



## Appeal Decision

Inquiry opened on 9 May 2018

Site visit made on 17 May 2018

**by Paul Jackson B Arch (Hons) RIBA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 July 2018**

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**Appeal Ref: APP/G5180/W/17/3181977**

**Maybrey Works, Worsley Bridge Road, Lower Sydenham, London SE26 5AZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Bellway Homes (Thames Gateway) against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/16/05897/FULL1, dated 22 December 2016, was refused by notice dated 18 May 2017.
  - The development proposed is demolition of existing buildings and comprehensive redevelopment of the site to provide new buildings ranging from five to nine storeys in height comprising 159 residential units (Use Class C3), 1,243 square metres (sqm) commercial space (Use Class B1a-c), 157 sqm residents gym (Use Class D2), together with associated car and cycle parking, landscaping and infrastructure works.
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### Preliminary matters

1. Prior to consideration by the Council, the area of commercial space proposed was revised to 1099 sqm. I have considered the appeal on this basis.

### Decision

2. The appeal is allowed and planning permission is granted for demolition of existing buildings and comprehensive redevelopment of the site to provide new buildings ranging from five to nine storeys in height comprising 159 residential units (Use Class C3), 1,099 square metres (sqm) commercial space (Use Class B1a-c), 157 sqm residents gym (Use Class D2), together with associated car and cycle parking, landscaping and infrastructure works at Maybrey Works, Worsley Bridge Road, Lower Sydenham, London SE26 5AZ in accordance with the terms of the application, Ref DC/16/05897/FULL1, dated 22 December 2016, and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

### Main Issues

The main issues are as follows:

- The effect of the proposed development on employment and the economic function and growth of the area;
  - The effect on the character and appearance of the area, which includes adjacent Metropolitan Open Land (MOL);
  - The effect on the living conditions of future occupiers; in terms of space standards and outlook;
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- The effect on the living conditions of adjacent occupiers, in terms of outlook and privacy; and
- Whether there exists a 5 year supply of housing land, in the terms set out in paragraph 47 of the National Planning Policy Framework (NPPF).

## **Reasons**

### *The site and surroundings*

3. The site lies on the eastern edge of a much larger area of employment use known as the Sydenham Industrial Estate. The Hayes-Charing Cross railway line runs through the industrial area and the site lies in the small part of the estate on the eastern side. It is about 5 miles from central London. The 0.6 hectare (ha) site is currently occupied by industrial buildings and associated administration blocks originating from the 1930s which are physically obsolete and/or in poor condition. Of the 9 units, 8 are vacant and virtually derelict, the remaining space being occupied by a vehicle repair and maintenance business.
4. The tree lined Pool River runs along the south eastern edge of the site. Beyond this are extensive sports fields in private ownership on either side of Worsley Bridge Road. These separate the site from suburban residential development towards Beckenham. Adjoining the site to the south west and alongside the railway line is a former sports field, referred to during the Inquiry as the 'Footzie' site. All the sports fields are designated as MOL, which is broadly equivalent to the Green Belt in terms of policy protection. Immediately to the north on the opposite side of Worsley Bridge Road is Montana Gardens, a small low rise housing estate. The north western boundary of the site faces a new apartment development named Dylon Works, after the former factory on the site. This extends to 8 storeys where it faces the Footzie site and is nearing completion.

### *Policy background*

5. The development plan for the area consists of the London Plan of March 2016 consolidated with amendments since 2011 (LonP), and the saved policies of the London Borough of Bromley Unitary Development Plan of 2006 (UDP) which covered the period up to 2016. The emerging replacement Local Plan (eLP) was examined in public in December 2017 and consultation on the main modifications is complete. Also relevant is the draft London Plan (December 2017) which completed consultation on 2 March 2018 and is expected to be examined in the autumn of 2018.

### *The effect on employment and the economic function of the area*

6. The site is designated as the Lower Sydenham business area covered by policy EMP4 of the UDP. In such areas (Locally Significant Industrial Sites or LSIS) this policy safeguards supply of suitable land in the Borough to provide for the growth and development of business and industry in Use Classes B1, B2 and B8 (the latter if under 1000 square metres (sqm)). The explanatory text to the policy advises that proposals likely to be detrimental to the amenities of adjoining residential areas by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit, will be resisted.
7. The Council acknowledges that the close proximity of the Dylon development, a long elevation of which faces the northwest boundary over 6-8 floors, restricts the range of industrial employment uses that might be appropriate under

