installation of one Car Club vehicle either on site or on Jail Lane, with at least two years free membership to the residents of the development.
- Commitment to implement Travel Plan (TP).
- Installation of a good quality cycle parking facilities.

6.6.12 Overall, it is considered that even if these figures represent a slight underestimate, it would be difficult to sustain a ground of refusal on traffic generation / congestion grounds. The above measures would need to be secured via condition in any approval.

6.6.13 Officers do not envisage any significant impact on public transport capacity as a result of the proposed development.

Healthy Streets and Active Travel Zone Assessment

6.6.14 In order to meet London Plan mode share target (Policy T1) for outer London of achieving a 75% average of daily trips to be walking, cycling, and public transport mode share by 2041 it is essential that infrastructure for active travel both on and off the site and that for buses is good, and consequently improvements are necessary to contribute toward satisfying Policies T2, T4 and T5. Policy T2 requires that transport assessments focus on embedding the Healthy Streets Approach within, and in the vicinity of, new development.

6.6.15 Transport Statement submitted does not comprise Active Travel Zone assessment. An ATZ assessment should identify and audit walking and cycling routes to key destinations such as bus stops, shops, schools, and leisure and health facilities, and this should include an assessment during the hours of darkness. This could include, but should not be limited to, improvements to lighting, crossings and footway surfaces; tree planting and provision of benches; road safety improvements particularly focussing on those walking and cycling; and improvements for cycling on the route to NCN 21. Such improvements would support the active

and sustainable travel among new residents and their visitors as well as for existing users of the area and ensure those modes are a more attractive option to them than using a car.

6.6.16 TfL have identified a particular need for:

- Repairs to the crossing outside of Charles Darwin School, in order to increase pedestrian safety when crossing the road.
- The provision of bus shelters at the nearest stops, equipped with “Countdown” real-time bus arrival indicators, and ensuring that those stops meet TfL standards and guidance, for example ensuring the required kerb height and appropriate length of kerbside covered by bus stop clearway restrictions.

6.6.17 Had the application be recommended for permission, further negotiation regarding the active travel improvements to be delivered through Section 106 funding and/or Section 278 works would need to take place.

Car Parking

6.6.18 Off-street car parking comprising 55 No. car parking spaces would be provided, which equates to a parking ratio of 1.1 spaces per dwelling. This level of provision exceeds maximum London Plan standards for this site; however no justification has been provided to address Policy T6 (part B).

6.6.19 The TfL comments indicate that the 2021 Census in the Output Area containing this site, 17.5% of households had no car or van and this should be taken as a guide to the likely demand for parking on this site.

6.6.20 Officers recognise that the provision of flats accommodation resulted in increased car parking requirements. Given the low PTAL of the site and lack of visitor spaces there is a risk that the proposal would lead to parking in the access road or overflowing onto Jail Lane.

6.6.21 In the light of the restrictive policy environment introduced by the London Plan in 2021, no additional parking would be supported, therefore a reduction in dwelling numbers and their typology should be considered. A reduction in car parking would help to achieve the Mayor’s strategic mode shift target outlined in Policy T1 and could allow further ‘greening’ of the site.

6.6.22 Ultimately however, given the outline form of the application, should planning permission be granted, it should be demonstrated at the Reserved Matters Stage that the amount of parking proposed is the minimum necessary for the development to be able to go ahead. Any car parking provided should be let on a short term (we recommend monthly) rolling contract, and not sold or otherwise contractually attached to a particular property, in line with Policy T6.1 part B and supporting text in paragraph 10.6.14.

6.6.23 A permit-free agreement should be secured within the Section 106 agreement, preventing occupiers of the new housing (other than disabled people) from securing a parking permit, in the event that Controlled Parking Zone (or similar) controls are extended to cover this area. This will ensure that existing residents are not placed at a disadvantage by any overspill parking from the proposed development.

Accessible Car Parking

6.6.24 No disabled persons' parking bays is proposed. This is expressly contrary to Policy T6.1 which requires disabled persons' parking spaces for the equivalent of three per cent of homes provided from the outset, with a location(s) for up to a further seven per cent identified if demand arises in the future.

6.6.25 As disabled persons' parking bays are wider and longer than general ones, it cannot be assumed that the general car parking currently proposed would be sufficient and suitable for conversion for that purpose. Notwithstanding these concerns, it is noted that layout is a reserved matter in this application and as such if approval was granted, a more appropriate layout to address these concerns would be required through a reserved matters application.

EVCP

6.6.26 20% of all car parking spaces would be provided with active electric vehicle charging points with the remaining 80% spaces with passive provision for electric vehicles in future. Whilst this meets the minimum requirement in the London Plan, any approval would need to secure provision of active facilities at all disabled persons' parking spaces from the outset of the development (or their provision for spaces provided later).

Cycle Parking

6.6.27 A total of 100 long-stay cycle parking spaces (2 spaces per dwelling) and 4 short-stay spaces are proposed, which would meet the minimum quantity standard outlined in London Plan Policy T5. However, the proposals do not comply with the quality standard requirement of T5, specifically that cycle parking meets the London Cycle Design Standards (LCDS), as the proposed provision consists of various Sheffield stands spread across the site which are not covered or secured. There are also inconsistencies in the layout in terms of which stand is assigned to which property. As with the cycle parking, any planning consent would need to secure the submission of further details at the Reserved Matter Stage.

