



**PROOF OF EVIDENCE FOR LONDON BOROUGH OF BROMLEY**  
**PROOF OF EVIDENCE OF KAREN DAYE**

**PINS Reference:** APP/G5180/W/24/3340223

**LBB Reference:** 21/05585/FULL1

**Appellant:** Ringers Road Properties Ltd

**Address:** 2-4 Ringers Road and 5 Ethelbert Road, Bromley BR1 1HT

**Proposal:** *Demolition of existing buildings and construction of a mixed use development comprising residential units, ancillary residents' facilities (including co-working space) and commercial floor space (Use Class E) across two blocks, along with associated hard and soft landscaping, amenity spaces, cycle and refuse storage (Revised scheme incorporating a second stair into Block A and Block B, internal layout and elevational changes, and changes to the on street parking bays and footpath along Ringers Road and Ethelbert Road).*

**Date of Inquiry:** 16-19, 23-26 July 2024

**JUNE 2024**

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**1.0 QUALIFICATIONS**

- 1.1 My name is Karen Daye I am a Team Leader in the Planning Appeals section at the London Borough of Bromley.
- 1.2 I hold a Bachelor of Science degree in Urban and Environmental Studies and a Post Graduate Diploma in Town Planning. I have over 20 years experience working in the public sector across development management and planning appeals. I am a Chartered Member of the Royal Town Planning Institute.
- 1.3 I am familiar with the appeal site and its context having visited a number of times in preparation for this appeal. I had no involvement with the application until the appeal was lodged in March 2024.
- 1.4 The evidence which I have provided for this appeal is true and has been prepared in accordance with the guidance of the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions.

## **2.0 THE APPEAL AND SCOPE OF EVIDENCE**

2.1 My proof of evidence has been prepared on behalf of the London Borough of Bromley (“the Council”) and relates to the appeal submitted pursuant to Section 78 of the Town and Country Planning Act 1990, for 2-4 Ringers Road and 5 Ethelbert Road, Bromley BR1 1HT (“the site”) by Ringers Road Properties Limited (“the appellant”).

2.2 The planning application was refused for the following 6 reasons:

1. The application does not comply with all the criteria listed in London Plan Policy H5C. 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 H4 and H5 of the London Plan and Local Policy 2.

2. The proposed development, by reason of not providing any larger family sized units (3 bedroom +), would fail to address the identified need in the Borough, contrary to London Plan Policy H10 and Local Plan Policy 1 and policy 2.

3. The proposed development, by reason of its siting, height, scale, massing and appearance would appear as an over-intensive development within a confined site and would prejudice the development potential of the adjoining sites within the allocated Site 10 in the Local Plan. The proposal would appear as an overly dominant and overbearing addition to the town centre skyline and out of context with its immediate surroundings. The proposed development would therefore cause harm to the character and appearance of the area and fail to preserve or enhance the setting of the setting of the Bromley Town Centre Conservation Area, contrary to London Plan Policies D1, D3, D4, D7, D9 and HC1; Local Plan Policy 37, 42, 47, 48 and Site Allocation 10; Bromley Urban Design SPD and Bromley Town Centre SPD.

**4. The proposed development, by reason of a high proportion of single aspect units offering poor outlook and daylight conditions, mutual overlooking and inadequate provision of children's playspace, is reflective of an over-development of the site resulting in a compromised internal layout, which would not provide a satisfactory standard of residential accommodation. Consequently, the proposal is contrary to the provisions of London Plan Policies D3, D5, D6, D7 and S4; Local Plan Policies 4 and 37; Housing Design LPG; and Play and Informal Recreation SPG.**

**5. The proposed development, by reason of its siting, height, scale, massing and design would appear as overbearing when viewed from nearby residential properties and their external amenity spaces and would lead to an adverse loss of light and privacy, thereby harming the living conditions of the surrounding**

**residential occupiers, contrary to Local Plan Policies 37 and 47, and Site Allocation 10 and Bromley Urban Design SPD.**

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.

2.3 My evidence relates to RfR 4 and 5 [in bold text above] and aspects of those reasons confirmed in the Case Management Conference Summary Note (CD12.3) as being amongst the main issues before the Inquiry. I will focus specifically on:

- Whether the proposed development would provide appropriate living conditions for future occupiers, with particular reference to outlook, daylight, privacy, play space provision, and inclusive design;
- The effect of the proposed development on the living conditions of surrounding occupiers, with particular reference to outlook, daylight and sunlight<sup>1</sup>, and privacy.

2.4 In addition, my evidence will cover the planning balance, and will include reference to the assessments made by the Council's other witnesses and application of my judgement as to the weight to be given to those considerations in the overall planning balance.

2.5 My evidence should be read in conjunction with the Proofs of Evidence prepared by Ben Johnson, Amanda Reynolds, Dan Wade and Dorian Crone.

2.6 My Proof of Evidence is structured as follows:

- **Section 2:** I set out the scope of my evidence.
- **Section 3:** I set out the principal policies relevant to the determination of the appeal.
- **Section 4:** I set out my evidence in relation to impact on the living conditions of future occupiers of the appeal scheme.
- **Section 5:** – I set out my evidence in relation to the impact on surrounding occupiers.
- **Section 6:** – I consider the planning harm and benefits to be weighed in the planning balance.
- **Section 7:** – I set out my conclusions on the overall planning balance.
- **Section 8:** – I set out a summary of my evidence.

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<sup>1</sup> Technical aspects of daylight and sunlight will be covered by the evidence of Dan Wade

### **3.0 POLICY CONTEXT**

- 3.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan for the area unless material considerations indicate otherwise. The development plan includes the London Plan (LP) (2021), Bromley Local Plan (BLP) (2019) and the Bromley Town Centre Area Action Plan (2010) (BTCAAP).
- 3.2 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:
- a) the provisions of the development plan, so far as material to the application,
  - b) any local finance considerations, so far as material to the application, and
  - c) any other material considerations
- 3.3 The London Plan 2021 is the most up-to-date Development Plan Document for the London Borough of Bromley, and therefore, in accordance with section 38(5) of the Planning and Compulsory Purchase Act 2004, "if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan."
- 3.4 The Council acknowledges that the BTCAAP is an extant Development Plan Document. However, given its age and the fact that it has been superseded by the adoption of the BLP and London Plan, this document is considered to have very limited weight. The London Plan sets out a design-led approach and detailed criteria to assess tall buildings; this would supersede any potential tall building locations identified in the BTCAAP. Upon adoption of the Bromley Town Centre SPD (2023), the Council has written to the Secretary of State for Levelling Up, Housing and Communities to request that the BTCAAP be revoked.
- 3.5 Having regard to the reasons for refusal set out in the decision notice dated 19 December 2023 the policies which the Council considers are most relevant to consideration of living conditions of future and surrounding occupiers (RfR 4 & 5) and overall planning balance are policies referred to in the reasons for refusal as set out below:

