



LONDON BOROUGH OF BROMLEY HOUSING, PLANNING & REGENERATION

STATEMENT OF CASE

MAY 2024

LBB Ref No: 22/03243/FULL1

PINS Ref No: APP/G5180/W/24/3339919

Appeal by Mr and Mrs Alan and Pauline Selby against the decision of the London Borough of Bromley to refuse planning permission for the demolition of part of Greenacres , demolition of Polo Mews North, demolition of Polo Mews South and demolition of part of The Bothy; the erection of a link extension between Polo Mews North and Polo Mews South and a two storey extension to The Bothy; the establishment of new vineyard; provision of new solar panel array; the erection of hydrogen energy plant and equipment; the erection of a new single storey dwelling; and the rearrangement of an internal access roads at the site at Home Farm, Kemnal Road, Chislehurst, BR7 6LY

1.0 INTRODUCTION

1.1 This appeal proposal concerns the refusal of planning permission for the demolition of part of Greenacres , demolition of Polo Mews North, demolition of Polo Mews South and demolition of part of The Bothy; the erection of a link extension between Polo Mews North and Polo Mews South and a two storey extension to The Bothy; the establishment of new vineyard; provision of new solar panel array; the erection of hydrogen energy plant and equipment; the erection of a new single storey dwelling; and the rearrangement of an internal access roads at the site at Home Farm, Kemnal Road, Chislehurst, BR7 6LY. The application was received by the Council on 12 August 2022.

1.2 The Council refused permission by Notice dated 6 September 2023 – following its determination by the Planning Sub-Committee of 31 August 2023 – for the following reasons:

“1. The proposal would result in a form of development which is inappropriate development in the Green Belt. The siting, scale and design of the proposal would also fail to preserve the openness of the Green Belt and would result in harm to the rural character of the locality. The other considerations put forward by the applicant would fail to clearly and demonstrably outweigh the harm by reason of its inappropriateness and other harm. Consequently, very special circumstances have not been demonstrated and the proposal

is therefore contrary to the National Planning Policy Framework (2021), London Plan Policy G2, BLP Policies 37, 49 and 51.

2. *The proposed alteration, demolition and extensions to the Bothy cottage, Bothy House and flat, by reason of their excessive size, scale and design would be out of scale and out of keeping with the original buildings. The proposal would also have an adverse impact on its setting and its significance as a group, failing to preserve or enhance the character and appearance of the locally listed buildings and Chislehurst Conservation Area, contrary to the National Planning Policy Framework (2021), London Plan Policies D3 and HC1, BLP Policies 37, 49, 51 and 52*
3. *The proposal alteration, demolition and extensions to No.1 to No.4 Polo Mews, by reason of its excessive size, scale and design would be out of scale and out of keeping with the original buildings.*

The proposed demolition of No.3 and No.4 Polo Mews, alteration, demolition and extensions to No.1 to No.2 Polo Mews would have an adverse impact on its setting and significance of the locally listed buildings as a group, fail to preserve or enhance the character and appearance of the locally listed buildings and Chislehurst Conservation Area, contrary to the National Planning Policy Framework (2021), London Plan Policies D3 and HC1, BLP Policies 37, 49, 51 and 52.

4. *The proposal development, by reason of its excessive number of parking spaces would fail to achieve sustainable development. Insufficient information has been provided to confirm adequate cycle storage spaces and electrical vehicle charging point can be provided, contrary to London Plan Policies T5, T6 and T6.1.*
5. *Insufficient and inadequate information has been provided to demonstrate the level of BNG at 18 percent and a 0.3 target score for urban greening factor can be achieved, contrary to London Plan Policies G5 and G6 of the London Plan.”*

2.0 SITE AND SURROUNDINGS

- 2.1 The appeal site is situated to the east of Kemnal Road and is accessed via a gated driveway. The site measures approximately 20.5 acres/ 8.3 hectares¹ in area and includes residential properties within its SW corner. Its northern and eastern ends comprise of fields, a large proportion of which have recently cultivated as vineyards. A detached agricultural building occupies the NW the corner of the site. There is a varied ground level within the site which generally undulates from west to east. The existing dwellings within the site occupy a low-lying position relative to the fields to the east and the western approach driveway.
- 2.2 The site is located within the Metropolitan Green Belt and forms part of the Chislehurst Conservation Area. It includes nine residential units which are known as Bothy Cottage, Bothy House, Bothy Flat, Nos. 1 to 4 Polo Mews, Greenacres and Cherry Tree Cottage. The location of these buildings is shown in Figure 2 of the Officer Report for the Committee of 31

¹ According to the Design & Access Statement which accompanied the planning application.

August 2023 which recommended refusal. Among these existing dwellings, Bothy Cottage, Bothy House, Bothy Flat and Nos. 1 to 4 Polo Mews are locally listed buildings. Details of the local listing descriptions for 1, 2, 3 & 4 Polo Mews, and Bothy Cottage & Bothy House (including Flat 1) are attached at **Appendix 1**. Both sets of locally listed buildings are deemed to make a positive contribution to the character and appearance of the Chislehurst Conservation Area. An extract from the allocation map from the Bromley Local Plan, which outlines the relevant site designations, is included at **Appendix 2**.