- EMP4. I accept that B1(a) mainstream offices, B2 uses and B8 uses over 1000 sqm are not suitable or are not viable. Moreover the hours of use of the premises for some types of employment are likely to be restricted in the interests of nearby existing occupiers and the many future occupiers of Dylon Works. All of these considerations reduce the potential market for the existing space.
8. Additionally, access to employment sites east of the railway line from the west under the Southend Lane bridge is restricted by low headroom. Site access for some HGVs would be through congested residential areas which would not be ideal. Deliveries early in the morning are also likely to be affected by any limited hours of working. The availability of a substantial amount of new industrial space on the outskirts of Bromley towards St Mary Cray with easy access to the M25, M20 and M2 was demonstrated by the appellant. The Council did not demur.
  9. Moreover, marketing of the existing premises for Class B1(c) B2 and B8b uses has been undertaken since 2015 by 2 different agents. The existing buildings are sub-standard and reflect many years of decline and decay. I have had regard to the assertion by the Council that omission of any mention of the potential for redevelopment for commercial use negates the effectiveness of the marketing process, but consider that that possibility would remain obvious to anyone seriously interested, given the very poor condition of the outdated existing buildings. The suggested conflict with the second paragraph (a) of emerging policy 82 in this respect carries little weight.
  10. Many of those that did respond expressed interest in redevelopment, but for residential. Having regard to the availability of more flexible and better connected premises elsewhere, it is unlikely that an investor would find redevelopment of the site attractive without a significant pre-let. There is no evidence that that would be forthcoming.
  11. The above factors, taken together, indicate that the potential for continuing employment use of the existing floor space, whether refurbished or new, is very limited indeed. The Council's assertion that occupiers are 'desperate' for new space is not borne out by the responses to the marketing for this site. In addition, the existing floor space amounts to about 4542 sqm but this comprises a high proportion of the site area. A more practical provision would include much more space for unloading and manoeuvring vehicles. Any redevelopment for light industrial purposes would be for significantly less space.
  12. The proposed scheme would provide 1099 sqm of modern flexible floor space, subsidised by the residential element, suitable for the types of uses the Council agrees would be appropriate in this location. That would replace the current accommodation which provides, at most, employment in the low single figures. There is no evidence to justify 1099 sqm, as opposed to 2500 sqm or a higher figure in an employment-led scheme that would be more policy compliant, but the proportion of the development allocated to employment as opposed to housing and the degree of risk implicit in each is a matter for the appellant. Information provided at the Inquiry relating to the viability of an employment redevelopment in B1(c) use is of inconclusive in this respect. No other employment-led scheme has come forward. It is indisputable that the Council seeks new housing as well as the retention of employment space across the

Borough (Council officers previously accepted that this site could be suitable for a mixed development when considering allocations in the eLP). The merits of the 1099 sqm proposed have to be considered having regard to the wider availability of such space and the relative attractiveness of this location.

13. Redevelopment of this site on the edge of the wider LSIS and on the 'other' side of the railway line would not compromise the primary function of the LSIS. The explanatory text to emerging policy 82 reflects the advice at paragraph 22 of the NPPF which resists the long term safeguarding of land where there is no reasonable prospect of sites being used for that purpose. I conclude on this issue that the reduction in employment floor space is in conflict with the aims of UDP policy EMP4 but the close proximity of the Dylon Works apartment scheme and the particular location of the site mean that there is no reasonable prospect of the site being used for many of the employment purposes envisaged in that policy, which in this respect is restrictive and out of step with the guidance in the NPPF. There is a conflict with the second paragraph (b) of eLP policy 82, but the proposal needs to be considered in the round, taking into account the amount and quality of the replacement employment space proposed and any other benefits of the scheme.

#### *Character and appearance*

14. Policy G6 of the UDP and emerging draft policy 53 are referred to in the relevant reason for refusal. They seek to prevent development on land abutting MOL which is detrimental to the visual amenity or character of the designated area. The explanatory text in both documents indicates that the purpose of the policy is to ensure that a 'buffer' of land, often characterised by large gardens or extensive grounds is retained to protect the character and visual amenity of the MOL fringe.
15. The existing industrial buildings on the site do not fall in either category and even if refurbished would form an unattractive backdrop to the MOL. Seen from the large area of football and cricket pitches and the clubhouses to the south east, the site is screened by vegetation along the Pool river. This forms a visual barrier which could be enhanced by removing invasive species and reinforcing planting, which is the subject of a planning condition. The visual impact of the height and bulk of the proposed blocks would be considerably mitigated by this, even in winter. Having said that, the massing together with the permeable nature of the residential facades, combined with various finishes including light coloured brickwork would form an attractive composition. The development would not be particularly overbearing or out of proportion, given the extensive area of open sports fields from which it would be seen most often in MOL. This would be the case even taking into account the adjacent Dylon Works scheme which extends to 8 storeys.
16. The visual impact would be substantially greater seen from the smaller triangular 'Footzie' area, but the character of this part of MOL is affected by the proximity of the railway line and other informal uses of the land. The Dylon Works residential scheme is also prominent close to the northern boundary. The existing industrial buildings on the appeal site have an unattractive, if functional elevation. By contrast, the appeal scheme would include some new tree planting on the boundary and podium planting in the central play/amenity space. Blocks C and E facing the footzie MOL would rise to a storey less than the Dylon scheme. Whilst there would be a noticeable increase in the bulk of

- built form visible from the MOL, I consider that the overall impact would be positive.
17. The Council suggests that the openness of the MOL would be detrimentally affected, but the reason for refusal referred only to visual amenities being harmed. Neither G6 or 53 seek specifically to protect the openness (meaning 'openness' as used in paragraph 79 of the NPPF) of MOL from the effects of development outside it. However, strategic LonP policy 7.17 does seek the protection of MOL from development having an 'adverse impact' on its openness: and emerging policy G3 of the draft December 2017 London Plan is similar. On the face of it, this could be read as including the potential for adjacent development not within MOL to affect its openness. It is not the wording used in the NPPF.
  18. I accept that there could be circumstances where development on an adjacent site is so dominant and overwhelming that users of a protected area could experience a detrimental effect on what could be described as 'openness', but that is far from the case here. The replacement of the present industrial buildings with a contemporary residential scheme with new landscaping and planting on part of one boundary alongside a completed similar scheme would not diminish the openness of the Footzie site or the wider MOL. Nor would there be a harmful impact on the visual amenities of its users. That would be the case even if the land was not primarily used for sporting activity.
  19. Seen from Worsley Bridge Road, the proposal would rise above the skyline looking south towards a bend but this is not a view with any particular merit. The new buildings would simply represent a change. Planting of new trees is proposed behind the footway and this will significantly help the development to be assimilated into its surroundings.
  20. I conclude that the proposed development would not conflict with the visual amenity protection aims of policy G6 of the UDP, eLP policy 53 or policy 7.17 of the LonP.