#### Local Plan Policies and Supplementary Guidance

1: Housing Supply

2: Provision of Affordable Housing

4: Housing Design

37: General Design of Development

42: Development Adjacent to Conservation Area

47: Tall and large buildings

48: Skyline

Site Allocation 10

Bromley Urban Design SPG (2023)

Bromley Town Centre SPG (2023)

Bromley Town Centre Conservation Area Statement (2011)

London Plan Policies and Supplementary Guidance

D1: London's Form, Character and Capacity for Growth

D3: Optimising Site Capacity through the Design Led Approach

D4 Delivering Good Design

D5: Inclusive Design

D6: Housing Quality and Standards

D7: Accessible Housing

D9: Tall Buildings

H10: Housing Size Mix

HC1: Heritage Conservation and Growth

S4: Play and informal Recreation

Housing Design Standards LPG (2023)

Play and Informal Recreation SPG (2012)

NPPF

3.6 The National Planning Policy Framework ("the framework") (2023) is also an important material consideration in the determination of this appeal and the following sections are considered to be most relevant having regard to the reasons for refusal.

- Section 2 – Achieving sustainable development: The planning system is to contribute to the achievement of sustainable in its economic, social and environmental objectives.

If a proposal is in accordance with an up-to-date development plan, it should be approved without delay.

- Section 5 – Delivering a sufficient supply of homes
- Section 11 – Making effective use of land: Planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- Section 12 – Achieving well-designed and beautiful places. This section is relevant given the design related reason for refusal as good design and the creation of high quality beautiful and sustainable buildings and places is fundamental to what planning and the development process should achieve.
- Section 16 – Conserving and enhancing the historic environment

3.7 The relevant Development Plan Policies on which the Council relies are broadly speaking considered to be consistent with the framework.

#### **4.0 LIVING CONDITIONS OF FUTURE OCCUPIERS**

4.1 The NPPF paragraph 135 (e) 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.

4.2 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.

4.3 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. Criteria a), c) and d) are of particular relevance they expect new housing development to demonstrate:

- a) The site layout, buildings and space around buildings are designed to a high quality, recognising as well as complimenting the qualities of the surrounding areas;*
- c) The provision of sufficient external, private amenity space that is accessible and practical;*
- d) The provision of appropriate play space in accordance with the Mayor's Play and Informal Recreation SPG;*

#### Play Space Provision

4.4 London Plan Policy S4 Part B 'Play and Informal Recreation' (CD4.3) states that residential development should incorporate good quality play provision for all ages which should provide:

- 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
- 4.5 It is accepted that for older children age 5+ there is accessible provision within 400m at Church House Gardens. An appropriate financial contribution has also been agreed within the terms of the s106 legal agreement for improvements to existing provision and would be used to provide new age appropriate play equipment.
- 4.6 The main issue relates to the onsite play space provision for children under 5yrs. The figures entered into the GLA Population Yield Calculator are based upon the recently confirmed Social Rent (SR) unit size breakdown of 2 x one bed units and 4 x two bed units. Due to insufficient sample data for 'Outer London PTAL 5-6' the child yield figure has been calculated on the basis of an 'Outer London PTAL 3-4' which is considered to more closely reflect the appeal site location as compared to London PTAL 5-6. The calculator produces a child yield of 22.9 children, of which 12.7 are under 5yrs which equates to a requirement for 127 sqm of onsite play space provision.
- 4.7 London Plan Policy S4 refers to Play and Informal Recreation SPG (2012) (CD4.3) as providing additional detail on the application of the benchmark for onsite provision. Under 5's on site play provision: 'Doorstep Playable Space' is defined in the glossary of the SPG as:
- 'A landscaped space including engaging play features for young children under 5 that are close to their homes, and places for carers to sit and talk.'*
- 4.8 The Updated Open Space and Play Space Impact (CD1.52) Assessment (March 2023) does not specifically set out what age appropriate play equipment will be provided for under 5 play space. The Design and Access Statement Part 3 (CD1.62-p63) makes reference to the proposed custom timber leaf seats as providing 'informal play'. However, the timber leaf seating would not in my opinion represent engaging play provision for under 5's nor would the courtyard amenity space provide an age appropriate 'stimulating environment' as required by London Plan Policy S4 Part B 2). Under 5's play space needs to be both onsite and genuinely playable and this has not been demonstrated and does not therefore align with supporting text of Policy S4 at para 5.4.3 which states:
- 'Where formal play provision is provided in new developments, it should be free, well-designed, accessible, inclusive and stimulating, and should balance the need to be safe whilst also providing an element of risk, which is important for children's development.'*

- 4.9 The Urban Greening Factor (UGF) Plan (May 2023) indicates (CD1.67) the courtyard amenity space will include pedestrian paths, seating, water features, tree planting in raised beds and other landscaped elements that contribute to the UGF score of 0.48. It is noted that the appellant in the 'Updated Open Space and Play Space Assessment' document (March 2023) (CD1.52 - Para 5.6 & 6.4) refers to an amenity space provision of 190sqm. However, the latest 'Open Space Typology Plan' (CD8.19) (May 2024) reduces the amenity space total as 180 sqm.
- 4.10 The calculation breakdown for 'Open Space Typology Plan' includes amenity lawn, amenity planting area, circulation pathways and bike store. In my opinion the latter two elements which together make up 59sqm of the 180sqm total provision should not count towards the calculation as the pathways / bike store primary function is to provide circulation between the blocks and store bikes.
- 4.11 London Plan Policy S4 and the Housing Design Standards (LPG), design standard B9.2 states communal outside amenity space should be:  
  
*'Multifunctional; designed for socialising, play, relaxation, exercise and, where appropriate, food growing.'*
- 4.12 However, the restricted size of the proposed open space means the various functions do not all easily co-exist and therefore should not automatically count towards genuinely playable / open space provision. For example, the close proximity of the landscaped elements shown on the Urban Green Factor Plan (CD1.67) suggests that the majority of the so called 'informal play' timber leaf seats will be in flower rich perennial planting areas which in my opinion is not practical for under 5's play or the wellbeing of the planting.
- 4.13 The Play and Informal Recreation SPG (2012) (CD8.7) at paragraph 4.31 states that *the 10 sq m per child benchmark should be set in the context of the overall open space requirements, and where open space provision is genuinely playable, the open space may count towards the play space provision.* In this case it is not considered that the courtyard amenity space provision is genuinely playable and therefore the open space cannot be double counted as play space as the appellant has clearly seen fit to do.
- 4.14 The appellant's 'Open Space Typology Plan' (May 2024) (CD8.19) suggests 'play opportunities' exist within the *Amenity Planting* (79sqm) and the *Amenity Lawn* (42sqm). Even if these spaces were added together and were wholly given over to genuinely playable space this would amount to a total of 121sqm, which would fall short of the onsite play space calculation figure of 127 sqm for the under 5 age group.