- 2.3 Nos. 1 and 2 Polo Mews are located to the south of the Bothy Cottage, Bothy House and Bothy Flat. Nos. 3 and 4 Polo Mews are located to the south of Nos. 1 and 2 Polo Mews, being separated by a small rectangular courtyard.
- 2.4 Greenacres comprises the largest residential property within Home Farm, with its western face extending from the courtyard adjoining the No 2 Polo Mews building. There is a large courtyard to the north of Greenacres. Its back garden consists of a large rectangular lawn and outdoor swimming pool. There is a late Victorian walled kitchen garden and a private outdoor swimming pool located to the rear of Polo Mews, Greenacres and Cherry Cottage. A full-size tennis court is located within the SW corner of the site.
- 2.5 Kemnal Woodlands surrounds the north and east of the site. An area of land located to the SE of Cherry Tree Cottage is designated as Kemnal Woodlands, as a Development and Nature Conservation Area in the Bromley Local Plan. There are three trees located to the south of Bothy Cottage which are subject to a Tree preservation Order (reference: TPO 2251).
- 2.6 The eastern part of the site is traversed by a footpath (No FP042), which borders the eastern side of the hedgerow, before diverting across the SE part of the site. The ground level drops from north to south at this point. A map showing public footpaths is attached at **Appendix 3**.
- 2.7 To the north of the site is Kemnal Park Cemetery and Memorial Gardens. To the SW is Foxbury Manor which is Statutory Grade II Listed. To the east of the site, is Nuffield Health Fitness and Gym. To the south and SE are University College London Sports Ground and Chislehurst Schools for Girls respectively.
- 2.8 Home Farm was originally a working farm associated with Foxbury Manor. The site has a historic and established agriculture use. The listed description of Foxbury Manor states:

“Built by David Brandon 1876, in Gothic Revival style. An L-shaped building in stone with mllioned windows, Tudor type chimneys and gables with barge boards. Plinth. (See digital Archives "The Builder" Vol 41 P 74, P 80-1)”.

Chislehurst Conservation Area

- 2.9 The Chislehurst Conservation Area is by far the largest in the borough and incorporates a diversity of forms of development and open space. Chislehurst's present form is derived from a number of physical and historical forces. Its topography is of long valleys and steep banks with a raised plateau at its centre. Upon this plateau are the commons around which scattered village settlement developed, surrounded for most of its history by large country estates and densely wooded valleys. A network of settlements and open areas recognisable today formed around Chislehurst Common and the various routes crossing it. Although quite complex in its composition, the Conservation Area is characterised by some strong, consistent themes. A copy of the Conservation Area map at **Appendix 4**.
- 2.10 Recognising its variety, the Supplementary Planning Guidance for the Chislehurst Conservation Area (SPG) contains detailed statements of character and appearance for its component parts, termed Character Sub-units. This forms the Conservation Area appraisal, and it provides a basis for more detailed or specific policy and guidance to supplement the general policy and guidance applicable across the whole Conservation Area. The SPG advises that these statements must be treated as generalised reflections of character and appearance which, taken in composite, reflect both the general and disparate attributes of the Conservation Area. A copy of the SPG is included at **Appendix 5**.
- 2.11 The Appeal Site falls within Sub-unit 15 of the Conservation Area, which the SPG refers to as *Kemnal Manor, Foxbury and surround*. The SPG refers to this sub-unit in the following terms at paragraphs 3.81–3.82:

“The eastern third of the Conservation Area is predominantly rural land in a diversity of tenures and activities. The part north of Perry Street includes the remnants of the former estate of Kemnal Manor, subsequent rural estates established by nineteenth century industrialists, and more recently a variety of institutional and other uses. The land remains predominantly open, providing a largely rural atmosphere along the eastern boundary of the Conservation Area.

“This provides an important buffer along the eastern part of the Conservation Area, and makes an important contribution to the context and setting for the remainder of the Conservation Area. The presence of rural activities and agriculture greatly enhances the sense of adjacency to the countryside, which is present throughout the Conservation Area. Whilst rural uses have been displaced in places by institutions and non-rural uses, the retention of large areas of open space around institutions (such as school playing fields) and predominantly open land nature of some other uses (such as the cemetery) provide a subsidiary form of open character, reflecting something of the open character beyond.”

3.0 RELEVANT PLANNING HISTORY

- 3.1 There is a detailed planning history relating to the appeal site which is summarised in the table below. The descriptions include references to the affected buildings within the appeal site where appropriate.

