
STATEMENT OF COMMON GROUND

BETWEEN THE APPELLANT AND THE LPA

APPEAL REFERENCE: APP/G5180/W/24/3339919

LPA REFERENCE: DC/22/03243/FULL1 (“APPLICATION”)

DESCRIPTION OF DEVELOPMENT: Demolition of part of Greenacres, demolition, alterations and extensions to part of Polo Mews North, demolition of Polo Mews South, demolition, alterations and extensions to part of The Bothy. Erection of linking extension between Polo Mews North and Polo Mews South to create 1 new dwelling. Erection of two storey extension to The Bothy and conversion from 3 into 2 dwellings. Establishment of new vineyard. Provision of new solar panel array. Erection of hydrogen energy plant and equipment. Erection of new single storey dwelling. Rearrangement of the internal access roads

ADDRESS: HOME FARM, KEMNAL ROAD, CHISLEHURST BR7 6LY (“SITE”)

APPELLANT: MR AND MRS SELBY (“APPELLANT”)

LPA: LONDON BOROUGH OF BROMLEY

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1. INTRODUCTION

- 1.1 This Statement of Common Ground (SoCG) has been prepared on behalf of the Appellant and agreed with the London Borough of Bromley (the "**LPA**").
- 1.2 The SoCG has been prepared in relation to an appeal under section 78 of the Town and Country Planning Act 1990 against the refusal of planning permission by the LPA, under LPA reference DC/22/03243/FULL1, by decision notice dated 6 September 2023.
- 1.3 The purposes of the SoCG is to identify areas of agreement between the Appellant and the LPA and to narrow down the issues that remain in dispute to allow the appeal to focus on the key issues.
- 1.4 The Appellant intends to work with the LPA to narrow down the areas of dispute as far as possible, prior to the commencement of the Appeal being heard. It is envisaged that a final SoCG will be agreed and signed between the parties and submitted in advance of the start date of the Inquiry.

2. DESCRIPTION OF THE SITE AND SURROUNDING AREA

- 2.1 The Appeal Site is described in detail in section 2 of the Planning Statement submitted with the Application.
- 2.2 The total Appeal Site amounts to 8.3 hectares (20.5 acres) and currently comprises a small working family farm that is accessed by a private gated driveway leading from Kemnal Road. A sizeable agricultural barn is located in the north-western corner of the site adjacent to the entrance driveway. To the front (east) of the barn is a small lake/pond, which was created as part of the flood defences of Home Farm following a major flooding incident in 2013.
- 2.3 In the south-western part of the Appeal Site is a sizeable complex of mainly residential buildings. There are a total of nine residential units. These comprise:-
 - 2.3.1 **Greenacres**: a substantial detached dwelling and the largest property on the Appeal Site;
 - 2.3.2 **Cherry Tree Cottage**: a detached dwelling located to the east of Greenacres;
 - 2.3.3 **Bothy Cottage, Bothy House and Bothy Flat**: three small dwellings within what was the original Bothy building;
 - 2.3.4 **Polo Mews North**: two semi-detached dwellings; and
 - 2.3.5 **Polo Mews South**: two semi-detached dwellings.
- 2.4 To the north and east of the complex of buildings lies the open space and is the proposed location for the new Vines House.
- 2.5 There is an existing public right of way (PROW – FP042) which runs from the northern boundary of the Appeal Site to a point on the southern boundary before diverting in a southeasterly direction to the boundary. The PROW runs to the eastern side of an existing hedgerow which separates two fields.
- 2.6 To the west of the Appeal Site is Foxbury Manor, a Grade II Listed building in substantial grounds. Home Farm originally comprised the residential, stable, and agricultural buildings of the Foxbury Estate.
- 2.7 To the south of the Appeal Site is land that is currently being developed with a detached dwelling.

2.8 To the north of the Appeal Site is the Kemnal Park Cemetery and Memorial Gardens which also includes substantial areas of woodland known as the Kemnal Woodlands. The Woodlands also extend to the east of the Appeal Site.

2.9 The site is located within the Metropolitan Green Belt and falls within Sub-unit 15 of the Chislehurst Conservation Area. Bothy Cottage, Bothy House, Bothy Flat and Nos. 1 to 4 Polo Mews are locally listed buildings.

3. RELEVANT PLANNING HISTORY

There is a very lengthy planning history relating to the Appeal Site, much of which has no direct relevance to the current appeal. Set out below, therefore, are those decisions which have relevance either to the background of the Site or to the issues in the Appeal.