- 4.15 The other fundamental consideration that the appellant appears to have overlooked in relation to play space and outdoor amenity space is that the proposed public route through the site via the courtyard would undermine its attractiveness for safe doorstep play. Furthermore, the commercial elements of the scheme comprising the café and affordable workspace would also have direct access to the courtyard and this is likely in my opinion to be a significant impediment to fostering of a sense of community between residents of the blocks as the space would not support an appropriate balance of play opportunities and informal social activity of the residents and privacy.
- 4.16 In summary, it is considered that the proposal would both quantitatively and qualitatively be insufficient particularly given the constraints of the site and the number of units proposed. In my opinion the size of the proposed courtyard relative to the various features and functions it attempts to make provision for is too small and does not leave sufficient room for the 127 sqm of genuinely 'playable' U5's play space.

#### Inclusive Design

- 4.17 The updated appeal stage accommodation schedule confirms that 9 units would be wheelchair M4(3) accessible and this number would comply with Local Plan Policy 4 (j) 'Housing Design' (CD4.1) and Policy D7 'Accessible Housing' of the London Plan (CD4.3). However, supporting paragraph 3.7.3 seeks to ensure that all potential residents have choice throughout a development to provide 'a range of aspects, floor level locations, views and unit sizes'. The wheelchair accessible units are allocated to certain locations within the lower floors of each block, at floor 1-3 in Block A and floors 2-4 in Block B. Given the considerable height of the blocks and the proposed repetitive positioning of wheelchair units within the floor layout it is not considered the wheelchair provision would be provided in a range of different floor levels, views and aspects distributed throughout the development as set out in the supporting text of Policy D7.
- 4.18 Six of the M4(3) dwellings would be located on floors 1-3 in Block A and the remaining three on floors 2-4 in Block B. In respect of light the poorer performing units are generally located within the lower floors of the block, these units would also have generally poorer outlook. This would be in part as a direct result of the block extending so close to the boundary with minimal separation to the neighbouring buildings. It is noted that the XC02 results show that nearly half of the wheelchair accessible units have a Spatial Daylight Autonomy (sDA) of lower than 40% and will be classed as poorly lit, those units are:
- Unit A.01.02, Block A
  - Unit A.02.02, Block A
  - Unit B.02.05, Block B

- Unit B.03.05, Block B

- 4.19 It is noted that the latest accommodation schedule (CD8.11) indicates that only two of the wheelchair accessible homes would be affordable housing tenure. Comprising one social rented (Block B 2<sup>nd</sup> Floor Flat 5 - 1 bed) and one social ownership (Block B 3<sup>rd</sup> Floor Flat 5 – 1 bed). This compares to previous provision of 8 out of the 9 wheelchair accessible homes being for Social Rent. Both of the affordable housing wheelchair accessible units referred to above would be classified as poorly lit by the appellants own (XC02) assessment as set out in Mr Wade's evidence.
- 4.20 The allocation of these poorer performing units to occupants who may not be able to actively improve the quality of their homes due to restricted mobility or other impairment would not ensure inclusive development as required by Policy D5, D6 and D7 of the London Plan.
- 4.21 In my opinion the above is a byproduct of the overdevelopment of the site, the numerical compliance with the policy is acknowledged but the quality of some of the wheelchair access units referred to above fails to meet the standards of accessible and inclusive design which London Plan Policies D5 and D7 seek to achieve.
- 4.22 In more general terms London Plan Policy D5 Part B 'Inclusive Design' (CD4.3) seeks to ensure that development proposals achieve the highest standard of accessible and inclusive design and:
- 2) provide high quality people focused spaces that are designed to facilitate social interaction and inclusion
- 4.23 However, the ability to achieve the above would be compromised by the size of courtyard amenity space the public access through it and the provision for direct access from the proposed café and affordable workspace uses. It will also have the effect of removing the required element of privacy from the courtyard which residents of the blocks would reasonably require and which the Design and Access Statement Part 3 (p54) (CD1.62) states is the key motivation for this space i.e., "to offer an important green respite space for the residents.'
- 4.24 The Housing Design Standards LPG Part B (CD8.5) provides additional guidance in relation to shared outside amenity space. Paragraph 3.1.6 of this document states:
- 'The design of shared, ground-floor outside spaces needs careful thought, particularly when surrounded by tall buildings. Lack of sunlight can be an issue; and while overlooking provides useful security, it can also feel intrusive to those seeking a calm retreat. Thoughtfully placed planting and landscape design can help to define zones; separate different functions; provide varying degrees of privacy; and celebrate seasonal change.'*

4.25 London plan Policy D5 (paragraph 3.5.2) states that *'Inclusive design is indivisible from good design'*. The design and size of the courtyard is not fit for purpose. In attempting to perform in a multifunctional capacity it fails to make adequate provision for many of the individual functions which this outdoor space should reasonably provide for, particularly given the quantum of flats proposed. As such in my opinion it does not represent an inclusive environment. Equally, in line with Policy D7 the restriction of the wheelchair access units to the lower floors (nearly half of which have restricted daylight provision) fails to offer potential residents' choice of wheelchair accessible dwellings throughout the development.

#### *Outlook*

4.26 The Mayoral guidance, contained in the Housing Design Standards LPG (2023) design standard C4.1, states that new homes should be dual aspect unless exceptional circumstances make this impractical or undesirable. Where single aspect dwellings are proposed, they are required, amongst other considerations, to not face north and have adequate daylight and privacy.

4.27 In relation to Block B the quality of the living experience for those directly facing the rear of Block A would be less than satisfactory. Due to the height, scale and proximity of the blocks to one another occupants would be faced with an unduly oppressive outlook.

4.28 The acutely angled flank windows to Block B are not considered to improve the living experience as they will offer little additional light and a contrived and constrained outlook. This is as a result of the proximity of flank walls of adjoining buildings which on average are positioned between 1m – 1.5m away. I consider that this impact would be experienced more acutely by those living on floor levels 1-3.

4.29 The bedroom windows in floors 1-3 of Block A facing west will look out onto the flank wall of 6 Ringers Road, whilst those windows facing east will look out onto the rear wall of No.64 High Street. In each case retaining just 1.2m-1.6m between the window and the neighbouring wall.

#### *Privacy*

4.30 Paragraph 6.54 of the appellants Statement of Case (CD9.1) states that habitable room windows are separated by between approx. 12.5m and 15m. The minimum distance between Block A and Block B as shown in the 'Building and Boundary Separation Distances' Plan (CD8.12) are much smaller at approx. 8.6m and 10.6m. In this case the restricted level of separation between buildings of this height and scale is not considered to be acceptable in the same way that it may be in buildings of a lesser height. This is because it compromises the quality of the living experience to an unacceptable degree and increases overlooking.