Outline of site planning history

Application reference	Description	Status Determination date
92/01865/FUL	CHANGE OF USE TO LIVERY AND EXERCISE YARD- PER 10.12.1992	Permitted (Dec 1992)
92/02372/FUL	TWO LINKED PORTABLE BUILDINGS FOR STORAGE SECTION	Refused (Dec 1992) Appeal dismissed (Sept 1993)
94/02666/FULMAJ	DEMOLITION OF FOXBURY COTTAGE AND OF VARIOUS STABLES COMMERCIAL AND AGRICULTURAL BUILDINGS AND DEVELOPMENT COMPRISING- FORMATION OF RESIDENTIAL CURTILAGES ERECTION OF DETACHED 5 BEDROOMED DWELLING; ERECTION OF STABLE BLOCK AND ATTACHED VEHICLE/EQUIPMENT STORE WITH FIRST FLOOR FARM OFFICES; RENOVATION OF EXISTING STABLE BLOCK; TWO STOREY EXTENSIONS TO CHERRY TREE COTTAGE; REBUILDING OF WALL TO ENCLOSED GARDEN, CONSTRUCTION OF TENNIS COURT AND ENCLOSURE; NEW ACCESS DRIVEWAY AND COURTYARDS	Permitted (July 1995)
94/02667/CON	DEMOLITION OF EXISTING BUILDINGS CONSERVATION AREA CONSENT	Permitted (March 1995)
95/01876/S64	HAY BARN DETERMINATION IN RESPECT OF AGRICULTURAL PERMITTED DEVELOPMENT RIGHTS- PER 13.09.1995 HOME FARM COTTAGE	Details approved (Sept 1995)
95/02576/FUL	RETENTION AND REFURBISHMENT OF PART STABLE BLOCK WITH STORAGE AREA OVERNEW STABLE BLOCK WITH STORAGE AREA OVER NEW TRIPLE GARAGE WITH FARM OFFICE OVER PART VARIATION OF PERMISSION 94/2666	Permitted (Jan 1996)
95/02577/CON	DEMOLITION OF OUTBUILDINGS IN STABLEYARD - CONSERVATION AREA CONSENT	Permitted (Jan 1996)
96/00910/CON	CHERRY TREE COTTAGE KEMNAL ROAD CHISLEHURST PARTIAL DEMOLITION CONSERVATION AREA CONSENT	Conservation Area Consent (July 1996)
96/02858/FUL	HOME FARM COTTAGE - CHANGE OF USE FROM AGRICULTURAL BARN TO TWELVE LOOSE BOXES CONSTRUCTION OF OUT	Permitted (April 1997)

	DOOR MENAGE FOR THE EXERCISE OF HORSES	
98/00973/FUL	PART OF BOTHY COTTAGES BLOCK HOME FARM KEMNAL ROAD BR7 6LY - CHANGE OF USE FROM WORKSHOP/STORAGE INTO 2 BEDROOM FLAT SINGLE STOREY EXTENSION AND ALTERATIONS TO ROOF	Permitted (July 1998)
99/00903/FULL1	Continued use of barn for stabling horses without complying with condition 03 of permission 9602858 which required the use to cease by 31/03/99- GREENACRES	Permitted (May 1999)
99/01961/FULL1	Conversion and reuse of northern stable building to form two 2 bedroom units together with four car parking spaces - GREENACRES	Permitted (Jan 2000)
00/01002/FULL1	Conversion and re-use of former southern stable block to form 2 one bedroom units with 3 car parking spaces - GREENACRES	Permitted (June 2000)
00/03312/FULL1	Conversion of stable block into 2 one bedroom houses with 4 car parking spaces - GREENACRES	Permitted (Dec 2000)
01/00875/FULL1	Use of outbuilding as a one bedroom dwelling CHERRY TREE COTTAGE	Permitted (June 2001)
01/00553/FULL1	Replacement barn - GREENACRES	Permitted (April 2000)
01/02735/FULL1	Single storey rear extension - GREENACRES	Permitted (Oct 2001)
01/04053/FULL1	Front boundary wall, entrance gates and landscaping (RETROSPECTIVE APPLICATION)	Refused (April 2002)
02/02355/FULL1	Front boundary wall entrance gates and landscaping (RETROSPECTIVE APPLICATION)	Permitted (Aug 2002)
03/00137/FULL1	Increase roof height and extension to convert existing office building into triple garage CHERRY TREE COTTAGE	Permitted (Feb 2003)
03/02987/FULL6	Part one/two storey side and rear extension BOTHY COTTAGE	Permitted (Oct 2003)
07/02426/FULL6	Two storey front extension part one/two storey extension to link main house to existing games room and two storey front extension to games room to form triple garage with accommodation over all within walled courtyard - GREENACRES	Permitted (Sept 2007)
08/01552/FULL6	Part one/part two storey front and side extensions (Revision of permission 07/02426) - GREENACRES	Permitted (June 2008)
08/03604/FULL6	Part one/two storey front and side extensions (Amendment to permission 08/01552 to incorporate elevational alterations and to allow for extension ridge height to be contiguous with existing house) - GREENACRES	Permitted (Dec 2008)
11/02960/FULL1	Detached five bedroom house with curtilage, 5 car parking spaces and removal of access drive - PERLEG - 08.02.2012	Permitted (Feb 2012)
12/03886/MATAMD	MINOR MATERIAL AMENDMENT: Detached five bedroom house with curtilage, 5 car parking spaces and removal of access drive (Amendment to create basement car park cellar and plant room)	Permitted (Oct 2013)