#### *Living conditions*

21. The layout of the scheme generally provides dual aspect apartments, or single aspect apartments facing north west, south west or south east. These should all have a reasonable prospect of receiving some sunlight at some point in the morning and/or evening. The Council's concern relates primarily to the potential impact with respect to 4 No. 2P1B units in block B, which are located one above the other on the first to 4<sup>th</sup> floors. The units in question face north east over Worsley Bridge Road and are relatively narrow in plan.
22. The north facing flats in question are not family units, but single bedroom with a living/dining room and internal bathroom. The LonP Housing SPG allows a degree of flexibility at paragraph 2.3.39 in this matter, taking into consideration other planning and design objectives such as the aim to maximise active frontages. The layout of the proposed development demonstrates that north facing single aspect flats are avoided as far as possible and the 4 flats in question represent only 2.5% of the total. They contribute to the townscape in the form of a built up frontage along Worsley Bridge Road. They would have a good outlook and good standards of daylight, albeit probably only receiving direct sunlight for a short time in summer mornings. The occupants would have access to the private sheltered internal

landscaped area above the car park which faces south west. Bearing in mind that they are likely to be at work during the day, I do not regard the disadvantage to be so severe as to indicate permission should be refused.

23. A small number of other dwellings fall short of the minimum space standards recommended in the LonP at policy 7.4 and in Supplementary Planning Guidance (SPG). The shortfall in space standards applies to approximately 0.2 sqm of living room, kitchen and dining room standards in 4 flats and 0.5 sqm of storage in 5 flats. However the area schedule indicates a surplus of space in other areas. It would be unreasonable to apply the minimum space standards too rigidly to every site, as that could tend to prevent imaginative dwelling layouts that maximise efficient use of the space available. In this case, the shortfall is minor and does not indicate that the scheme would not provide a good standard of amenity for all its occupants.
24. Turning to the effect on outlook and privacy, dwellings on up to 7 floors of the Dylon Works scheme and the appeal development would face each other across a distance of between 19 and 21m. 23 of the units in the Dylon Works development are single aspect and would face the appeal site. The blocks themselves would be around 80m long which would limit the opportunity to view anything other than built development for some living towards the centre of the blocks of both schemes. It is not disputed that 20m is a distance which would normally provide an adequate degree of personal privacy. At the site visit, the opportunity was taken to visit a unit in Dylon Works. The appeal development includes landscaping and tree planting which would help in mitigating the visual impact of the long expanse of built development facing those living there every day. Moreover, the architectural treatment of the facades would be varied with recessed balconies and some articulation between blocks B and C. I consider that the visual impact of the long blocks facing each other and the somewhat restricted outlook for some would not unacceptably compromise the living conditions of occupiers.
25. I conclude on this issue that the appeal development would not conflict with the relevant policy aims set out in LonP policies 7.4 and 7.6, UDP policies BE1 and H7, eLP policies 4 and 37: and the NPPF, which requires a good standard of amenity for all existing and future occupants of land and buildings.

#### *The housing land supply position*

26. The initial session of the Inquiry was in the form of a round table session on housing supply. I have considered the appeal based on the 5 Year Housing Land Supply Statement of Common Ground (HLSSoCG) dated 8 May 2018 as altered following the round table discussion and by agreement during the Inquiry<sup>1</sup>.
27. Main and minor modifications to the eLP were approved by the Council in March 2018 and were intended to be published for public consultation in May 2018. A minimum annual average of 641 dwellings per annum (dpa) is proposed which should be achieved from 2015 to 2025. In terms of the 5 year requirement, and adding a 5% buffer, the requirement equates to 673 dpa between 2017 and 2022. This is agreed between the parties. The Council's estimate of supply is 5.38 years; the appellant's estimate is 4.02 years.