Servicing

- 6.6.28 Refuse collection would be via residents placing their bins adjacent to the main access road on collection day. This would be no more than 30m from the respective dwellings and within 20 m from the refuse truck. The swept path diagram for the refuse vehicle provided with the application shows that the vehicle would require most of the width of the road, particularly on the bends and this should be addressed in any subsequent stages of detailed design.
- 6.6.29 A full delivery and servicing plan and a full Construction Management Plan would be secured through condition to align with Policy T7.

6.7 Green Infrastructure and Natural Environment - Unacceptable

- 6.7.1 NPPF Paragraph 180 states that planning decisions should contribute to and enhance the natural and local environment. Paragraph 186 further advises that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 6.7.2 London Plan Policy G6 Part D advises that *“Development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain. This should be informed by the best available ecological information and addressed from the start of the development process.”*
- 6.7.3 Policy G5 of the London Plan outlines that major development proposals should contribute to the greening of London by including urban greening as a fundamental element of site and building design.
- 6.7.4 Policy G7 (Trees and Woodlands) states that development proposals should ensure that, wherever possible, existing trees of value are retained. If planning permission is granted that necessitates the removal of trees there should be adequate replacement based on the existing value of the benefits of the trees removed, determined by, for example, i-tree or CAVAT or another appropriate valuation system. The planting of additional trees should generally be included in new developments – particularly large canopied species which provide a wider range of benefits because of the larger surface area of their canopy.
- 6.7.5 Policy 72 of the Local Plan states that planning permission will not be granted for development or change of use of land that will have an adverse effect on protected species, unless mitigating measures can be secured to facilitate survival, reduce disturbance or provide alternative habitats.
- 6.7.6 Policy 73 requires proposals for new development to take particular account of existing trees on the site and on adjoining land, which in the

interests of visual amenity and/or wildlife habitat, are considered desirable to be retained. Tree preservation orders will be used to protect trees of environmental importance and visual amenity. When trees have to be felled, the Council will seek suitable replanting.

Trees

6.7.7 There are 38 individually identified trees on site with one hedge and three groups, none of which is covered by the Tree Preservation Order. There are no category A trees, 12 category B trees, 24 category C trees and two category U trees. All three groups are category C as is the hedgerow. The majority of the trees on site are mature with some younger trees planted down the centre of the site and present on the western boundary.

6.7.8 In order to facilitate this development with an indicative layout proposed, a number of trees would need to be removed, including two category B trees (T14 and T17). The remaining trees to be removed (Fig.X) are lower grade category trees which are being removed: two category C tree groups G4 and G3, as well as two category U trees both of which would be removed due to concerns of health and safety. Neither tree presents much value in terms of landscape or arboriculture but has potential for being a bat habitat.



Fig. 6.7.1 Tree Constraints Plan.

6.7.9 The Arboricultural Impact Assessment (AIA) asserts that a significant effort has been made to mitigate for tree losses with a rigorous planting scheme. It also argues that due to the majority of the trees on site not being visible to the public and only being visible from the rear gardens of the private homes on the western and southern boundaries the removal of trees would have a negligible effect on the local amenity and landscape. Proposals also involve the provision of an additional 60no. 'Urban Trees' throughout the site, which would be entirely comprised of native species.

6.7.10 In general, officers agree that the category C trees do not present a constraint to the proposed development and their losses can be mitigated with the replacement landscaping. However, the justification for the loss of B category trees in order to simply increase the developable area and to allow the quantum of housing to be achieved is not supported and fails to address Policies 37 and 73 of the Bromley Local Plan, as well as Policy G7 of the London Plan.

Urban Greening

6.7.11 The application is accompanied by an Urban Greening Factor Calculation which demonstrates that the development would achieve an urban greening factor score of 0.58, however this statement appears unsupported. A drawing showing the surface cover types corresponding with the UGF calculation has been requested but has not been received before the completion of this report. Given it is an outline application, if the application was considered acceptable, full details of the Urban Greening including species details and within a design code would be secured through subsequent stages of planning, i.e. as part of a reserved matters application.



Fig. 6.7.2 Illustrative Landscape Masterplan.

Habitats and Biodiversity

6.7.12 Paragraph 186 of the NPPF states

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

6.7.13 The Preliminary Ecological Appraisal submitted in support of the application considers the habitats and protected species present on site or likely to be affected by the development and is accompanied by a Reptile Survey and a Badger Activity Survey.

6.7.14 The southern half of the site contained the onsite dwelling, a small back garden area of low-mown, species-poor, modified grassland and a hardstanding area which lead to the north of the site. Lining the western side of the hard-standing area were a series of sheds used for storage. The northern section of the site contained a small area of closely mown, with small paddock further north. A tree line ran down the eastern edge of the northern half of the site. The site is bound to the north by Biggin Hill Airport, to the west lies residential properties, and to the south by Jail Lane.

6.7.15 The immediate surrounds of the site are urban in the form of domestic properties to the south and west with Biggin Hill Airport to the north. To the east of the site are areas of arable fields.

6.7.16 The site is in the Impact Risk Zone (IRZ) of the following statutory protected sites:

- Saltbox Hills Sites of Special Scientific Interest (SSSI);
- Downe Bank and High Elms (SSSI); and
- Kent Downs AONB.

6.7.17 Non-statutory protected sites identified within 2.0km of the site include Sites of Importance for Nature Conservation (SINC's) and are listed in Table X below.