13/03662/FULL1	Access drive (amendment to permission ref 12/03886 granted for detached five bedroom house with curtilage, 5 car parking spaces and removal access drive)	Permitted (Dec 2013)
14/01420/FULL1	Demolition of barn and mobile home and erection of detached two storey 4 bedroom dwelling with integral garage on land to the rear of Cherry Tree Cottage.	Refused (June 2014)
14/03215/FULL	Repositioning of access drive to serve new dwelling permitted under ref 12/03886 including flood prevention works	Permitted (Nov 2014)
15/01208/FULL1	Demolition of existing barn and mobile home and erection of a detached two storey, three bedroom dwelling on land to the rear of Cherry Tree Cottage	Refused (Aug 2015)
15/01995/AGRIC	15/01995/AGRIC- Proposed agricultural building with access road (28 Day Consultation Under Part 6 of the GPDO 1995 (As Amended))- Approved	Details approved (June 2015)
16/01360/FULL1	Detached five bedroom house with residential curtilage	Permitted (Aug 2017)
18/01832/AGRIC	Proposed erection of an agricultural building for sheep handling and housing together with the storage of feed, forage, straw, veterinary medicines and sundries (Application for Prior Approval Under Part 6 Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015)	Prior notification required and refused (May 2018)
18/01554/ELUD	Seek to establish whether the rear gardens which serve two existing dwellings at Nos.3 and 4 Polo Mews can lawfully be retained to serve these properties. - GREENACRES LAWFUL DEVELOPMENT CERTIFICATE (EXISTING)	Lawful Development Certificate granted (May 2018)
18/03868/PLUD	Erection of two single storey rear extensions and two front porches to serve existing dwellings and erection of two garage outbuildings within the rear gardens of existing houses (3 and 4 Polo Mews) LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED)	Lawful Development Certificate granted (Oct 2018)
18/05570/FULL1	Conversion of existing barn to provide a 4 bedroom dwelling with integral garage	Withdrawn by applicant (Oct 2019)
19/05265/FULL1	Reconfiguration of existing 7 residential properties at Polo Mews, Bothy Cottage and Bothy House incorporating removal of link to Green Acres and other demolition works to enable 4 family homes to be provided along with provision of part single storey part two storey side and first floor rear extensions to Bothy Cottage and first floor rear extension to Bothy House, proposed works also include provision of ground and lower ground rear extension to Polo Mews incorporating excavation works and two garages and elevational alterations and alterations to the site curtilages and landscaping.	Permitted (Sept 2020)
19/00550/OPDEV	Erection of a barn (ENFORCEMENT NOTICE)	Appeal allowed; Enforcement Notice quashed (April 2021)

23/04133/PLUD	Demolition of existing conservatory and construction of single storey rear extension. CHERRY TREE COTTAGE LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED)	Lawful Development Certificate refused (Feb 2014)
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4.0 APPEAL PROPOSAL

- 4.1 The appeal scheme comprises of a number of components. It includes the establishment of a vineyard, picnic area, community orchard, demolition, alterations and extensions to existing dwellings including locally listed structures, and the erection of a new subterranean dwelling, "Vine House". The works are separated into three parts by the appellants; those to the existing buildings are referred to by the appellants as Part One; the construction of Vine House as Part Two and the establishment of the vineyard, landscaping and tree-planting etc as Part Three.

Vineyard, picnic area and proposed dwelling

- 4.2 The vineyard, which has already been implemented, and which does not require planning permission occupies the northern and eastern parts of the site. The location and access of an existing public right of way (Footpath 042) across the field has remained unchanged. An area of private grassland is indicated as an orchard and picnic area, which would be available to use by members of the public. This area would be located adjacent to an existing footpath, near SE corner of the site.
- 4.3 A new subterranean dwelling (annotated as "Vine House") is proposed in an area of open land, this is located approximately 41m to the east of Cherry Tree Cottage. It would comprise of 3 ensuite bedrooms, an indoor swimming pool, a sitting room, a kitchen, living and dining room, a hydrogen plant room, two courtyard areas, an outdoor terrace and associated hardstanding area for parking. The proposed floor level of this new dwelling would be up to 2.1m below the relevant ground level. The proposed green roofs would be up to 2.4m high when measured from the relevant ground levels, with a maximum length of approximately 36 metres and approximately 355sq m in area.
- 4.4 A new artificial pond is proposed to manage the impact of surface water flooding associated to the proposed dwelling. A Flood Risk Assessment has indicated that an area of 1,020sq m associated to the proposed new dwelling would require mitigation. The proposed pond would be located approximately 22m south from the proposed new dwelling, covering approximately 390sq m of the open land.

Greenacres

- 4.5 An existing late addition comprising three garages with loft space above attached to the front of Greenacres is proposed to be demolished. This existing addition is also attached to No 2 Polo Mews. Two new ground floor front windows would be installed.