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<sup>1</sup> Doc 22

28. The components of supply in dispute are set out in the HLSSoCG and were explored in the round table discussion. 357 dwellings are on 6 sites which are the subject of eLP allocations, all of which are queried as being deliverable in terms of the tests in the NPPF<sup>2</sup>. Another 130 are located at Crystal Palace Park where planning permission has been granted but development has not commenced.
29. Turning to the allocated sites, *Bickley Station* (30 dwellings) is scheduled for delivery in phase 3 (April 2024 - March 2029) in the 2017 London Strategic Housing Land Availability Assessment 2017 (SHLAA) and is in active use for other purposes: a prefabricated building for Network Rail Telecoms, a scaffolding yard, a cab office and telecommunications mast. No planning application has been submitted. Whilst Network Rail suggests that development will start in 2019, there must be considerable doubt that leases can be terminated, permission obtained and a developer and builder appointed within the time available.
30. *Holmesdale Road gasholder site* (60 units). Two gasholders have not yet been demolished despite consent being in place since 2015. There is no consent for any residential scheme. Gasholders have significant contamination issues and although preparation work is ongoing to update the gas distribution network, there must be considerable doubt that this site is capable of delivery within 5 years. It is also scheduled for delivery in phase 3 of the SHLAA.
31. The Council considers 120 units to be a conservative estimate of the potential for *land adjacent to Bromley North station* to contribute within 5 years, but no planning permission has yet been granted. The area has been allocated for housing by Bromley since 2010 but objections remain, principally from the Greater London Authority (GLA). Bromley North station is listed at Grade II. Large sites take considerably longer to agree a comprehensive approach, especially when several different landowners are involved. The GLA put this into phase 3 in the SHLAA and it must be open to considerable doubt that matters will progress as hoped by the Council.
32. The site at *Banbury House Chislehurst* (25 units), a former care home, is owned by the Council. Although no progress has been made in 8 years, the Council resolved to clear the site in January 2018. No planning application has been made. However, small sites such as this are easier to make progress with. I do not see Japanese knotweed as a serious impediment: that may even propel redevelopment more quickly. The numbers of units may be lower, reflecting density concerns, but I regard this site as more probable on balance.
33. *Small Halls, York Rise* (35 units) is supported by a contract starting in November 2018 including a planning application. Although of unusual plan form and subject to contamination issues, this site is self-contained and in a good location next to Orpington Station. There is a reasonable prospect of this site delivering within 5 years.
34. *Homefield Rise, Orpington* (87 units) was the subject of an unsuccessful planning appeal for 105 apartments in March 2018. As a result of the

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<sup>2</sup> Footnote 11 'To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.'

Inspector's comments in that decision, there is a reasonable prospect of a residential scheme of some sort coming forward eventually. However the site is in 13 separate ownerships which remain occupied and in good condition. Though some momentum has built up, there must remain significant uncertainty that a viable scheme can still be put forward. No new planning application has yet been made. This centrally situated site is close to facilities, but on balance, the ownership difficulty means the prospects are relatively poor.

35. Permission was granted by the Secretary of State in 2010 for 180 units at *Crystal Palace Park* as part of enabling works to facilitate regeneration, but no reserved matters or discharge of condition applications have subsequently been made. Since then, planning policy has moved on and the Council acknowledges that it will not be implemented in its current form. Any revised scheme would be subject to renewed scrutiny. The 2010 inquiry generated plentiful local objections and the sites comprise MOL. Given the passage of time, the likelihood that 130 units will be delivered within 5 years is low. This is also reflected in the GLA SHLAA expectation of completions here occurring after 2024.
36. I consider briefly the Council's anticipated uplift in supply from other sources: the small sites allowance, vacant stock and B1(a) to C3 prior approval conversions. The likelihood of these uplifts contributing substantially to completions within the next 5 years in the manner expected is uncertain. There is no compelling evidence that additional small sites units will be delivered because of new initiatives such as the DCLG October 2016 Home Builders Fund or the requirement to publish a brownfield register. There will almost certainly be a contribution but the number is speculative.
37. Office conversions to residential have been available for 5 years and small sites of this kind are included in the small sites allowance. Permitted development rights were made permanent in April 2016 and this has stimulated applications for prior approval. However no large schemes are identified by the Council and such conversions are blocked in much of the centre of Bromley. It is reasonable to assume that the pool of premises suitable for conversion is maintained for now but it is likely to decline in later years. The anticipated uplift of 200 units over 5 years in Bromley's Five Year Housing Land Supply monitoring report of 2017 is speculative.
38. Levels of vacant stock have declined markedly in recent years in Bromley. Some level of vacancy is necessary to ensure that the market functions. This can go up or down. I accept that a conservative average level of 20 vacant units per annum might be brought back into use within 5 years, declining over time.
39. Assuming that all the Council's assumptions are right, the surplus of supply against the requirement of 673 dpa (3365 over 5 years) is only 257 dwellings, I consider that for the reasons outlined above, the supply is likely to be significantly less than the Council claims. If sites at just Bromley North and Crystal Palace Park failed to come forward, the surplus would be only 7 dwellings. I conclude on the 5 year housing supply issue that little confidence can be placed in the Council's expectations and there is not compelling evidence that a 5 year supply of housing land exists.



40. Even if I did not consider that considerable doubt must attach to the prospect of many the units anticipated by the Council on the sites in dispute being built out within the next 5 years, the target in the LonP is a minimum. Boroughs are asked to achieve and exceed them. Moreover, the new draft London Plan was issued for consultation in December 2017. It sets a target for Bromley of 14 240 units over 10 years or an average of 1424 dpa, well over twice the existing figure and part of rising housing ambition for London as a whole. This has not been tested at examination but provides the most up-to-date evidence of housing need. The reasonable expectation must be that the housing requirement for Bromley will go up. Moreover there is a pressing and unsatisfied need for affordable housing, which the Council acknowledges has not been well catered for, an average of only 13 being delivered in the last 5 years.

### **Other matters**

41. A signed and dated S106 Agreement (S106) is provided. This facilitates the provision of 35% of the units as affordable housing, contributions towards education, healthcare and well-being facilities, highway improvements, carbon offsetting, provision of a car club and associated car parking spaces, and provision and ongoing maintenance of the river walkway which is to be accessible to the general public.
42. I consider that the provisions of the S106 are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make it acceptable. They meet the tests set out in Paragraph 204 of the NPPF and Regulation 122 of the CIL Regulations (2010). I conclude that the requirements of Regulation 123 and Planning Policy Guidance (PPG) have also been satisfied. As such I give the S106 significant weight.