Site	Location
West Kent Golf Course and Down House SINC	1.7km N
Cudham Valley South SINC	0.5km SW
Downe Bank and Cudham Valley North SINC	0.6km S
Saltbox Hill and Jewels Wood SINC	1.9km NW
Mollards Wood and Jerry Reddings Shaw SINC	1.7km SW
Biggin Hill South and Painter's Wood SINC	2.1km S
Norheads Lane Woodlands SINC	1.3km N
Oaklands Lane Soakaway SINC	1.4km W
Old Tye Avenue Beechwood SINC	0.2km SE

Table 6.7.1 Non-Statutory Protected Sites

6.7.18 Within a 2.0km radius of the site there are also Priority Habitats of Lowland Calcareous Grassland, Deciduous Woodland, Traditional Orchards. The nearest Priority Habitat to the site is Deciduous Woodland, located 230 meters to the west.

Protected Species

Amphibians

6.7.19 Within a 2km radius of the site are records of common toad and common frog. No records of great crested newt exist within a 2 km radius of the site. Due to the lack of ponds within the area (a 500-meter radius), lack of suitable surrounding habitat, the site is considered to be of 'negligible' value to amphibians.

Reptiles

6.7.20 All native reptiles are [listed as rare and most threatened species](#) under Section 41 of the Natural Environment and Rural Communities Act (2006). Local Planning Authorities must have regard for the conservation of Section 41 species as part of their planning decision. The developer must comply with the legal protection of reptiles. When determining

applications LPAs should consider if the developer has taken appropriate measures to avoid, mitigate and, as a last resort, compensate for any negative effects on reptiles in their development proposal. Within a 2.0km radius of the site are high records of slow worm and low records of grass snake and common lizard. The long sward height of the northern section of grassland presented opportunities for reptiles to commute across the site. In addition, there appeared to be sections of dense vegetation to the east of the site which could act as foraging and breeding areas. Overall, the site is considered to be of 'moderate' value to commuting reptiles. As such, a reptile survey has been carried to establish exactly if and how reptiles are using the site.

6.7.21 The Reptile Survey Report provided concludes that as only a few individual slow worms (peak count 6no.) were noted during the course of the surveys (August and September 2022), a full translocation is not considered necessary. To ensure that reptiles are protected during the works, the following mitigation should be employed:

- The grassland shall be cleared from southwest to northeast to encourage any reptiles present to disperse into the buffer strip which shall be created along the northern and eastern boundaries. The vegetation shall first be strimmed to 150mm before being checked by an ecologist. Strimming should only take place within the bounds of the construction zone. A subsequent cut shall then reduce the vegetation to <50mm rendering it unsuitable for reptiles. All works except the initial cut to 150mm shall be supervised by a Suitably Qualified Ecologist.
- Once the vegetation has been cut, it should be maintained at this low height (<50mm) to ensure it remains unsuitable for reptiles.
- A destructive search of the site (excluding the area to be 'public open space') should be undertaken during the active period for reptiles (March – October inclusive) which involves taking off the top 100mm of the soil with a fine-toothed rake. Works should be overseen by a Suitably Qualified Ecologist.
- Once ground works begin on the western side of the site, the area proposed as 'public open space' should be Heras fenced to protect it to ensure reptiles won't be disturbed by site operations.
- 2no. Hibernaculum and log piles should be placed within the buffer strip to create shelter for reptiles.

6.7.22 Whilst officers agree the implementation of the above mitigation could ensure that that no reptiles are harmed during construction, in officers' view the developer has failed to take appropriate measures to, firstly, avoid harm to reptiles and their habitat, in line with paragraph 186 of the NPPF (for example by reducing the size of the development or altering its layout to retain the site's important habitat features).

Bats

6.7.23 Bats have been recorded within 5.0km of the site area with the nearest roost recorded approximately 0.7km to the south. Of the trees noted

within the survey area, none were seen to have any bat roost potential. In addition, the eastern tree line is to be retained. The sheds and outbuildings contained no roosting potential. Overall, the outbuildings, sheds and trees were considered to be of '*negligible*' value to roosting bats. However, the main house was considered to be of '*moderate*' value to roosting bats. As such, a series of two bat emergence/ re-entry surveys have been recommended to establish exactly if and how bats are using the site.

6.7.24 The northern section of the site, lined along the eastern boundary by a line of trees acts as a good foraging area for bats. The species composition of the neutral grassland is such that it would support a wide range of common invertebrates which bats would use as food. Despite being in an urban setting, light pollution would be limited and less intense to the east and north of the site due to the lack of houses. Potential commuting routes lead offsite to the east in the form of tree lines. The southern section of the site, consisting of hard standing would be of no value to foraging bats. Overall, the site is of '*moderate*' value to foraging bats.

6.7.25 The applicant has declined to provide the Emergence/Re-entry bat surveys recommended in the PEA. Consequently, the application does not adequately assess, mitigate or compensate the ecology impacts associated with this development. There is insufficient evidence to support the conclusion that protected species populations (if present within the site) could be adequately supported within the areas of habitat to be retained/re-provided within the proposed scheme. Furthermore, it is not clear where and how these species could be accommodated during the construction phase of the proposed development.

6.7.26 Officers consider that it would be insufficient and inappropriate for the further surveys to be secured by a condition, as the survey results could significantly alter the deliverability of the mitigation/scheme (i.e. any required mitigation and compensation may not be deliverable and any associated licences not achievable). This is considered a reasonable view, as the proposal includes the removal of the potential habitat, and the illustrative masterplan provides limited space for the mitigation measures to be implemented. The application provides no specification or details of these commitments or other measures (apart from the use of the sensitive lighting) which demonstrates that they could be delivered if required. To this end, the application has failed to demonstrate that the proposal would not have a detrimental impact on protected species and the biodiversity value of the site.