Bothy Cottage, Bothy House and Bothy Flat

- 4.6 The Bothy was originally constructed as a farm house with workshops and storage areas serving The Foxbury Manor, the Grade II listed building located on the western side of Kemnal Road and outside the appeal site boundary. The Bothy has been converted into three residential units with extensions comprise of two floors. Bothy Cottage would be changed from a 2-bedroom to a 4-bedroom unit. The Bothy House would be changed from a 3-bedroom unit to a 4-bedroom unit.
- 4.7 It is proposed to partially demolish this locally listed buildings, while a two storey rear extension is proposed. The proposed two storey extension is designed with four gable end pitched roofs, while two first floor balconies would be introduced on the north elevation. Large areas of glazing would be introduced on the ground floor.

Nos. 1 – 4 Polo Mews

- 4.8 Nos.1 – 4 are located behind The Bothy and have been extended and converted from stable blocks to residential units. Polo Mews currently comprises of 3 x 2 bedroom and 1 x 1 bedroom units. The clock tower at Nos. 1 and 2 Polo Mews would be retained. No 2 Polo Mews would be partially demolished and detached from Greenacres. Nos. 1 and 2 Polo Mews would be merged and reconfigured into a 4- bedroom house. Nos. 3 and 4 Polo Mews would be completely demolished and replaced by a single storey flat and green roof building with a glazed link connecting to Nos.1 and 2 Polo Mews. Two courtyard areas and an outdoor terrace area would be provided. A line of solar panel would be mounted on the ground in the rear garden.
- 4.9 The planning application submitted to the Council was accompanied by the following documents:
- Design & Access Statement
 - Planning Statement
 - Landscape Design & Access Statement & Masterplan
 - Landscape and Visual Impact Assessment
 - Heritage Impact Assessment
 - Preliminary Ecological Appraisal

- Bat Emergence Survey
- Arboricultural Survey
- Sustainability & Energy Statement
- Air Quality and Air Quality Neutral Assessment
- Phase 1 Preliminary Contamination Risk Assessment
- Fire Strategy Statement
- Flood Risk Assessment and Surface Water Drainage Strategy
- Transport and Highways Technical Note
- Statement of Community Involvement
- Bromley Self-Build and Custom Housebuilding technical note

Comments from consultees

- 4.10 The Greater London Authority (GLA) raised no substantive objection at planning application stage, but it sought various clarifications in respect of car and cycling parking provision. The Orpington Field Club & Bromley Biodiversity Partnership Sub-group raised an objection on the basis that the proposed “Vine House” is on land previous of agriculture use and within the Green Belt, and this was unsupported by very special circumstances. In regard to other matters, it recommended various conditions.
- 4.11 Four comments of support were received from local residents. In addition, the Chislehurst Society supported the proposal.
- 4.12 Details of responses submitted by local residents and groups and other consultees are set out in the Officer Report for the Committee of 31 August 2023.

5.0 NATIONAL, REGIONAL AND LOCAL PLANNING POLICIES AND GUIDANCE

- 5.1 Details of National, Regional and Local Planning Policies and Guidance is included at **Appendix 6**. This includes reference to Policies 39 (“Locally Listed Buildings”) and 41 (“Conservation Areas”) of the Local Plan which were cited in the Officer Report for Committee on 31 August 2023 but not included within the grounds of refusal.

6.0 MAIN SUBMISSIONS

- 6.1 The main issues for consideration in this appeal are:
- (1) whether the development is inappropriate development in the Green Belt;
 - (2) the impact of the development on the openness and the visual amenity of the Green Belt;

- (3) whether, if the development is inappropriate in the Green Belt, the harm by reason of inappropriateness or any other harm, is outweighed by other considerations to amount to very special circumstances;
- (4) the effect of the proposal on the character, appearance and special local interest of the locally listed buildings comprising Bothy Cottage, Bothy House and Bothy Flat and Nos. 1 – 4 Polo Mews and on the wider Chislehurst Conservation Area;
- (5) whether the proposed number of parking spaces is justified in light of adopted parking standards; and
- (6) whether the proposal is able to achieve a satisfactory BNG and Urban Greening Factor (UGF) scores.

(1) Inappropriate development

- 6.2 Paragraphs 154 and 155 of the NPPF set out a list of development deemed to be not inappropriate in the Green Belt. Paragraph 154 concerns the construction of new buildings deemed to be not inappropriate, whilst paragraph 155 relates to other forms of development deemed to be not inappropriate in the Green Belt “provided they preserve its openness and do not conflict with the purposes of including land within it.”
- 6.3 The appellants do not suggest that the appeal proposal amounts to appropriate development in the Green Belt and concede that there would be encroachment into open Green Belt land in a spatial sense.² Whilst the appellants do seek to distinguish between the alterations, demolitions and extensions to existing buildings and the creation of a new dwelling, any Green Belt assessment must ultimately be based on the appeal scheme in its entirety. In advancing very special circumstances to justify the proposal, the appellants appear to accept that the proposal amounts to inappropriate development in the Green Belt. What the appellants are, in effect, arguing is a combination of points about parts of the development (Part One) not being inappropriate, presumably under NPPF 154(c); the extent of development on PDL being relevant to VSCs and the Fallback. All seem to rely on planning permission reference 19/05265/FULL1 still being extant; however, there is no proof that it has been implemented (see paragraph 5.15 below).