### **Conclusion**

43. It is a Government aim to boost significantly the supply of housing, further emphasised recently by the issue of the White Paper 'Fixing our Broken Housing Market' in 2017 and the draft revised NPPF. The appeal proposal would provide 159 units, 51 of which would be affordable (40 units rented and 11 shared ownership) on previously developed land. The scheme would make a meaningful and important contribution to meeting housing need in Bromley. An existing former industrial site in poor condition would be replaced with modern employment floorspace and new housing close to the railway network and local facilities. The river walkway would be opened for public access which is a positive benefit of the scheme. The proposal would not affect the openness of MOL or appear unacceptably prominent to users of surrounding recreational space.
44. Paragraph 49 of the NPPF says that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Where policies are out of date, paragraph 14 of the NPPF says that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies indicate development should be restricted. MOL lies adjacent to the site but it does not constitute a restriction in terms of the footnote to the paragraph.

45. I attach little weight to the conflict with policy EMP4 of the 2006 UDP. Weight attaches to the partial conflict with eLP policy 82, but the harm identified falls far short of outweighing the benefits of the scheme which include replacement employment space of a type likely to be attractive to occupiers and in quantum likely to be compatible with the large number of adjacent residential units completed at the Dylon Works scheme. It has not been demonstrated that there is such a shortage of floor space available in Bromley so as to justify retaining a greater proportion of the appeal site, which is not well connected, in employment use. Overall, the proposed development would be sustainable in social, economic and environmental terms and would comply with the development plan as a whole. In accordance with paragraph 14, the scheme should be granted planning permission.

### **Conditions**

46. I have considered the suggested conditions in the light of paragraph 206 of the Framework, planning guidance and Appendix A to Circular 11/95 *The Use of Conditions in Planning Permission: Suggested Models of Acceptable Conditions for Use in Appropriate Circumstances*. They have been adapted in accordance with the recommendations therein where appropriate, to ensure the wording is precise, necessary, relevant and enforceable. The wording has also been altered in accordance with comments received and discussed at the Inquiry.
47. Apart from the time limitation on the start of development and the list of approved drawings, conditions are necessary to establish and remediate contamination and to put in place a Construction and Demolition Management Plan and a Construction Traffic Management Plan. These will control the redevelopment process in the interests of the living conditions of nearby residents. Piling is subject to a condition for the same reason and to protect sub-surface water infrastructure.
48. The potential noise nuisance from the existing Thames Water pumping station and the possible implications on the water supply network are controlled by conditions, as is drainage. Details of external surfaces, boundary treatment, landscaping, planting, external lighting, frontages, canopies, shutters and signage need to be approved in the interests of the character and appearance of the area and details of tree planting should include that between Dylon Works and the appeal scheme. Noise levels within some apartments are the subject of a condition because of traffic on Worsley Bridge Road. Measures to prevent flooding from the Pool river need to be put in place. Details of car parking, bicycle storage and the provision of a Travel Plan are necessary to enhance the sustainability of the scheme in transport terms. Ecological measures including those identified in the Ecological Appraisal need to be put in place in the interests of biodiversity.
49. Renewable energy and CO<sub>2</sub> reduction measures including the proposed heat recovery system and photovoltaics are ensured by conditions. Details of refuse and recycling storage are necessary for reasons of health and living conditions. Delivery and servicing of the development are subject to a condition requiring a management plan in the interests of the living conditions of occupiers. Restrictions on any change of use are necessary of the implications of different employment activity for residential occupiers. The times during which construction works can take place and employment space can be occupied are controlled in the interests of adjacent and future residential occupiers. The

provision of a residents' gym is ensured as shown on the application drawings. Accessible and adaptable dwellings are to be provided in compliance with criteria set out in the Building Regulations. Finally, clearance of vegetation and buildings must be undertaken in accordance with recommendations of the Ecology Partnership and SJA Trees to ensure that bird life and trees are properly protected.

50. For all the above reasons, planning permission should be granted.

*Paul Jackson*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Gwion Lewis	Of Counsel, instructed by the Solicitor to the London Borough of Bromley
He called	
James Kehoe BA BPI MRTPI	Chief Planner, London Borough of Bromley
Cristina Howick MA (Oxon)	Peter Brett Associates
MSc	
Stuart Cook MRICS	Aspinall Verdi
David Bord BA(Hons) PG(Dip) MRTPI	Principal Planning Officer, London Borough of Bromley

### FOR THE APPELLANT:

Sasha White	Queens Counsel, instructed by Savills
He called	
John Stephenson FRICS	Grant Mills Wood
MCI Arb	
Thomas Rumble BSc(Hons)	Woolf Bond Planning
MSc MRTPI	
Andrew Williams BA(Hons)	Define
DipLA DipUD CMLI	
Kieran Wheeler BSc DipTP	Savills UK
MRTPI	