Dormouse

6.7.27 There are records of hazel dormouse within a 2.0km radius of the site with the nearest being 0.7km to the northwest of the site. The main body of the site contains no features which would support dormouse. The open and exposed nature of the grassland makes it unsuitable for

dormouse to commute across the site. The hardstanding offers no value. Overall, the site is considered to be of '*negligible*' value to dormouse due to the lack of commuting habitat, and the open, exposed nature of the main body of the site.

Badger

6.7.28 No signs of foraging or breeding badger were noted during the preliminary site survey. No vegetation runs which could be attributed to badger were noted. The surveyed area was well bound by houses to the south and west. To the north of the surveyed area lay an impenetrable wire fence. The eastern boundary was lined with wooden fencing with some small holes in, however, none were judged to be of sufficient size or shape to have been created by or used by badgers, however the trees to the east of the site could support breeding badgers.

6.7.29 Despite the site being considered to be of '*low*' value to breeding and foraging badgers, a further survey of the holes along the eastern boundary in addition to a track running along the fence line, just off-site was carried out to identify exactly which animals, if any, were using the holes (September and October 2022).

6.7.30 The data gathered from the sett monitoring shows that badgers use the holes regularly. The sett is considered most likely to be a well-used annex sett, associated with a main sett which is likely to be c. 50m way to the east. To ensure protection of the identified sett, a 30m buffer should be maintained between the sett entrances and development. The buffer may potentially be reduced to 20m following further investigation to ascertain the tunnel direction and topography. Should this not be possible, sett closure under licence and the creation of an artificial sett will be required. If the design of the development is considered likely to cause damage and / or disturbance to the existing setts then a licence shall need to be sought from Natural England. Mitigation implemented under the terms of this licence are likely to be as follows (subject to final scheme design):

- An artificial sett shall be constructed within off-site land with prior agreement from the landowner. Use of this artificial sett shall be determined through baiting of the new sett and monitoring with infrared cameras.
- Sett closure may only occur between 1st July and 30th November to avoid disturbance of breeding badgers. Sett closure may only occur once use of the artificial sett has been confirmed.
- One-way badger gates to be installed to all sett entrances with heavy gauge mesh installed over the sett to prevent re-excavation.
- Sett monitored for a period of 21no. days to ensure badgers have not re-entered the sett.
- Following the 21-day exclusion period, construction works may begin.

- Upon completion of work, where only partial sett closure has been required, the sett may be re-opened to allow continued use by badgers.

Water Vole

6.7.31 There are no records of water vole within a 2.0km radius of the site. No watercourses, ditches or streams were noted within or surrounding the site. No habitats found onsite are of value to water vole. Overall, the site was considered to be of '*negligible*' value to water vole.

Hedgehogs

6.7.32 Records of hedgehog exist within a 2km radius of the site. The area of trees, offsite to the east, provide a good area for commuting, hibernating and commuting hedgehogs. The site itself is of limited value to hedgehog due to the fencing along the northern boundary and houses running along the western and southern boundaries. Overall, the site is of '*low*' value to hedgehog.

Birds

6.7.33 A total of 133no. bird species have been returned within 2.0km of the site, including 23 no. Schedule I species and 30 no. species listed on the BoCC Red List.

6.7.34 The entire of the grassland (both modified and neutral) offered foraging potential for birds. The onsite trees also provided a good opportunity for birds to nest along the eastern boundary, however the potential for ground nesting birds would be low, due to the constant, low level of livestock and constant management of the area. Overall, the site was considered to be of '*moderate*' value to breeding and foraging birds. The PEA recommends any trees and hedgerows due for removal should be removed outside the bird nesting season.

Invertebrates

6.7.35 The data search returned records of numerous species of invertebrates within 2.0km of the site. The grassland provides habitat to support a range of common and widespread invertebrates. Overall, the site is of '*low*' value to invertebrates. However, as the grass is cut regularly (pers, comms, site owner) this reduces the value of the grassland to invertebrates.

6.7.36 Given the reptile and badger surveys were carried out between August and October 2022 as works won't have commenced within 18 months (i.e. by February - April 2024), an updated site visit should be carried out by a suitably qualified ecologist to assess any changes in the habitats present on site, and to inform a review of the conclusions and recommendations made.

Biodiversity Net Gain

6.7.37 Biodiversity Net Gain assessments of the proposals have shown that, based on the existing assemblage, distribution and condition of the habitats on site, the Habitat Unit score for the existing site is 3.83 and the Hedgerow Unit score for the existing site is 0.57. Metric calculations have shown that the proposals are anticipated to result in the delivery of 0.52 Habitat Units and 0.97 Hedgerow Units, resulting in a Biodiversity Net Gain of 13.71% in Habitat Units and 168.82% in Hedgerow Units.

6.7.38 Recommendations for ecological enhancements as part of development proposals include:

- Sowing of a wildflower seed mix to create a meadow and increase species diversity within the communal areas;
- The provision of nesting boxes for a variety of bird species within trees;
- The creation of log piles, as well as artificial hibernacula, within undisturbed boundaries of the site to provide refugia for reptiles and amphibians;
- Bat boxes suitable for a range of species to be incorporated into the southern aspect of mature trees;
- Installation of invertebrate boxes in both sunny and sheltered locations to cater for a range of species;
- Installation of 'bug hotels' suitable for solitary bees;
- Creation of new ponds with extensive areas of shallow water within communal areas.

6.7.39 Overall, whilst the recommendations for ecological enhancements and the anticipated biodiversity net gain are acknowledged, the application firstly fails to demonstrate how it would avoid harming or disturbing protected species. Furthermore, given the loss of habitats and green infrastructure (including loss of category B trees), and in the absence of Emergence/Re-entry bat surveys as recommended in the Preliminary Ecological Appraisal, the development will have an adverse effect on protected species and will harm biodiversity.