4.31 The size of the facing balconies are large enough for sitting out for longer periods, they also offer scope for panoramic views resulting in mutual overlooking which in turn undermines

privacy. A particular example of this can be seen in the corner balcony to the rear elevation of Block A .

- 4.32 The amendments to the original scheme to introduce larger areas of glazing in an attempt to improve daylight and sunlight also have the effect of increasing overlooking and the perception thereof.
- 4.33 The above privacy issues are as a consequence of the minimal separation distances to neighbouring building and indeed within the site itself and demonstrates the overdevelopment of the site.

## **5.0 LIVING CONDITIONS OF SURROUNDING OCCUPIERS**

5.1 RfR 4 refers to Policy 37 and 47 and SA10 and the harmful impact of the proposed development on the living conditions of residential occupiers. However, the committee report (CD3.3) at paragraph 6.68 also refers to the impact of the proposal on the Salvation Army (SA) building. The Case Management Summary Note identified in relation to RfR 4 'the effect of the development on the living conditions of surrounding occupiers with particular reference to outlook, daylight, sunlight and privacy'. It is my opinion that the appeal proposal will also have an impact upon the Salvation Army Church and Community Centre building and for this reason I intend to refer to this in my evidence.

5.2 Amenity impacts increase significantly as a result of the scale and mass of tall buildings, and their proximity to those of a lesser scale. An obvious point to make perhaps but one that having regard for the impact of the appeal proposal on neighbouring occupiers requires emphasis.

### *Salvation Army (SA)*

5.3 The Salvation Army (SA) building is in use 7 days a week as a church and a community centre which offers a range of community focused activities to children, teenagers and adults including various support, choir and music groups. The main ground floor worship area features a number of windows at ground floor level on either side and further windows within the side of the mansard style roof. This space is also double height and includes a mezzanine floor with additional seating. Block B will sit forward of the SA building and extend within 1.3m -1.5 of its western flank elevation. In my opinion it will take on an invasive and looming presence adjacent to this building and will impact upon levels of light to the community use accommodation.

5.4 On the upper floor of the building there are two main community spaces, including the children's room at the rear of the building which would be affected most by the proposal. The windows in this room to the side and rear would be almost entirely hemmed in by the considerable height and scale of appeal Block A. The appeal site Ringers Road frontage features a high front parapet wall which belies the lower height of this section of the building.

The height of the building is stepped with its taller section (which front Ethelbert Road) aligning with the rear elevation of No. 6 Ringers Road (Simpsons Place) the result is that presently the SA building receives light from the space created by the lower height section of 2-4 Ringers Road. This light would be seriously compromised by block A at the western side/rear of the building and by block B to the front and eastern side. The appeal scheme will loom over the SA building and be an overbearing presence with the gap created by the shallow courtyard offering little relief from the impact of its considerable form.

*6 Ringers Road (Simpsons Place)*

- 5.5 With a separation of c 12.5m between the rear elevation of Block B and No.6 Ringers Road (Simpsons Place), direct views onto the rear elevation of this property would be available, leading to an actual and perceived overlooking of the neighbouring flats.
- 5.6 It is further considered that the additional mass of the proposed development in such close proximity to No.6 Ringers Road, together with the loss of the sycamore tree to the rear of the site which currently provides occupiers with a degree of visual screening between the two sites, would result in a poor and uncomfortable spatial relationship, that would be oppressively intrusive and overbearing for its existing occupants. This is particularly objectionable given that the building in question comprises some single aspect residential units that rely solely on its northern aspect for daylight and outlook. The extent of the corner balconies to the rear elevation of Block A means that views are likely into the rear windows of these flats.

*7 Ethelbert Road*

- 5.7 The property at No.7 Ethelbert Road is a two storey single dwelling, Block B would be positioned hard up against this property maintaining just 0.94m-1.03m to the western boundary and would also extend significantly forward of this property. It would be a pervasively overbearing feature to occupants of this property overwhelming the potential for enjoyment of the rear amenity area. The appeal proposal should be assessed in terms of both the existing and emerging context, however it appears that little consideration has been given to the impact of the scheme on the occupant of this property given its extremely close proximity. The angled side elevation windows two of which are less than 1m from the flank wall of No.7 would in my opinion not provide sufficient relief from the perception of being overlooked / loss of privacy which would also result from the wider balcony and terrace area on the upper two floors as well as balconies to the south west rear elevation of Block B.

*9 Ethelbert Road -13 Ethelbert Road, Ethelbert Close*

- 5.8 Approximately 104 objection letters were received raising objections to the appeal proposal including a number in relation to the height of the appeal blocks, the extent of building and hard surfaces and the lack of space about and between buildings. The downward slope in

land levels particularly in relation to the predominantly low rise residential context of Ethelbert Road would exacerbate the overbearing visual impact of Block B with windows and balconies visible above the extent of tree canopy which would also impact on privacy and the perception thereof. Standing in Ethelbert Close give you an appreciation of just how prominent the appeal proposal will be. The photographs appended to this statement provide views taken from the abovementioned properties.

## **6.0 PLANNING BALANCE**

- 6.1 It is agreed that the appeal proposal would result in public benefits, however, these need to be weighed against the planning harms that have also been identified. Given the shortfall in housing supply the Council accepts that the tilted balance is engaged. This means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The conflicts with the development plan policies are also part of the balancing exercise, with the weight accorded to this a matter of planning judgement.
- 6.2 In undertaking the balancing exercise, I have relied upon and summarised the evidence and conclusions of Ben Johnson, Dan Wade, Amanda Reynolds and Dorian Crone as to the assessment of various aspects of the appeal proposal and their consideration of weight where given. I have applied my judgement as to the weight to be afforded to the benefit or harm which they identify and weighed them in the overall planning balance. In terms of the relative weighting of these topic issues I have adopted the following scale:

- Substantial / Significant
- Moderate
- Limited
- Neutral

### Planning Benefits

#### *Housing Supply*

- 6.3 At application stage it was accepted that Bromley's Five Year Housing Land Supply (FYHLS) position (3.38 years) represented a significant undersupply. The Housing Delivery Test (HDT) results published in December 2023 indicated that housing delivery had fallen below 85% over the HDT period necessitating the addition of a 20% buffer. This resulted in the Council updating its housing supply figure to 2.96 years which is recognised as representing a very significant level of undersupply. Taking into account the current housing supply and delivery position the net gain delivery of 88 homes would make a substantial contribution to housing supply in the Borough, and is a significant benefit to which Mr Johnson attributes **very**



**substantial weight** and I concur with this his view as to the weight of the benefit identified. It is noted that there is agreement between the parties on the weight to be attributed to this benefit.