(2) Green Belt openness

- 6.4 Openness concerns freedom from built form, i.e., an absence of development; and, therefore, any new development, built form or a more intensive use of land in the Green Belt is likely to have a greater effect on openness than the current situation. The Government’s Planning Practice Guidance states that openness can have **“both spatial and visual aspects – in**

² Paragraph 8.4.4 of the appellant’s Statement of Case.

other words, the visual impact of the proposal may be relevant, as could its volume.”

The PPG adds that other relevant considerations include: *“the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and the degree of activity likely to be generated, such as traffic generation.”*

- 6.5 Whilst openness can have a visual dimension, it does not follow that loss of openness should be afforded less weight if a development has no visual impact because it is screened from public view. A key purpose of Green Belt policy involves preservation of the quality of openness of aspect rather than the more clearly visual dimensions of some of the other purposes. In other words, the mere fact that a development exists at all may be inherently harmful to openness as compared with the same land that is absent of the proposed development.
- 6.6 Much of the appellants’ case in relation to the Green Belt openness for what the appellants are calling Part One (the alterations to the new buildings) is premised on the reduction in overall footprint between what is now proposed and existing. However, as laid out in the Officer Report for the Committee of 31 August 2023 there would be increase in internal floor area for Bothy of approximately 24% and a floor area reduction of approximately 16% for Polo Mews. For Part Two (Vine House) it appears to be based on the Landscape and Visual Impact Assessment (LVIA) which accompanied the proposal at planning application stage. At the outset it should be stressed that LVIA impact differs to Green Belt visual impact, although there is some overlap. Fundamentally, Green Belt openness taken account of the absence of built form, irrespective of visual impact, although its visibility might prove an aggravating factor. The Council will address the Appeal Decisions and case law that forms part of the appellants’ case in its submissions.
- 6.7 The proposed “Vine House”, which would be located in an area of agricultural land within an existing field, would require major engineering works to achieve the required living spaces partially below the ground level with green roofs, hardstanding and a new pond. Whilst somewhat concealed, the proposed dwelling would result in residential encroachment within an open area of land which forms part of a larger field approximately 40m to the east of the main residential complex of buildings. It would erode the openness of the site and result in substantial and permanent harm to the Green Belt.
- 6.8 In support of its case, the Council appends Appeal Decision APP/H1515/W/23/3320371 dated 21 February 2024 (a copy of which is attached at **Appendix 7**) concerning a Green Belt site in Fryerning in Essex, in which planning permission was sought for a larger replacement dwelling incorporating a basement. The Inspector noted that the proposed basement would add approximately 177.5sq m of floor area, which would occupy the full footprint of the

dwelling, and that a rear sunken courtyard with step access would also be provided which would, in part, form a lightwell to the basement rooms. Given the “significant uplift” in floorspace that was proposed, the Inspector concluded that it would be materially larger than the building which it replaced and would therefore constitute inappropriate development in the Green Belt. In terms of openness the Inspector concluded the following at paragraphs 15 and 16 of the Appeal Decision:

“The proposed development would be discreet in its position. The basement itself would not be visible, with the sunken courtyard positioned to the rear of the dwelling. No lightwells are proposed to the front or side of the dwelling. Nevertheless, the proposal would result in additional built volume where this does not presently exist. The rear courtyard and staircase, although discreetly located, would inevitably lead to a physical loss of openness.

Consequently, the proposed development would cause harm to the openness of the Green Belt, albeit this would be to a limited extent by reason of the mitigating factors set out above. This weighs somewhat against the proposal.”

- 6.9 In light of the foregoing it is concluded that the appeal scheme would be harmful to the openness of the Green Belt and detract from its visual amenities. It would conflict with its essential characteristics which are its permanence and openness. It would also conflict with the fundamental aim of Green Belt policy which is to keep land permanently open. Substantial weight must be given to this harm.

(3) Very special circumstances

- 6.10 Paragraph 153 of the NPPF advises that LPAs should give **substantial weight** to any harm to the Green Belt. It adds that “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 6.11 Nine very special circumstances have been advanced by the appellants to justify inappropriate development within Green Belt land. These are:
1. A fallback position based on a 2020 planning permission (relating to planning application reference 19/05265/FULL1).
 2. The adoption of a hydrogen system within the proposed dwelling, stated to be the first in London.
 3. The design and architecture of the proposed dwelling.
 4. The proposed landscape.
 5. Biodiversity net gain.
 6. Improvements to a public footpath.
 7. The establishment of a rural agricultural business.
 8. The creation of a self-build dwelling.
 9. The level of development which would take place on previously developed land.

- 6.12 The appellant considers that the benefits of the proposal clearly outweigh the harm identified to the Green Belt and amount to VSC.
- 6.13 The Council does not consider that the benefits presented by the appellant in support of the appeal proposal amount to VSC, either individually or cumulatively. These are addressed in turn.

VSC argument (1): Fallback position

- 6.14 Whilst there are some similarities between the appeal proposal and the earlier permitted scheme, reference 19/05265/FULL1 (permitted on 23 September 2020), there are some important material differences which will be highlighted by the Council, including the fact that under that earlier proposal no additional dwelling was proposed within the agricultural field. Moreover, as set out above, the Council has seen no physical evidence that the 2020 Permission has been implemented. Assuming it has not been implemented that planning permission will have now expired. Copies of the Officer Report and existing and proposed plans which relate to this application are attached at **Appendix 8**.