6.8 Environmental Health Matters – Acceptable (subject to the acceptability of a future Reserved Matters Application)

Land Contamination

6.8.1 A desk based Preliminary Risk Assessment has been undertaken by Aviron and accompanies this application. The report concludes that the risks present are considered to be generally low due to the historical development and limited potential contaminative site usage. Notwithstanding, the Environmental Health Team recommends that a standard land contamination assessment condition is attached to any approval to prevent harm to human health and pollution of the environment.

Air Quality

6.8.2 Policies SI 1 of the London Plan and Policy 120 of the Bromley Local Plan refer to the need to tackle poor air quality. It states that for major developments, an Air Quality Assessment should be carried out before designing the development to inform the design process. Developments should aim to meet “air quality neutral” benchmarks in the GLA’s Air Quality Neutral report. Policy SI 1 (B1) of the London Plan states that in order to tackle poor air quality, protect health and meet legal obligations, development proposals should not:

- a) lead to further deterioration of existing poor air quality
- b) create any new areas that exceed air quality limits, or delay the date at which compliance will be achieved in areas that are currently in exceedance of legal limits
- c) create unacceptable risk of high levels of exposure to poor air quality.

6.8.3 Policy SI1 (B2)(a) of the London Plan further states that development proposals must be at least Air Quality Neutral.

6.8.4 An Air Quality Neutral Assessment submitted confirms that the proposed development is not air quality neutral. Although the development features air source heat pumps and no new combustion sources and therefore can be considered air quality neutral in terms of building emissions, the trip rate generated by the development is higher than the transport emissions benchmark.

6.8.5 London Plan Policy SI1 part 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. Where it can be demonstrated that emissions cannot be further reduced by on-site measures, off-site measures to improve local air quality may be acceptable, provided that equivalent air quality benefits can be demonstrated within the area affected by the development.

6.8.6 Mitigation measures have been outlined by the applicant to address the increase in transport emissions arising from the development. This includes the provision of electric vehicle charge points, passive electric vehicle charge points and secure cycle parking. These measures are beneficial, however, to comply with Air Quality Neutral Guidance, a timed and enforced plan would be needed to demonstrate their effectiveness in bringing about the necessary reduction in emissions. Since the on-site measures do not satisfy the AQN requirements and as there is no guarantee when the development would achieve air quality neutral, the proposal fails to meet the minimum requirement of Local Plan policy 120 and the London Plan Policy SI 1 and, as such, refusal is recommended

on this ground. If permission was to be granted, the developer would have to agree to an offsetting payment for off-site measures.

6.8.7 The GLA officers requested a confirmation on whether the emergency generators would be used. If they would be, the emissions from this source should be screened and assessed if necessary. To comply with GLA guidance, backup or emergency generators should not run for more than 50 hours annually.

6.9 Energy and Sustainability – Acceptable (subject to the acceptability of a future Reserved Matters Application)

Minimising Greenhouse Gas Emissions

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

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

6.9.2 Major development proposals should include a detailed energy strategy to demonstrate how the zero-carbon target will be met within the framework of the energy hierarchy. A minimum on-site reduction of at least 35 per cent beyond Building Regulations is required for Major development – Of the 35% residential development should achieve 10 per cent through energy efficiency measures.

6.9.3 Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, any shortfall should be provided, in agreement with the borough, either:

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

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

6.9.5 An updated Sustainability and Energy Statement by BlueSky Unlimited demonstrates that the development would achieve an overall reduction of 77.54% in carbon emissions, which exceeds the minimum on site policy requirement of 35%. The proposed strategy would comprise the use of Air Source Heat Pumps and the installation of 164 x 400W of photovoltaic panels on the roof of the buildings. Notwithstanding the policy compliant carbon saving, to achieve the required net ‘zero carbon’

a financial contribution of £26,181 to the carbon off-setting fund would be required. This would need to be secured through S106 legal agreement.

6.9.6 The proposed energy strategy would accord with the requirements of Policy SI 2 at this stage. Should planning permission be granted, further information would be required as part of a reserved matters application which would include details of the siting of the PV panels and heat pumps. This would be required by way of a condition on any approval.

Whole Life-cycle Carbon

6.9.7 London Plan Policy SI-2 requires that development proposals referable to the Mayor should calculate whole life-cycle carbon emissions through a nationally recognised Whole Life Cycle Carbon Assessment and demonstrate actions taken to reduce life cycle carbon emissions. London Plan Policy SI7 requires such applications to submit a Circular Economy Statement, whilst London Plan Policy D3 requires development proposals to integrate circular economy principles as part of the design process.

6.9.8 The applicant has submitted a Whole life Carbon Assessment and Circular Economy Statement. Should planning permission be recommended and in line with the GLA recommendation, a post-construction assessment to report on the development's actual WLC emission and a post-completion report setting out the predicted and actual performance against all numerical targets in the relevant Circular Economy Statement would be secured by planning conditions.

Digital connectivity

6.9.9 London Plan Policy SI6 advises that to ensure London's global competitiveness now and in the future, development proposals should:

- 1) ensure that sufficient ducting space for full fibre connectivity infrastructure is provided to all end users within new developments, unless an affordable alternative 1GB/s-capable connection is made available to all end users
- 2) meet expected demand for mobile connectivity generated by the development
- 3) take appropriate measures to avoid reducing mobile connectivity in surrounding areas; where that is not possible, any potential reduction would require mitigation
- 4) support the effective use of rooftops and the public realm (such as street furniture and bins) to accommodate well-designed and suitably located mobile digital infrastructure.