*Affordable Housing*

- 6.4 The appeal scheme's contribution to affordable housing needs in the borough is acknowledged as a clear public benefit. The appeal scheme now proposes a significant reduction in the affordable housing provision from 35% to 12% by unit (by habitable room). This level of provision has been justified by detailed viability evidence. However, the context of the now reduced provision as compared to the application stage provision are material factors in considering the weight to give to this matter. It is my opinion that the weight to be attributed to this benefit should be reduced from very substantial weight attributed at application stage to **substantial weight** in doing so I concur with the assessment and weight attributed by Mr Johnson in his evidence. It is noted that there is agreement between the parties on the weight afforded to this benefit.

*Unit Size Mix*

- 6.5 It is recognised that the location of the site within an Opportunity Area, a metropolitan town centre and an area with very good public transport accessibility level could justify the delivery of predominantly 1-2 bed units as part of a smaller-scale proposal. However, in light of Mr Johnson's assessment which sets out a current / longer term identified need, a new build scheme of a scale such as that proposed should include a proportion of larger 3 bedroom homes.
- 6.6 The fact that in this instance we are not considering a shortfall but rather a complete absence of provision, calls into question whether the decision not to include larger units rests with the site's constrained size and the requirement for larger units to be supported with an appropriate provision of amenity and play spaces both in quantitative and qualitative capacity.
- 6.7 The lack of provision does not engage with the data from the SE London SHMA (2014), the London SHMA (2017) which identify a need for three bedroom units.
- 6.8 I concur with Mr Johnson's conclusion at paragraph 2.19 of his Proof of Evidence that there has been a focus on "*maximising number of residential units rather than justifying the proposed mix in terms of addressing relevant policy and local need*".
- 6.9 Whilst the benefits of providing one and two bedroom units for which there is a greater need is acknowledged this needs to be considered alongside the complete lack of provision for three bedroom units which leaves unmet an important element of need within the Borough. For this reason, I am in agreement with the **moderate weight** attached to the benefit of unit mix attached by Mr Johnson.

*Socio-Economic Benefits*

- 6.10 The Council acknowledges that economic benefits would arise from the appeal proposal. The appellant's updated Economic Benefit Statement (May 2023) (CD1.50) summarises that the appeal proposal will bring about a range of economic benefits [it is noted that at the time of writing this document had not been updated to reflect the reduced affordable housing provision] through the construction and operational phases including construction jobs, increased local spend and enhanced Council Tax and New Homes Bonus. The jobs generated during the construction phases would be of a temporary nature and the potential benefit of increased Council Tax and New Homes Bonus receipts will help cover the costs arising from an increased local population and / or to mitigate the appeal proposals impacts.
- 6.11 The appellant's Statement of Case also identifies Affordable Workspace provision and CIL payments as other economic benefits arising from the appeal proposal. With regard to the Affordable Workspace London Plan Policy E3 states that in defined circumstances planning obligations may be used to secure affordable workspace (in the B Use Class) at rents maintained below the market rate for that space for a specific social, cultural or economic development purpose. It is not clear that the defined circumstances set out in London Plan Policy E3 Part B (CD4.3) would be triggered. as there is no existing on-site affordable workspace provision, no local development plan document identifying cost pressures that could lead to loss of affordable or low cost workspace, nor has there been presented evidence of specific need that affordable workspace provision would be necessary or desirable to maintain a mix of business or cultural uses. Without this information the weight of any benefit of provision is not clear.
- 6.12 With regards to CIL payments under Section 70 of the Town & Country Planning Act CIL monies are considered to be a local finance consideration. I consider that in order to attribute additional weight to CIL contributions the appeal scheme itself would need to trigger site specific infrastructure in an area where the Council was proposing new CIL funded infrastructure which the scheme would directly contribute to.
- 6.13 Overall, I attribute the socio-economic benefits arising from the appeal proposal **moderate weight**, part of the benefit will be temporary and part a modest longer term contribution.

*Biodiversity / Urban Green Factor*

- 6.14 The existing site is for the most part made up of buildings and hard surfaces with only one Category C sycamore tree within the appeal site, as such the current baseline habitat is low. The appeal proposal represents an opportunity to significantly enhance the biodiversity and distinctiveness of the habitat. The headline 429% Biodiversity Net Gain (BNG) increase is welcomed as are the energy and sustainability credential referred to in the report to committee (CD3.3, section 6.9). However, the quantum of percentage increase cannot be solely relied

upon on as demonstrating a significant enhancement. The distinctiveness of the habitat is also an important factor and it is noted that the proposed habitat is of a low distinctiveness, no justification has been given as to why this is the case.

- 6.15 The landscaping scheme achieves a policy compliant Urban Greening Factor (UGF) of 0.48, it is noted that some elements of the landscape elements which count towards the UGF and BNG are also allocated for play space which could potentially conflict with the wellbeing and long term establishment of some of the landscaped elements. For example, the UGF plan (CD1.67) shows a “flower rich perennial planting area” with proposed timber leaf under 5’s informal play feature incorporated within it. In light of the above I would attribute **limited weight** to limited to BNG and UGF benefits arising from the appeal proposal.

### Planning Harm

#### *Heritage Impact*

- 6.16 The main evidence on this issue is covered in the Proof of Evidence by Mr Crone and should be referred to for the detailed assessment of heritage matters having regard for RfR 3.
- 6.17 Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended) requires considerable importance and weight to be given to any harm that the proposed development would cause to listed buildings or their settings. In respect of conservation principles, paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, **great weight** should be given to the asset’s conservation. This is irrespective of the potential level of harm to the heritage assets significance.
- 6.18 The Bromley Town Centre Conservation Area (BTCCA) is adjacent to the appeal site and forms part of the wider townscape and therefore the impact on the character and appearance of the setting must be considered.
- 6.19 The heritage evidence acknowledges (CD10.4, para 4.15) that taller buildings are part of the setting of the Conservation Area as perceived from the High street but that these views are considered to be:

*'unobtrusive backdrops or more distant focal endstops marking important townscape locations which do not rise or loom directly above the traditionally-scaled buildings of the High Street. There remains open sky (perceptible gaps and visual breathing spaces over the varied roofscape) as the viewpoints move from the Market Square towards the south end of the pedestrianised area and the south boundary of the Conservation Area. I therefore consider that the existing taller buildings within the setting of the Conservation Area do not compromise an appreciation and understanding of its distinctive character and appearance.'*

6.20 Taller buildings such as St Mark Square (19 storeys) and Henry House are considered to be visually isolated elements which do not detract from the appreciation of the character and appearance of the largely low rise traditional context of the BTCCA but rather mark key nodal points.