## DOCUMENTS

- 1 Report to Development Control Committee 'Potential Site Allocations Draft Policy and Designations Alterations' for consultation, dated 13-15 July 2015, with agenda item and 'Living in Bromley' submitted by the appellant
- 2 Extract from PPG2, para 3.15, submitted by the appellant
- 3 Statement of Common Ground on employment land, as modified at the Inquiry (365443 square feet industrial space availability in Bromley)
- 4 Copy of marketing information for Maybrey Works (missing appendices from Mr Stephenson)
- 5 Dylon Works blocks A01 and A02 analysis, submitted by the appellant
- 6 Enlarged copy of Stock Wool accommodation schedule
- 7 Dylon 2014 Statement of Common Ground
- 8 Marketing information for Orpington Business Park
- 9 Summary of affordable housing years 1-5, submitted by the Council
- 10 Marketing information for Klinger Industrial Park
- 11 Site location relative to the South Circular and A21, submitted by the Council
- 12 Plan of junction improvements carried out at Beckenham, submitted by the Council
- 13 Recent transactions, Lower Sydenham Industrial Estate,

- submitted by the appellant
- 14 S106 and CIL Regulations compliance Statement, submitted by the Council
- 15 DCLG Technical Housing Standards 2015, submitted by the Council
- 16 GMW estimate of true Bromley vacancy rate, submitted by the appellant
- 17 Council rebuttal to Doc 13
- 18 Additional statement by Mr Cook on likely rental levels
- 19 Comparative plans, requested by the Inspector
- 20 Turner and SSCLG and East Dorset Council [2016] EWCA Civ 466, submitted by the Council
- 21 Elevations showing Dylon Works in comparison
- 22 5 Year Housing Land Supply Statement of Common Ground dated 8 May 2018 as adjusted during the Inquiry.
- 23 S106 Agreement

Schedule of 30 conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority, as follows: Drawing 3374\_PL (20)10 P1- Ground Floor; Drawing 3374\_PL (20)11 P1 – First Floor; Drawing 3374\_PL (20)12 P1 – Second Floor; Drawing 3374\_PL (20)13 P1- Third Floor; Drawing 3374\_PL (20)14 P1- Fourth Floor; Drawing 3374\_PL (20)15 P1- Fifth Floor; Drawing 3374\_PL (20)16 P1- Sixth Floor; Drawing 3374\_PL (20)17 P1- Seventh Floor; Drawing 3374\_PL (20)18 P1- Eighth Floor; Drawing 3374\_PL (20)19 P1- Roof Plan; Drawing 3374\_PL (20)27 P1 Mezzanine Parking Plan; Drawing 3374\_PL(20)20 P1 North and East Elevation; Drawing 3374\_PL(20)21 P1 South and West Elevation; Drawing 3374\_PL(20)22 P1 Section AA and BB; Drawing 3374\_PL(20)23 P1 Section CC and DD; Drawing 3374\_PL(20)24 P1 Detail Elevation Sheet 1; Drawing 3374\_PL(20)25 Detail Elevation Sheet 2; Drawing 3374\_PL(20)26 Detail Elevation Sheet 3; Drawing 3374\_PL(70)01 Accessible Layout Block B; Drawing 3374\_PL(70)02 Adaptable Layout Block C; Drawing 3374\_PL(70)01 P1 Flat Type A01- Block A; Drawing 3374\_PL(70)02 P1 Flat Type A02- Block A; 3374\_PL(70)03 P1 Flat Type A03- Block A; Drawing 3374\_PL(70)04 P1 Flat Type A04- Block A; Drawing 3374\_PL(70)05 P1 Flat Type B01- Block B; Drawing 3374\_PL(70)06 P1 Flat Type B02- Block B; Drawing 3374\_PL(70)07 P1 Flat Type B03- Block B; Drawing 3374\_PL(70)08 P1 Flat Type B04- Block B Wheelchair Accessible; Drawing 3374\_PL(70)09 P1 Flat Type B05- Block B; Drawing 3374\_PL(70)10 P1 Flat Type B06- Block B; Drawing 3374\_PL(70)11 P1 Flat Type B07- Block B; Drawing 3374\_PL(70)12 P1 Flat Type B08- Block B; Drawing 3374\_PL(70)13 P1 Flat Type B09- Block B; Drawing 3374\_PL(70)14 P1 Flat Type B10- Block B Wheelchair Accessible; Drawing 3374\_PL(70)15 P1 Flat Type B11- Block B; Drawing 3374\_PL(70)16 P1 Flat Type C01- Block C; Drawing 3374\_PL(70)17 P1 Flat Type C02- Block C; Drawing 3374\_PL(70)18 P1 Flat Type C03- Block C; Drawing 3374\_PL(70)19 P1 Flat Type C04- Block

C; Drawing 3374\_PL(70)20 P1 Flat Type C05- Block C; Drawing 3374\_PL(70)21 P1 Flat Type C06- Block C; Drawing 3374\_PL(70)22 P1 Flat Type C07- Block C; Drawing 3374\_PL(70)23 P1 Flat Type C08- Block C; Drawing 3374\_PL(70)24 P1 Flat Type C09- Block C; Drawing 3374\_PL(70)25 P1 Flat Type C10- Block C Wheelchair Accessible; Drawing 3374\_PL(70)26 P1 Flat Type D01- Block D; Drawing 3374\_PL(70)27 P1 Flat Type D02- Block D; Drawing 3374\_PL(70)28 P1 Flat Type D03- Block D; Drawing 3374\_PL(70)29 P1 Flat Type D04- Block D; Drawing 3374\_PL(70)30 P1 Flat Type E01- Block E; Drawing 3374\_PL(70)31 P1 Flat Type E02- Block E; Drawing 3374\_PL(70)32 P1 Flat Type E03- Block E; Drawing 3374\_PL(70)33 P1 Flat Type E04- Block E; Drawing 3374\_PL(70)34 P1 Flat Type E05- Block E; Drawing 3374\_PL(70)35 P1 Flat Type E06- Block E; Drawing 3374\_PL(70)36 P1 Flat Type E07- Block E.