6.9.10 Development Plans should support the delivery of full-fibre or equivalent digital infrastructure, with particular focus on areas with gaps in connectivity and barriers to digital access.

6.9.11 In line with Policy SI6 of the London Plan, any approval should secure a condition requiring the submission of detailed plans demonstrating the provision of sufficient ducting space for full fibre connectivity infrastructure within the development.

Overheating

6.9.12 London Plan Policy SI 4 states major development should demonstrate through an energy strategy how they will reduce the potential for internal overheating and reliance on air conditioning systems in accordance with the cooling hierarchy.

6.9.13 The ventilation system to the dwellings will comprise mechanical extract units. The applicant has submitted the Good Homes Alliance Early-Stage Overheating Risk Tool showing that the proposal would be able to achieve a total score of 7 indicating a low risk of overheating. As requested by the GLA officers, any planning permission should be conditioned to undertake a Dynamic Overheating Analysis to assess the overheating risk.

Water consumption

6.9.14 London Plan Policy SI5 states that development proposals should minimise the use of mains water; incorporate measures to help achieve lower water consumption; ensure that adequate wastewater infrastructure capacity is provided; and minimise the potential for misconnections between foul and surface water networks.

6.9.15 The Sustainability and Energy Statement submitted confirms that the proposed development aims to reduce water consumption to 102.10 litres per person per day for the dwellings, below of the recommended target for mains water consumption of 105 litres or less per head per day (excluding allowance of up to five litres for external water consumption).

6.10 Flood Risk Management and Sustainable Urban Drainage Acceptable (subject to the acceptability of a future Reserved Matters Application)

6.10.1 London Policy SI12(C) requires development proposals to ensure that flood risk is minimised and mitigated, and that residual risk is addressed. This should include, where possible, making space for water and aiming for development to be set back from the banks of watercourses. Policy SI13 of the London Plan states that drainage should be designed and implemented in ways that promote multiple benefits including increased water use efficiency, improved water quality, and enhanced biodiversity, urban greening, amenity and recreation.

6.10.2 Policy 116 (Sustainable Urban Drainage System) of the LBB Local Plan states that all developments should seek to incorporate Sustainable

Urban Drainage Systems or demonstrate alternative sustainable approaches to the management of surface water as far as possible.

6.10.3 The site is greater than 1 hectare in area and lies in Flood Zone 1, classified as having a low to negligible risk of flooding. A Flood Risk Assessment (FRA) has been submitted as required under the National Planning Policy Framework (NPPF). The FRA adequately assesses the risk of flooding from fluvial/tidal, pluvial, sewer, ground water and reservoir flooding.

6.10.4 The drainage strategy set out in the accompanying report by JUDWAA proposes to restrict runoff to the greenfield runoff rate, draining via infiltration, which is welcomed. It is proposed that all surface water would be attenuated in geocellular storage and then infiltrated to ground. The site is currently greenfield, and soakaways are present in the surrounding area.

6.10.5 The Council's Drainage Officer and Thames Water have raised no objections to the proposed development. Notwithstanding, given the outline form of the application, site specific data and testing has not been undertaken and consequently should planning permission be granted, the following details should be provided at the reserved matters stage:

- 1- Soakage test in accordance with BRE Digest 365;
- 2- Confirmation that rainwater harvesting was considered in line with Policy SI13 of the London Plan;
- 3- Hydraulic calculations including a range of return periods and storm durations. It is also noted that the Flood Studies Report (FSR) method has been used for the estimation of rainfall for simulation of the drainage networks. This method underpredicts rainfall intensity in the London area. As such, the drainage simulations should instead use the latest Flood Estimation Handbook (FEH22) method;
- 4- Management plan for future maintenance of all SUDS;
- 5- Assessment of exceedance flood flow routes above the 100-year event plus 40% climate change.

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- 1) through a cash in lieu contribution to the borough's carbon offset fund, or
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6.10.3 The site is greater than 1 hectare in area and lies in Flood Zone 1, classified as having a low to negligible risk of flooding. A Flood Risk Assessment (FRA) has been submitted as required under the National Planning Policy Framework (NPPF). The FRA adequately assesses the risk of flooding from fluvial/tidal, pluvial, sewer, ground water and reservoir flooding.

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6.10.5 Given the outline form of the application, site specific data and testing has not been undertaken and consequently should planning permission be granted, the following details should be provided at the reserved matters stage:

- 1- Soakage test in accordance with BRE Digest 365;
- 2- Confirmation that rainwater harvesting was considered in line with Policy SI13 of the London Plan;

- 3- Hydraulic calculations including a range of return periods and storm durations. It is also noted that the Flood Studies Report (FSR) method has been used for the estimation of rainfall for simulation of the drainage networks. This method underpredicts rainfall intensity in the London area. As such, the drainage simulations should instead use the latest Flood Estimation Handbook (FEH22) method;
- 4- Management plan for future maintenance of all SUDS;
- 5- Assessment of exceedance flood flow routes above the 100-year event plus 40% climate change.