6.21 The two developments that are considered to have an impact upon the setting of BTCCA are Nos. 62 High Street and No. 66-70 High Street. Due to its lesser scale and façade retention the former is considered to have little material impact on the appreciation of the character and appearance of the Conservation Area. The 12 storeys consented scheme at Nos. 66-70 would undoubtedly, due to its height and siting, have a greater impact. The conclusions of Dorian Crone evidence at paragraph 4.29 of his evidence are that the change as a result of the scheme at Nos 66-70 High Street will not:

*'...despite the juxtaposition in scale and height, to harm the ability to appreciate and understand the character and appearance of the Conservation Area as experienced through its setting.'*

6.22 In terms of the impact of the appeal proposal on the setting of the BTCCA I concur with the conclusions set out at paragraphs 5.16 and 5.17 that:

*'The appeal scheme will introduce an unforgiving bulk, scale and mass that cumulatively with the existing and consented taller buildings (which in isolation I do not consider to be detrimental) will form an inappropriately intense urban edge to the Conservation Area that would be highly visible from character areas of high sensitivity (as acknowledged by the Appellant in the TVIA). (para.5.16)'*

*And:*

*'I consider that the appeal scheme will not be successfully integrated within the townscape and visual context in terms of how that context enables a better appreciation of the character and appearance of the Conservation Area. (para 5.17)*

6.23 Mr Crone's evidence has identified a moderate adverse effect on:

- the quality of views in which the setting of the Conservation Area is experienced and;
- the setting and the ability to appreciate and understand its significance, character and appearance

6.24 His evidence concludes that both these adverse effects would constitute a low level of 'less than substantial harm'.

6.25 The harm identified means that the proposal is not in accordance with Local Plan Policies 42 which states that proposals adjacent to a conservation area 'will be expected to preserve or

*enhance its setting and not detract from views into or out of the area* and London Plan Policy HC1.

- 6.26 The Framework at paragraph 208 provides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including securing its optimum viable use. From his evidence it is clear Mr Crone does not identify any heritage benefits arising from the appeal scheme.
- 6.27 The wider public benefits of the appeal proposal identified at paragraphs 6.3 - 6.15 above will be weighed against those harms identified at paragraphs 6.16 - 6.51 below, including that harm to the setting of the BTCCA identified in Mr Crone's evidence. This will be considered in the overall planning balance at section 7 of this document.
- 6.28 Having considered Mr Crone's assessment of the heritage issue alongside the relevant policy context I concur with his opinion that the appeal proposal would result in a low level of harm to the setting of BTCCA within the less than substantial categorisation. I have concluded that **limited weight** should be attributed to the harm that he identifies.

#### *Design*

- 6.29 The Proof of Evidence by Amanda Reynolds should be referred to for the detailed assessment of design having regard for RfR 3.
- 6.30 The appeal scheme comprise two tall buildings to which Local Plan Policy 47 (CD4.1) applies. The policy explains that tall buildings are expected to:
- (i) make a positive contribution to the townscape ensuring that their massing, scale and layout enhance the character of the surrounding area;
  - (ii) be of the highest architectural design quality and materials; and
  - (iii) be appropriate to their location and historic context including strategic views
- 6.31 Policy 47 is consistent with London Plan Policy D9 which, in summary, states that tall buildings should be of exemplary architectural design and make a positive contribution to the local character, townscape and skyline.
- 6.32 I agree that the appeal site's location within Site Allocation 10 (SA10) means that the potential for higher density development is acceptable in principle from a land use perspective. However, development within SA10 does not specifically identify the appeal site as an appropriate location for tall buildings. Nor does it override London Plan Policies D9 or D3 which advocates a design-led approach to optimising a sites capacity. The latter policy (CD4.3) at paragraph 3.3.2 describes a design-led approach as one that:

*"Should be based on an evaluation of the sites attributes and its surrounding context and its capacity for growth to determine the appropriate form of development for that site."*

- 6.33 Consideration of the surrounding context should encapsulate the immediate townscape setting as well as the wider townscape context. The appellant's focus and design strategy in my opinion focuses on the wider context placing undue reliance on the extant Bromley Town Centre Area Action Plan (2010) and SA10. It does not respond sufficiently to the existing character of the appeal site including those differences between the scale and character of Ringers Road and Ethelbert Road.
- 6.34 Bromley Town Centre SPD (2023), sets out guidance for the design and planning of the town centre. It reinforces Local and London Plan policy as to the vital importance of proposals for tall buildings to respond appropriately in terms of their height, scale and massing to neighbouring buildings and the wider context of the town centre.
- 6.35 The lack of a sensitive design which respects the adjoining low rise residential development demonstrates the quantum led approach has been adopted over a design led approach. This is also shown in other uncompromising design choices such as the positioning of the front building line of block B. This is referred to by Ms Reynolds (paragraph 4.5.10) in her evidence:  
*'The decision to push proposed Block B forward to the footpath edge is an assertive statement which emphasises and maximises the overscale mass of the proposal block (see also VuCity view previous page fig 4.11) and clearly expresses overdevelopment.'*
- 6.36 The positioning of both blocks extending within such close proximity of the boundaries has a harmful impact on existing and future residential amenity conditions especially in regard to the proposed lower floor units (1-3) and adjacent buildings. The proximity of the appeal blocks to the boundaries considered alongside their considerable height has the effect of compounding this harmful impact.
- 6.37 The accompanying text (paragraph 3.9.4) to London Plan Policy D9 states: 'The higher the building the greater the level of scrutiny that is required of its design.' London Plan Policy D4 'Delivering good design' Part E 5) also refers to design scrutiny (CD4.1) and states:  
*"Schemes should show how they have considered and addressed the design review recommendations".*
- 6.38 The Design Review Panel (DRP) report (April 2021) (CD3.1) identified a number of key recommendations:
1. *Reconsider the height and scale whilst providing a narrative for a tall residential building.*

2. *Study the topography and residential context further so that the sloped site assists with a sensitive transition from commercial high street uses towards residential uses.*
3. *Consider changing scenarios over time ranging from the Salvation Army building remaining for the foreseeable future to complete renewal of all adjacent buildings – and ensure the proposal works equally well irrespectively.*
4. *Produce an environmental strategy and ensure sustainability principles are embedded in the design proposals.*
5. *Create a community or civic offer at ground floor level, potentially in connection to the Salvation Army, informed by meaningful engagement with local stakeholders and the council.*
6. *Introduce generous communal and play spaces, that will make living in this development enjoyable. Greater consideration should be given to how people will meet their neighbours and form a community.*

6.39 In my opinion the appeal scheme has made least progress in addressing recommendations 1, 2, 3 and 6. The height and scale of the appeal scheme does not have sufficient regard for the topography and juxtaposition of low rise neighbouring properties and particularly in block B does not offer a sensitive transition between these spaces. The proximity of the blocks to their respective boundaries remains problematic with the building footprint remaining unchanged. The proposal would not be appropriate when viewed at street level and in wider views would be inappropriate in the townscape. The blank eastern elevation of block B which faces the high street would be a noticeable addition that would rise up above the buildings in the high street harming its character and appearance. Finally, there has been no introduction of the recommended 'generous communal areas and play spaces'. I consider that adequate open space provision is a key aspect in providing those qualitative aspects of design that support 'successful sustainable housing' referred to in London Plan Policy D6 Part B. The appellant has not taken on board many of the DRP recommendations and as such the appeal proposal remains an overdevelopment of the site.