**Prior to Commencement**

3. No part of the development hereby permitted shall be commenced unless and until:
  - a) A site investigation has been designed for the site, using the information obtained from the Phase 1 Assessment (non-intrusive investigation) (IDOM Merebrook, December 2016) submitted with the application, which shall be submitted to and approved in writing by the local planning authority prior to the investigation being carried out on the site; and
  - b) The site investigation and associated risk assessment have been undertaken in accordance with the approved details; and
  - c) A method statement and remediation strategy, based on the information obtained from (b) above and including a programme of works, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved method statement and remediation strategy.
  - d) Prior to the occupation of the development hereby permitted, the remediation works approved as part of any remediation strategy shall have been carried out in full and a verification report shall be submitted to and approved in writing by the local planning authority.

In the event of any unforeseen contamination of soil and/or ground or surface water being discovered during excavation or development of the site, the local planning authority shall be contacted immediately. Site activities in the area affected shall be suspended until such time as a method and procedure for addressing the contamination is approved in writing by the local planning authority.

4. Prior to the commencement of development a Construction and Demolition Management Plan (CMP) and Construction Traffic Management Plan shall be submitted to, and approved in writing by, the local planning authority. The approved CDMP and CTMP shall be adhered to throughout the construction period. The CDMP and CTMP shall detail matters including:
  - i) phasing of construction
  - ii) the site access junction works, including a timetable for their provision
  - iii) lorry routing and potential numbers
  - iv) types of piling rig and earth moving machinery to be used

- v) measures to mitigate the impact of construction operations on nearby residential properties
  - vi) temporary lighting that will be used during the construction phase of the development
  - vii) the parking of vehicles of site operatives and visitors
  - viii) loading and unloading of plant and materials
  - ix) storage of plant and materials used in constructing the development
  - x) security fencing where appropriate
  - xi) measures to prevent mud from vehicles leaving the site
  - xii) measures to control the emission of dust, dirt and noise during construction
  - xiii) mitigation measures in relation to pollution control and prevention within or close to the SINC
  - xiv) measures to ensure compliance with the recommendations contained in the Air Quality Assessment by Ardent Consulting Engineers (Report ref. 162410-04, Dec 2016) in relation to dust levels and PM10
5. No impact piling shall take place until a piling method statement (detailing the type of piling to be undertaken and the methodology by which such piling will be carried out, including measure to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme of works) has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
6. Prior to the commencement of development, an assessment of the impact of odour and noise from the Thames Water Sewage Pumping Station on the amenities of future occupiers of the development shall be undertaken and a scheme of mitigation shall be submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Development shall be carried in accordance with the approved Impact assessment.
7. Development shall not be commenced until impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point. Development shall be carried out in accordance with the approved details.
8. Prior to the commencement of development full details of a Drainage Strategy including surface water discharge and surface water drainage scheme (including SUDS and details of Green Roofs) shall be submitted to and approved in writing by the Local Planning Authority. The Drainage scheme and Green Roofs shall be installed in accordance with the approved details (including access) prior to the first occupation of the development and permanently maintained in working order thereafter.
- Prior to Commencement above Grade**
9. Prior to the commencement of above grade works, samples and details of the materials to be used in the construction of the external surfaces of the

building/s as detailed in the Design and Access Statement and approved elevation drawings shall have first been submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the so-approved details.

10. Prior to the commencement of above grade works, a plan indicating the positions, design, materials and type of boundary treatments and other means of enclosure to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed prior to the occupation of the development hereby permitted. The development shall be carried out in accordance with the approved details and thereafter permanently retained.
11. Prior to the commencement of above grade works:
  - a) landscape masterplan and scheme for all areas of ground level public realm, podium and roof top amenity space, including additional tree planting between the two blocks, shall have first been submitted to and approved in writing by the local planning authority.
  - b) This shall include details of the 8 metre buffer zone alongside the Pool River, which shall be kept free from built development or domestic gardens, and be retained in perpetuity. The buffer zone scheme shall include:
    - ❖ Plans showing the extent and layout of the buffer zone including any proposed changes to the river wall;
    - ❖ Details of how impacts to scrub habitat and trees in the river corridor will be mitigated;
    - ❖ Details of how invasive non-native species (including but not limited to Japanese knotweed) will be eradicated from the site and adjacent fields and watercourse;
    - ❖ Details of any proposed planting scheme (native species of local provenance should be used);
    - ❖ Details of any proposed footpaths, fencing and lighting within the 8 metre buffer zone;
    - ❖ Details of construction methodology and how the environment will be protected during the works including timing of the works, any necessary mitigation for protected species and any necessary pollution protection methods; and
    - ❖ Details setting out how the buffer zone will be managed and maintained over the lifetime of the development.
  - c) The approved scheme shall be implemented in the first planting season following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner.
  - d) Any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
12. Prior to the commencement of above grade works, details of flood protection measures of essential services shall be submitted to and approved