7. Other Issues

Equalities Impact

- 7.1 Section 149 of the Equality Act (2010) which sets a Public Sector Equality Duty (PSED) came into force in April 2011 and requires the Council to consider the equality impacts on all protected groups when exercising its functions.
- 7.2 In the case of planning, equalities considerations are factored into the planning process at various stages. The first stage relates to the adoption of planning policies (national, strategic and local) and any relevant supplementary guidance. A further assessment of equalities impacts on protected groups is necessary for development proposals which may have equality impacts on the protected groups.
- 7.3 With regards to this application, all planning policies in the London Plan and Bromley Local Plan and National Planning Policy Framework (NPPF) which have been referenced where relevant in this report have been considered with regards to equalities impacts through the statutory adoption processes, and in accordance with the Equality Act 2010 and Council's PSED. Therefore, the adopted planning framework which encompasses all planning policies which are relevant in the officers' assessment of the application are considered to acknowledge the various needs of protected equality groups, in accordance with the Equality Act 2010 and the Council's PSED.
- 7.4 It is also necessary to have due regard to the public sector equality duty, which sets out the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between people who share a protected characteristic and people who do not share it.
- 7.5 The protected characteristics to which the Public Sector Equality Duty (PSED) applies include age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, sexual orientation, religion or belief and sex.
- 7.6 Whilst the application has been submitted in an outline form with all matters reserved which allows for the final agreement of details following

a reserved matters application at a later stage, the general acceptability of the proposed development needs to be established at the outline stage.

- 7.7 The development proposal offers new opportunities to access affordable housing, thereby helping to address the Council's acute affordable housing delivery shortages. However, the scheme is intended to deliver rented accommodation to veterans and possibly other key workers, and the tenure of affordable housing proposed could be inaccessible to some of the highest need customers on Bromley's housing register and therefore might have a negative impact for people in the categories of age, disability, pregnancy and maternity, race, and sex (women) who are less economically active and who may find the rent levels prohibitive. The affordability of the units has not been confirmed or justified via independently examined Viability Appraisal and it cannot be demonstrated that the tenure of affordable housing proposed would contribute towards sustainable mixed and balanced communities.
- 7.8 Negative impacts may also arise from the proposed housing mix, which includes a large proportion (36%) of studio accommodation and affected people would be in the categories of disability, age, pregnancy and maternity, race and religion.
- 7.9 There are also negative impacts expected in relation to construction, such as increased vehicular movements, noise and air quality which would have the potential to affect the following equality groups; age, disability, pregnancy and maternity. These impacts are however considered short term and would depend on the measures that would be set out in the Construction Management Plan and other relevant conditions aimed to minimise disruption and mitigate the impacts.
- 7.10 In conclusion, it is considered that LB Bromley has had due regard to section 149 of the Equality Act 2010 in its consideration of this outline application and resulting recommendations to the Development Control Committee.

Community Infrastructure Levy

- 7.11 Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), the proposal would be liable for the Mayoral CIL (subject to applicable affordable housing relief).
- 7.12 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. Proposals involving social, or affordable, housing (conditions apply) can apply for relief from CIL for the social housing part of the development. This is set out in Regulation 49 of the CIL Regulations 2010 (as amended).

S106 Legal Agreement

7.13 The National Planning Policy Framework (NPPF) states that in dealing with planning applications, local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. It further states that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. The NPPF also sets out that planning obligations should only be secured when they meet the following three tests:

- (a) Necessary to make the development acceptable
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

7.14 Policy 125 of the Local Plan 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.

7.15 Notwithstanding that this development, as a whole, has been found not to accord with the development plan and is recommended for refusal, should planning permission be granted Officers have identified a number of planning obligations which are required to mitigate the impacts of this development, the reasons for which have been set out in this report. The development, as proposed, would necessitate the following obligations:

- Affordable Housing:
- 35% of habitable rooms provided as DMR with 30% at London Living Rent and the remainder at a Genuinely Affordable Rent as defined by LB Bromley
- 65% of habitable rooms provided as DMR
 - Early and late stage viability review mechanisms
 - Carbon off-set payment-in-lieu £26,181
 - On-Site measures to meet Air Quality Neutral requirements or, failing that, off-site measures / Air Quality Neutral offset payment (TBC)
 - Contribution towards Healthy Streets/active travel improvements
 - Monitoring fee: £500 per head of terms; and
 - Cost of legal undertaking.

7.16 Officers consider that these obligations meet the statutory tests set out in Government guidance, i.e. they are necessary, directly related to the development and are fairly and reasonably related in scale and kind to the development.

8. Conclusion

- 8.1 Outline planning permission is sought for demolition of existing dwellings (51 and 53 Jail Lane), formation of access off Jail Lane and construction of up to 50 new discount market rent dwellings (use class C3) with priority for ex-service personnel, forces families and key workers, comprising a mix of houses and maisonettes together with associated parking, amenity space, landscaping and refuse (all matters reserved).
- 8.2 The proposal would be inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt. The harm that would arise in this regard would result from the conflict with the Green Belt purpose of preventing urban sprawl by keeping land permanently open. Consistent with paragraph 153 of the Framework substantial weight is attached to this harm. In addition, the harm to openness would be caused to a substantial degree in both spatial and visual terms. This further weighs against the proposal.
- 8.3 The Council does not currently have a 5 year housing land supply. However, the site is included within the protected areas listed in footnote 7 of the NPPF as it is designated as Green Belt. As set out in this report, the application of the Green Belt policies provide a clear reason for refusing the development proposed. Consequently, notwithstanding the absence of a five year supply of housing, the presumption in favour of the development that might otherwise exist (titled balance) is effectively disengaged.
- 8.4 Whilst the development proposal would offer new opportunities to access housing, helping to address the Council's acute housing delivery shortages, the scheme is intended to deliver rented accommodation to veterans and possibly other key workers. Therefore, bearing in mind the Council do not have a Key Worker allocation policy, the provision of 50 units, of which a large proportion (36%) would be single occupancy studio apartments, would not attract very substantial weight when assessed against the substantial weight given to the harm to the Green Belt by virtue of the inappropriate development and other harm.
- 8.5 Although some weight can be attributed to the provision of affordable housing (Discount Market Rent) for the total units proposed, the scheme does not qualify for the Fast Track Route in Policy H5 of the London Plan and therefore it has not been demonstrated that the proposal maximises the delivery of affordable housing, including genuinely affordable housing which would contribute towards meeting the pressing needs of the Borough's residents. In any case, a delivery of mandatory baseline policy requirements necessary to make the proposal acceptable would not attract any additional weight and, further to that, weight can only be given to the guaranteed provision which needs to be secured in the legal agreement. In this instance, the lack of clarity on what is proposed and what can be secured in the s106 agreement diminishes the weight that

could be otherwise attributed, if a high percentage of genuinely affordable housing was secured.