*GLA Stage 2 Report*

6.40 The GLA Stage 2 report (CD3.5) paragraph 45 raised 'significant concerns' about several aspects of the design of the appeal proposal including:

- design, layout, massing, and density of the proposals, as well as the consequent deliverability of adjacent sites through a masterplan approach
- Restricted separation distance of 8-10 metres between the blocks between habitable rooms
- Windows on the side elevations that would provide limited daylight and outlook

- Impact of side elevation windows if neighbouring sites came forward for development
- Quality of residential accommodation in terms of privacy, overlooking, daylight and sunlight (noting that amendments to increase glazing and improve daylight / sunlight would worsen the overlooking between the block)
- Quality of the very restricted and overshadowed communal resident's amenity space.

6.41 The proposal remains an overdevelopment of the site, given its restricted size, without a significant reduction in the quantum of development proposed the proposal will remain a contextually inappropriate design. The impact upon neighbouring amenity and the standard of accommodation and external provision of amenity space are symptomatic of the overintensive nature of the development proposed.

6.42 In summary, I agree with and adopt Ms Reynold's evidence and conclusions and give **very substantial weight** to the harm that she identifies. The proposal does not respond positively to the existing townscape, character and context of the appeal site. The Local Plan (4, 37,47, 48) and London Plan (D1, D3, D4, D6 and D9) policies are clear that any new development, particularly tall buildings, should make a positive contribution to the local character, townscape and skyline. The appeal proposal is in conflict with these policies and represents an inappropriate and unsustainable design.

*Living conditions of Future occupiers*

6.43 There are a number of aspects of the appeal scheme that would impact on the living conditions of future occupiers. The size of the under 5 play space / courtyard amenity is too small for the number of units proposed and the multifunctional provision it seeks to cater for and would lack the necessary privacy for residents. Whilst there is a numerical compliance with policy in terms of wheelchair provision, there is insufficient range of unit choice and those proposed units are contained within the lower floors that perform less well in terms of outlook and light. The height and scale of the scheme and lack of space between the blocks and to neighbouring buildings will also have a significant impact on levels of privacy outlook and light.

6.44 Mr Wade's Proof of Evidence in assessing the appellant's DSO 'Light within the Proposed Development' report (May 2024) (CD8.18) indicates significant concerns regarding the reliability of the results which broadly speaking stem from discrepancies in the baseline 3D modelling. Mr Wade's evidence highlights (paragraph 8.28) the 19 underperforming units identified by XC02 including 7 LKD's and 12 bedrooms<sup>2</sup>.

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<sup>2</sup> Across the sample tested 49 for LKD's and 71 for bedrooms.



Poorly lit LKD's

- Unit A.01.02, Block A - Room R2, First Floor sDA 27%
- Unit A.02.02, Block A - Room R2, Second Floor sDA 27%
- Unit A.04.04, Block A - Room R4, Fourth Floor sDA 26%
- Unit B.02.05, Block B - Room R4, Second Floor sDA 6%
- Unit B.03.05, Block B - Room R4, Third Floor sDA 17%
- Unit B.05.05, Block B - Room R4, Fifth Floor sDA 22%
- Unit B.10.02, Block B - Room R3, Tenth Floor sDA 18%

Poorly lit bedrooms

- Unit A.01.02, Block A - Room R1, First Floor sDA 0%
- Unit A.01.03, Block A - Room R5, First Floor sDA 0%
- Unit A.01.01, Block A - Room R6, First Floor sDA 6%
- Unit A.01.02, Block A - Room R8, First Floor sDA 38%
- Unit A.02.02, Block A - Room R1, Second Floor sDA 33%
- Unit A.02.03, Block A - Room R5, Second Floor sDA 0%
- Unit A.03.03, Block A - Room R5, Third Floor sDA 33%
- Unit A.04.02, Block A - Room R1, Fourth Floor sDA 28%
- Unit A.07.02, Block A - Room R1, Seventh Floor sDA 24%
- Unit A.10.02, Block A - Room R1, Tenth Floor sDA 29%
- Unit B.01.02, Block B - Room R7, First Floor sDA 38%
- Unit B.02.05, Block B - Room R5, Second Floor sDA 28%

6.45 Having regard for the above considerations including the serious concerns raised by Mr Wade as to the reliability of the appellant's DSO reports. I attribute **substantial weight** to the harm arising from the lack of appropriate living conditions for future occupiers.

*Living conditions of Surrounding Occupiers*

6.46 The main properties that would be most impacted by the appeal proposal are those adjacent to the appeal site including the SA Church and Community Centre, No.7 Ethelbert Road and 6 Ringers Road (Simpsons court). Although a number of properties further along Ethelbert Road and Ringers Road, Ravensbourne Road and beyond would also be impacted such is the significance of the height and scale of the proposed blocks. The TVIA views B and G (CD1.46) emphasise the significant height differential between the proposed blocks and the adjacent low level housing.

6.47 The proposed blocks would loom over the neighbouring properties in an overbearing and invasive manner impacting on outlook and privacy curtailing significantly the enjoyment of neighbouring rear amenity areas. The SA is an important community facility would be

particularly hemmed in to the side and rear and would have many of the flank and rear windows overshadowed as a result of the close proximity of the proposed. Where direct overlooking does not occur the perception of being overlooked is likely to be a factor which will also affect the level of amenity of properties nearby.

6.48 In relation to impact on neighbouring light once again Mr Wade's evidence raises serious concerns as to the reliability of the XC02 report such that he was not prepared to confirm his opinion as to impact. The Henry House due diligence exercise detailed in Mr Wade's evidence (CD10.5 -sections 7.4 -7.6) including testing rooms for No Sky Line showed a significant increase in the urban failure rate when compared with XC02 results.

6.49 Having regard for the above considerations including the serious concerns raised by Mr Wade as to the reliability of the appellant's DSO reports I attribute **substantial weight** to the harm to living conditions of neighbouring occupiers.

#### *Daylight*

6.50 The conclusions of Mr Wade's Proof of Evidence in assessing the appellant's DSO 'Light within the Proposed Development' report (May 2024) and Neighbouring impact reports indicates serious concerns regarding the reliability of the results which broadly speaking stem from discrepancies in the baseline 3D modelling.