VSC argument (2): Adoption of a hydrogen system

- 6.15 The Council's completed affordable housing scheme at Brindley Way is a recent approved development which achieved net zero carbon, utilising solar panel and air source heat pumps. Hydrogen is one of the on-site renewable energy measures/options available in the market. This proposal would achieve net zero-carbon as required by the London Plan and this should not be afforded additional weight in support of the proposal that would clearly and demonstrably outweigh the harm to the Green Belt.

VSC argument (3): Design and architecture

- 6.16 The subterranean form of the proposed dwelling and its partial concealment within the undulating landform appears to be a response to its Green Belt context. Whilst the Council acknowledges the uniqueness of its design, and indeed raised no formal objection to its at application stage, this factor should only be afforded limited weight. Similar arguments could be made in relation to other Green Belt locations. At paragraph 2.4 of the appellants' Statement of Case reference is given to NPPF paragraph 80(e) (since re-numbered 84(e); however, this paragraph relates to "isolated homes in the countryside" which the appellants acknowledged is not the case. Elsewhere within the NPPF, paragraph 139(b) attaches significant weight to "*outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*" This provision does not however

override established Green Belt policy, which applies substantial weight to any harm to the Green Belt, and it is considered that similar arguments could be used in order to by-pass Green Belt policy.

VSC argument (4): The proposed landscape

- 6.17 The proposed landscaping treatment follows on from the previous VSC argument, and whilst the appeal proposal would serve to maintain current landscape features, the provision of an attractive landscape setting around new development tends to be a policy requirement rather than an expectation of new development. This factor should attract limited weight.

VSC argument (5): Biodiversity net gain

- 6.18 The Council's fifth ground of refusal states that insufficient and inadequate information has been provided to demonstrate the level of biodiversity net gain (BNG) at 15 per cent (previously 18 per cent). It is anticipated that this issue will be resolved during these appeal proceedings. However, such BNG is now a requirement rather than an expectation of new development. This factor should attract limited weight.

VSC argument (6): Public benefits including improvements to PROW FP042, creation of a dedicated picnic area for the public and a new community orchard

- 6.19 This appears to relate to the provision of a picnic area and should attract limited weight. The public footpath itself already appears to be well maintained. It should be noted that these elements do not require planning permission.

VSC argument (7): The establishment of a rural agricultural business

- 6.20 The vineyard has already been established, does not require planning permission, and it is not contingent upon other aspects of the appeal scheme.

VSC argument (8): The creation of a self-build dwelling

- 6.21 This argument has been raised late in the planning process. If an application is proposing a self-build dwelling and this can be secured through a legal agreement as part of the application process, then weight could be given to self-build. A self-build dwelling would be consistent with national policy and guidance, and Policy H2 of the London Plan. The Council considers that moderate weight could be given to the proposed self-build unit, where secured through legal agreement. Greater weight would only be justified where demand was not being met and/or where a significant amount of self-build units were proposed. Where demand is

not being met, the weight to be given would depend on the level of shortfall and should also take into account the Council's track record of meeting self-build demand over past base periods.

- 6.22 The Appellant relies on a self-build and custom housebuilding technical note prepared by Iceni Projects dated May 2023 (at Appendix 12 of the Appellant's statement of case). This technical note contains erroneous analysis of self-build and custom housebuilding within Bromley and in terms of national legislation and guidance. The Planning Sub-committee report, at paragraphs 6.3.1 to 6.3.19, sets out the Council's position in relation to this erroneous analysis. These issues will be elaborated on in the Council's evidence.

VSC argument (9): The level of development on previously developed land

- 6.23 It is not disputed that much of the proposal relates to the alterations, demolitions and extensions to existing buildings within previously developed land (PDL). In Green Belt terms this factor broadly weighs in favour of the proposal, notwithstanding the increases in floor area identified above. Whilst it is wrong to split the development up into inappropriate/not inappropriate when deciding whether the proposal overall is inappropriate or not, it is permissible to consider the built development against PDL and indeed whether it would be inappropriate development in the context of assessing VSCs. As a matter of planning judgment it is considered that the proposed subterranean dwelling would lead to an unacceptable encroachment beyond the established cluster of dwellings which would amount to significant harm to the Green Belt. This harm would not be outweighed by the quantum of development proposed within PDL land.

Conclusions on VSC

- 6.24 Taking into account all the above, the proposed development would result in inappropriate development in the Metropolitan Green Belt and would cause substantial harm to its openness. In accordance with paragraph 153 of the NPPF, substantial weight must be given to any harm caused and as such the VSC must clearly outweigh this harm. Some benefits highlighted above will weigh in the balance. However, the Council does not consider that these benefits, and any other benefits identified, clearly and demonstrably outweigh the harm to the Green Belt. Accordingly, the Council does not consider that VSC have been demonstrated that would justify the proposed development on MOL.