in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

13. Prior to the commencement of above grade works, details of the car parking hereby approved, including Car Parking Management Plan, electric car parking (20% active and 20% passive), wheelchair parking (sixteen spaces), commercial car parking (five spaces) and car club agreements (two cars/spaces) shall be submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved details and shall be retained for that purpose.
14. The mitigation, contingency and enhancement measures contained within the submitted Ecological Appraisal Report (as detailed in the Preliminary Ecological Appraisal prepared by the Ecology Partnership, December 2016) shall be implemented in accordance with a timetable that has first been submitted to and approved in writing by the local planning authority prior to the commencement of above grade works.
15. Prior to the commencement of above grade works, details of the proposed Mechanical Ventilation and Heat Recovery System to be installed, shall be submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved details and shall be retained for that purpose.
16. Prior to the commencement of above grade works, details of the roof level Photovoltaics strategy, including specifications and drawings shall be submitted to and approved in writing by the local planning authority. The Photovoltaics shall be installed in accordance with the approved details prior to the first occupation of the development and permanently retained thereafter.

#### **Prior to Occupation**

17. Prior to the occupation of the development hereby permitted, the following shall be submitted to and approved in writing by the local planning authority:
  - a) A report demonstrating how the scheme improves the carbon dioxide emissions reductions by at least 35.7% over the Part L 2013 Building Regulations as required by London Plan Policy 5.2. The report shall reference the targets and measures set out in the approved Energy Statement and Sustainability Statement accompanying the planning application, and shall explain what measures have been implemented in the construction of the development.
  - b) Details demonstrating how the Building Emission Rate (BER) of the commercial units and resident gym exceed the Part L2A 2013 Target Emission Rate (TER) by 35%.

Development shall not be carried out other than in accordance with the approved details and retained thereafter.

18. Prior to the occupation of the dwellings hereby approved, details of all external lighting shall be submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the so-approved details.
19. Prior to the occupation of the dwellings hereby approved, the cycle stores shall be fully implemented in accordance with the approved drawings and

shall be permanently retained in the approved form for the parking of bicycles and used for no other purpose, unless otherwise first agreed in writing by the Local Planning Authority.

20. Prior to the occupation of the dwellings hereby approved, details of the refuse and recycling strategy including the location and details of refuse storage areas shall be submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved details.
21. Prior to the occupation of the dwellings hereby approved, a Travel Plan, which shall include a programme of implementation (including a Travel Plan Coordinator) and promote alternative forms of transport other than private car, and details of ongoing monitoring every two years, shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented in accordance with the agreed details and timescales and remain operational for the lifetime of the development.
22. Prior to the occupation of the development a Delivery and Servicing Management Plan (DSMP), shall be submitted to, and approved in writing by, the local planning authority. The approved DSMP shall be adhered to throughout the lifetime of the development.
23. Prior to the occupation of the commercial units here by approved, details of unit frontages, canopies, security shutters and areas of signage to be installed shall be submitted to, and approved in writing by, the local planning authority. The unit frontages, canopies and security shutters shall only be carried out in accordance with the approved details.
24. All residential units shall be designed in accordance with BS8233:2014 to attain the following internal noise levels: bedrooms 30dB LAeq, T\* and 45dB LAfmax; living rooms 35dB LAeq, D\* (\*T night time 8 hours between 23:00 – 07:00; \*D daytime 16 hours between 07:00-23:00). In accordance with the recommendations of the approved Noise and Vibration Impact Assessment (December 2016) prepared by Ardent Consulting Engineers. Details demonstrating that bedroom windows on the north façade of Block A and B will have acoustic double glazing (36dB Rw) and living room windows will have acoustic double glazing (33dB Rw) installed shall be submitted to and approved in writing by, the local planning authority, prior to the occupation of the development. The development shall be carried out in accordance with the approved details.

### **Compliance**

25. Construction work, including preparatory work prior to building operations, shall not take place before 0800 or after 1800 Mondays to Fridays and shall not take place before 0800 or after 1300 on Saturdays. Construction work, including preparatory work will not take place at any time on Sundays or Bank or National Holidays.
26. There shall be no change of use whether allowed by the Town and Country Planning (Use Classes) Order 1987, the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order amending, revoking and re-enacting these Orders. The 1,099sqm (GIA) commercial floorspace shown on the approved plans shall only be used within Class B1a-c and for no other purpose.

27. The B1 a-c units hereby approved shall not be occupied outside the hours of 07:00 to 20:00 on any day.
28. 139sqm (GIA) of floorspace hereby approved shall be occupied by a residents gym, ancillary to the Class C3 units within the approved development for their private use only, and retained in such use in perpetuity.
29. No clearance of vegetation and buildings shall be undertaken during the bird nesting season (as detailed in the Preliminary Ecological Appraisal prepared by the Ecology Partnership, December 2016). The development shall be implemented in accordance with the approved Arboricultural Implications Report prepared by SJA Trees and under the supervision of a retained arboricultural specialist in order to ensure that the delivery of the development accords with the stages detailed in the method statement, the recommended implementation measures set out in the tree protection plan and that the correct materials and techniques are employed.
30. The development hereby permitted shall be built in accordance with the criteria set out in Building Regulations Part M4(2) 'accessible and adaptable dwellings' for the units identified in the accommodation schedule as non-wheelchair units, and in accordance with the criteria set out in Building Regulations Part M4(3) for the wheelchair adaptable units, and shall be permanently retained thereafter.