6.51 Mr Wade's evidence (paragraph 9.4.2) concludes:

*"EK McQuade's review of both reports and DSO assessment digital 3D model have highlighted many inaccuracies and fundamental errors to render the report and results to be deemed null and void. At this stage it is advised no reliance is placed on XCO2's reports."*

6.52 The significance of the results is a matter of professional judgement to which appropriate flexibility should be applied allowing for the town centre urban context.

6.53 Having considered Mr Wade's assessment of this issue it is considered that it supports the concerns set out in the Council's committee report. The unreliability of the XC02 DSO reports is a serious concern which in my opinion cannot be set aside. Even taken on face value the appellant's sDA review results which is based on an urban pass rate indicate that of the 49 LKD's tested 7 would fail with Mr Wade's evidence highlighting (paragraph 8.2.9) the likelihood that other identical layout units on floors not within the XC02 sample likely to increase that number. Having regard to the above I have concluded that **substantial weight** should be attributed to the concerns which Mr Wade raises regarding light matters and reliability of the DSO reports for both future residents of the development and neighbouring occupiers.

## **7.0 CONCLUSION ON THE PLANNING BALANCE**

- 7.1 As a preliminary point it is worth restating that from a land use perspective the Council is in agreement with the principle of redeveloping the appeal site with a residential led mixed use scheme. Its location within an Opportunity Area, a highly accessible town centre location and SA10 gives the site potential for development at higher densities.
- 7.2 In the absence of a 5 year Housing Land Supply the Council regards the Development Plan Policies for the supply of housing including Policy 1 Housing Supply of the Bromley Local Plan as being 'out of date'. In accordance with paragraph 11(d) of the Framework, for decision taking this means where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.3 It is therefore accepted that the tilted balance should be applied in the decision making process on this appeal.
- 7.4 In carrying out the planning balance I have had regard to the individual harms and benefits arising through the appeal scheme. In assigning weight to the harms and benefits I have considered in the preceding sections key policy and contextual issues which have informed my judgement.
- 7.5 Planning Benefits
- the net gain delivery of 88 additional homes makes a substantial contribution to housing supply in the Borough to which I attribute **very substantial weight**
  - whilst accepting the benefits of delivery of a 1 and 2 bed unit mix to overall supply, the total lack of 3 bed units means that I would afford this benefit **moderate weight**
  - the provision of affordable housing should be afforded **substantial weight**
  - Economic benefits in terms of construction jobs, increased local spend and enhanced Council Tax and New Homes Bonus and Affordable Workspace to which I would attribute **moderate weight**.
  - BNG / UGF/- **limited weight**
- 7.6 On the other side of the tilted balance, the factors that weigh against the scheme and harm identified can be summarised as:

Planning Harm

- the design and the impact on the character and appearance of the area relating to the location and quantum of development proposed I would give this harm **very substantial weight**
- living conditions of future occupiers, I would give this harm **substantial weight**
- living conditions of surrounding occupiers, I would give this harm **substantial weight**
- light impacts on existing and future occupiers, I would give this **substantial weight**
- impact on setting of conservation area, I would give this harm **limited weight**

7.7 It is my judgement that notwithstanding the benefit outlined above that would accrue from the proposal, the adverse impacts of the scheme significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. The appeal proposal would conflict with section 12 of the Framework in its failure to create high quality, beautiful and sustainable buildings which (as per paragraph 131) is fundamental to what planning and the development process should achieve. The Framework also (paragraph 135) sets out that development proposals should have regard and be sympathetic to the character of an area, add to the overall quality of an area and create places with a high standard of amenity for existing and future users. It is considered that the proposal fails in this regard also.

7.8 In my assessment of the planning balance I have already concluded that the weight to be afforded to economic benefits arising from the appeal proposal would carry moderate weight alongside the proposal's sustainability credentials. The net delivery of 88 additional dwellings is undeniably a very substantial benefit that would meet identified need in the Borough. However, planning policy (as set out at section 2) places emphasis on the need to provide well-designed, beautiful and safe places, that reflect current and future needs and support communities' health, social and cultural well-being. It is my opinion that the appeal proposal would fail to support the communities' wellbeing as it would have an adverse impact upon the living conditions of existing and future residents. Alongside this policy objective there are also important design, townscape and historic environment considerations and whilst I have concluded that the harm to the adjacent BTCCA would be low level within the less than substantial category the implications of the harm to the townscape as a result of what is considered to be a poor design would be substantial and far reaching and therefore attract very substantial weight in the planning balance.

7.9 The proposal does not represent high quality sustainable development as evidenced by the many concerns set out in previous sections of the document and within the evidence of Amanda Reynolds, Dorian Crone, Daniel Wade and Ben Johnson and there are no material considerations that outweigh the identified harm and associated development plan conflict. In this instance the proposed quantum of development is considered unacceptably excessive

and results in various townscape heritage and amenity impacts which are not outweighed by the benefits foremost amongst which is the substantial benefit to housing supply.

7.10 In light of the above the Inspector is respectfully requested to dismiss the appeal.

## **8.0 PROOF SUMMARY**

- 8.1 The main issue simply put is that the proposal represents an overdevelopment on a constrained site. The harms identified are in most cases symptomatic of the quantum of development proposed.
- 8.2 At section 4 I have set out my view as to the impact on the living conditions of future occupiers and have concluded that the size of the under 5 play space / courtyard amenity is too small for the number of units proposed and the multifunctional provision it seeks to cater for, also lacking in the necessary privacy for residents. Whilst there is a numerical compliance with policy in terms of wheelchair provision, there is insufficient range of unit choice and those proposed are contained within the lower floors that perform less well in terms of outlook and light. The height and scale of the scheme and lack of space between the blocks and to neighbouring buildings will also have a significant impact on levels of privacy outlook and light.
- 8.3 At section 5 I have concluded that the appeal scheme when viewed from neighbouring properties would appear as overbearing features which would impact upon outlook and privacy and ultimately the enjoyment of these properties. The serious concerns as to the reliability of the appellants DSO reports in the first instance lends weight to the Council's application stage light concerns, but also does not allow a proper understanding of the extent of the harm caused regarding light which based upon Mr Wade's evidence is likely to be more extensive.
- 8.4 In terms of impact on the overall character and appearance whilst I have concluded that the harm to the adjacent BTCCA would be low level within the less than substantial category the implications of the harm to the townscape as a result of what is considered to a poor contextually inappropriate design would be substantial and far reaching.
- 8.4 The appellant has had the opportunity to address concerns expressed by the Council many of which were endorsed by the DRP and GLA but continues to rely on a scheme that is overambitious for this site.
- 8.5 The proposal remains an overdevelopment of the site, given its restricted size, without a significant reduction in the quantum of development proposed the proposal will remain an inappropriate proposal.
- 8.6 The benefits of the scheme and particularly to the Boroughs housing supply are of course welcomed however the harms identified significantly and demonstrably outweigh those benefits.