- (4) The effect of the proposal on the character, appearance and special local interest of the locally listed buildings comprising Bothy Cottage, Bothy House and Bothy Flat and Nos. 1 – 4 Polo Mews and on the wider Chislehurst Conservation Area

- 6.25 Home Farm was originally a working farm associated with Foxbury Manor, which is situated to its SW and comprises a Grade II Statutory Listed building. The site has an historic and established agriculture use. The site also falls within Sub-unit 15 of the Conservation Area, which the SPG refers to as Kemnal Manor, Foxbury and surround. The SPG notes that this sub-unit is predominantly rural land in a diversity of tenures and activities. It notes that the retention of large areas of open space around institutions (such as school playing fields) and predominantly open land nature of some other uses (such as the cemetery) provide a subsidiary form of open character, reflecting something of the open character beyond.
- 6.26 Within the appeal site, Bothy Cottage, Bothy House and Bothy Flat and Nos. 1 – 4 Polo Mews are locally listed. The local listing descriptions for those properties are included at **Appendix 2**.
- 6.27 Policy 39 of the Local Plan (“Locally Listed Buildings”) states that buildings on the Local List are considered to be non-designated heritage assets in the NPPF. It states that a proposal to alter, extend or for the change of use of a locally listed building will be permitted provided that:
- it is sympathetic to the character, appearance and special local interest of the building; and
 - it respects its setting.
- 6.28 Policy 39 adds that proposals to replace such buildings will be assessed against paragraph 135 (now paragraph 209) of the NPPF, taking into account the scale of harm or loss and the significance of the heritage asset. Paragraph 209 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.29 In addition to paragraphs 6.2.16 – 6.2.37 of the Officer Report for the Committee of 31 August 2023 the Council will set out further how the appeal scheme would be harmful to the significance and setting of the identified non-designated heritage assets. The appeal site is one of the few remaining and active farms with attached heritage value. Despite changes in land ownership and adaptations to their fabric, the existing buildings at The Bothy and Polo Mews are considered to be of local and historic interest.
- 6.30 It is noted that works associated with the locally listed buildings were approved under planning application reference 19/05265/FULL1. Whilst there may be a fall-back position for part of this appeal site if the permission has in fact been implemented, it should be noted that the approved scheme is not identical to this appeal proposal. The appeal scheme is considered to be out of scale and keeping and would result in further harm to the significance and setting of these non-

designated heritage asset. It is considered that the proposal would fail to preserve or enhance the character and appearance of the Conservation Area with the ensuing harm being less than substantial.

(5) Level of parking provision

- 6.31 Taking account of adopted parking standards (London Plan Policies T6 and T6.1) the proposed level of parking provision would not be policy compliant; the Public Transport Accessibility Rating of this outer London site is rated at 0, on a rating between 0 to 6b where 0 is worst and 6b is best. It is noted that the proposed number of parking spaces would be reduced from 32 spaces to 22 spaces. However, it should also be noted that the proposal would contain a total 6 dwellings and the number of residential parking spaces should not be more than 9 spaces. As such, it is considered that the proposed number of parking spaces would be excessive and contrary to London Plan Policy T6.1
- 6.32 The appellants' Statement of Case suggests that this ground of refusal could be addressed through condition. If this is possible, the Council would consider not contesting this ground of refusal.

(6) BNG score

- 6.33 The appellants' Statement of Case indicates that they are confident that this issue could be resolved through active engagement. Indeed, this is the case at the time of writing. Assuming this matter is satisfactorily addressed, the Council would not contest this ground of refusal.

Planning balance and overall conclusion

- 6.34 It is considered that the proposal development causes harm to the Green Belt by way of its inappropriateness and impact to its openness, and that substantial weight should be given to these harms. There are no benefits, including public benefits, which would clearly outweigh these harms. There are no very special circumstances to justify the development. Consequently, the development conflicts with the NPPF and Development Plan policies which seek to protect the Green Belt from inappropriate development. It is further considered that the harm to the designated and non-designated heritage assets would weigh against the proposal.

7.0 GROUNDS OF APPEAL

- 7.1 The issues raised in the appellants' grounds of appeal have, for the most part, been dealt with in the preceding sections of this statement.

8.0 CONCLUSION

- 8.1 The Council has set out the outline of its case in the preceding section and in so doing has responded to the grounds of appeal.
- 8.2 In all the circumstances the Secretary of State is asked to support the Council in dismissing this appeal.
- 8.3 The Council reserves the right to make further representations in the event of the appellant's or the appellant's agent's additional comments or material.

LIST OF APPENDICES

APPENDIX 1	Local list descriptions for 1, 2, 3 & 4 Polo Mews, and Bothy Cottage & Bothy House (including Flat 1)
APPENDIX 2	Bromley Local Plan allocations map
APPENDIX 3	Map showing public footpaths
APPENDIX 4	Conservation Area map
APPENDIX 5	Supplementary Planning Guidance for the Chislehurst Conservation Area
APPENDIX 6	National, regional and local planning policies and guidance
APPENDIX 7	Appeal Decision APP/H1515/W/23/3320371 (21 February 2024)
APPENDIX 8	Planning application reference 19/05265/FULL1 – Officer Report and approved plans