- 8.6 There are also a number of other planning considerations which would weigh against the proposals when balancing the benefits proposed against the harm and degree of compliance with strategic planning policies. Although the application has been submitted in an outline form with all matters reserved which allows for the final agreement of details following a “reserved matters” application at a later stage, the general acceptability of the proposed development needs to be established at the outline stage.
- 8.7 Insufficient information was provided for an archaeological potential associated with the site to be assessed at the pre-determination stage and consequently it is not known if there is a definable archaeological interest and whether that interest can be secured by condition or whether certain site evaluation is necessary to inform the decision regarding the application.
- 8.8 The application fails to adequately avoid, mitigate and compensate the impact on the biodiversity value of the site (including loss of category B trees), and in the absence of further surveys as recommended in the Preliminary Ecological Appraisal it is not possible to fully determine the impacts of the proposal on protected species (including bats).
- 8.9 The trip rate generated by the development is higher than the transport emissions benchmark for an Air Quality Neutral development. On-site mitigation measures outlined by the applicant to reduce the emissions do not satisfy the AQN requirements and as there is no guarantee when and how the development would achieve air quality neutral, the proposal fails to satisfy London Plan Policy SI 1 and Bromley Local Plan policy 120.
- 8.10 In accordance with Paragraph 152 of the NPPF, inappropriate development should not be approved except in very special circumstances. The applicant has submitted a case for VSC and it is accepted that the benefits of housing delivery, and to some degree the provision of affordable housing (albeit this matter in itself is non-compliant), would weigh in the balance. However, given the substantial level of harm to the openness of the Green Belt and the harm that would arise, from the conflict with the Green Belt purpose of preventing urban sprawl by keeping land permanently open, it is not considered that these benefits clearly outweigh this harm. Therefore, the very special circumstances which have been put forward would not justify the proposed development.
- 8.11 Taking account of the above, the identified harm arising from the proposal would significantly and demonstrably outweigh the benefits of the development. Therefore, as the scheme is not sustainable

development for which the Framework indicates that there should be a presumption in favour, the planning permission should be refused.

- 8.12 The applicant has not confirmed the required planning obligations, as stated within Section 7 of this report, nor submitted a draft legal agreement. As such, a reason for refusal relating to the lack of acceptable planning obligations is also recommended.
- 8.13 Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: REFUSE PLANNING PERMISSION for the following reasons:

- 1 The proposal is considered to constitute inappropriate development in the Green Belt and would cause substantial harm to the openness of the Green Belt for which no very special circumstances have been demonstrated to clearly outweigh the harm to the Green Belt and any other harm. The proposal is thereby contrary to Policy 49 of the Bromley Local Plan (2019), Policy G2 of the London Plan (2021) and the provisions of the National Planning Policy Framework (2023) (Paragraphs 142-143, and 152-153).**
- 2 The application does not demonstrate that grant funding has been sought to increase the level of affordable housing proposed and, given the conclusions relating to the Green Belt as well as the failure to demonstrate compliance with other local and strategic policies, the proposal does not meet Part C(3) and C(4) of London Plan Policy H5 or (consequently) part C of Policy H11. The application therefore fails to meet the criteria necessary to qualify for the Fast Track Route and in the absence of a Financial Viability Assessment the application fails to demonstrate that the proposal would maximise the delivery of affordable housing, thereby contrary to Policy H5 of the London Plan (2021), Policy H11 of the London Plan and Policy 2 the Bromley Local Plan (2019).**
- 3 In the absence of an Archaeological Desk Based Assessment, the impact of the proposed development on the archaeological potential associated with the site cannot be fully assessed. As such, the proposal fails to demonstrate compliance with Policies 37 and 46 of the Bromley Local Plan (2019), Policy HC1 of the London Plan (2021) and the provisions of the National Planning Policy Framework (2023) (Paragraphs 200 and 205-209).**
- 4 The application has failed to adequately demonstrate avoidance of harm to green infrastructure, protected species and their habitats (including loss of category B trees), or how harm to protected species and biodiversity would be adequately mitigated. In the absence of**

further surveys as recommended in the Preliminary Ecological Appraisal it is not possible to fully determine the impacts of the proposal on protected species (including bats). The development is therefore contrary to Bromley Local Plan Policies 37, 72 and 73, and London Plan Policies G1, G5, G6 and G7, and the provisions of the National Planning Policy Framework (2023) (Paragraph 180 and 186).

- 5 The proposed development would not be 'Air Quality Neutral' for development transport emissions and the applicant has failed to demonstrate adequate on-site measures to reduce emissions further. As such, the proposal would fail to meet the minimum requirement of Bromley Local Plan policy 120 and London Plan Policy SI 1 and the Air Quality Neutral LPG.**

- 6 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, and Local Plan Policies 125 and Bromley Planning Obligations SPD (2022) and subsequent addendums.**