Case	Description	Decision
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 five-bedroom dwelling, erection of stable block and detached 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.	Permission with legal agreement 11/07/1995
98/00973/FUL	Part of Bothy Cottages block, - change of use from workshop/storage into two-bedroom flat, single storey extension and alterations to roof.	Permitted 06/07/1998
99/01961/FULL1	Conversion and reuse of northern stable building to form two x two-bedroom units with four car parking spaces.	Permission 07/01/2000
00/01002/FULL1	Conversion and reuse of former southern stable block to form two x one-bedroom units with three car parking spaces garages and elevational alterations to the site curtilages and landscaping.	Permission 29/06/2000
00/03312/FULL1	Conversion of southern stable block into two one bedroom houses with four car parking spaces.	Permission 07/12/2000
03/02987/FULL6	Part one/two storey side and rear extension to Bothy Cottage.	Permission 09/10/2003
11/02960/FULL1	Detached five bedroom house with curtilage, 5 car parking spaces and removal of access drive.	Permission 08/02/2012
15/01995/AGRIC	Agricultural building with access road.	Approved 09/06/2015
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 rear gardens (3 and 4 Polo Mews).	Lawful Development Certificate granted

18/05570/FULL1	Conversion of existing barn to provide a four bedroom dwelling with integral garage.	Application withdrawn 24/10/2019
19/05265/FULL	Reconfiguration of existing seven residential properties at Polo Mews, Bothy Cottage and Bothy House incorporating removal of link to Greenacres and other demolition works to enable four 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 to the site curtilages and landscaping.	Permission 23/09/2020
19/00550/OPDEV	Appeal against Enforcement Notice issued for unauthorised building.	Appeal allowed 19/04/2021

4. **DEVELOPMENT PLAN POLICY**

The Development Plan comprises the London Plan 2021 and the Bromley Local Plan 2019.

The relevant policies in the London Plan are:

- D3 – Optimising site capacity through the design led approach.
- D4 – Delivering good design
- D5 – Inclusive design
- H2 – Small sites
- HC1 – Heritage, Conservation and Growth.
- G2 – London's Green Belt
- G5 – Urban greening
- G6 – Biodiversity and access to nature.
- G7 – Trees and Woodlands
- SI2 – Minimising greenhouse gas emissions
- T5 – Cycling
- T6 – Car parking
- T6. 1 – Residential parking

The relevant policies in the Bromley Local Plan are:

- 4 – Housing design

- 37 – General design of development
- 39 – Locally listed buildings
- 41 – Conservation Areas
- 49 – Green Belt
- 51 – Dwellings in the Green Belt
- 52 – Replacement residential dwellings in the Green Belt
- 63 – Development related to farm diversification
- 74 – Conservation and management of trees and woodlands
- 123 – Sustainable design and construction
- 124 – Carbon dioxide reduction, decentralised energy networks and renewable energy

5. **OTHER MATERIAL CONSIDERATIONS**

National Planning Policy Framework December 2023

Relevant paragraphs in the Framework are;

Achieving sustainable development

7-8 -Achieving sustainable development

11 - Presumption in favour of sustainable development

Decision making

38 - Decision making

39-41 – Pre-application engagement

Delivering a sufficient supply of homes

70 – Small sized sites and self-build housing

84 – Homes in the Countryside

Building a strong competitive economy

88 – Agricultural businesses

Promoting Healthy and Safe Communities 104 – Public rights of way

Promoting sustainable transport

112 – Maximum parking standards

115 – Highways

Achieving well designed and beautiful places.

131 – Well designed and beautiful places

135 – High quality design

137 – Design quality and engagement with the local community

138 – Assessing the design of development

Protecting Green Belt Land

142 -143 – Green Belt

150 – Green Belt – Enhancing beneficial use

152 -153 – Presumption against inappropriate development

154 – Green Belt – Exceptions

156 – Renewal energy – Green Belt- Very Special Circumstance

Meeting the challenge of climate change

157 – Transition to a low carbon future

159 – Climate change and reducing greenhouse gas emissions

Conserving and enhancing the natural environment

180 – Natural and local environment

186 – Biodiversity

Conserving and enhancing the historic environment

200- 201 – Proposals affecting heritage assets

205 – Heritage – Potential impact

208 – Heritage – Less than substantial harm

209 – Heritage – Non designated heritage assets

6. MATTERS AGREED BETWEEN THE PARTIES

6.1 The following matters are agreed between the Appellant and the LPA:

Reasons for Refusal

Reason for Refusal 5, which read:

'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.'

Is removed and is not being pursued by the LPA.

In respect of the other reasons for refusal, the following matters are agreed:

Green Belt

- 6.1.1 The appeal proposal constitutes inappropriate development in the Green Belt. Whilst the majority of the Appeal Site upon which development is proposed comprises Previously Developed Land (PDL) within the definition of Annex 2 of the Framework, and would not, therefore, be inappropriate, taken as a whole the proposal is inappropriate in the GB: such development should not be approved except in very special circumstances.
- 6.1.2 The proposed erection of Vine House is regarded by the Greater London Authority (GLA) as involving a small projection into the Green Belt which it does not consider to be a matter of "strategic concern."
- 6.1.3 The building areas of all aspects of the proposed compared with the existing and that permitted under application reference 19/05265/FULL1 as set out on page 41 of the Design and Access Statement are agreed.
- 6.1.4 The Appeal Scheme would result in a net reduction in hard standing and access roads in the Green Belt of 1134 sqm.
- 6.1.5 Although it is agreed that the development as a whole is inappropriate in the Green Belt, the alterations, demolitions, and extensions to the existing dwellings (The Bothy and Polo Mews), would involve the partial redevelopment of Previously Developed Land with the meaning of Paragraph 154(g) of the Framework.
- 6.1.6 The alterations, demolitions, and extensions to the existing dwellings that are proposed in the Appeal scheme, would not have a greater impact on the openness of the Green Belt than the existing development.
- 6.1.7 The "Fall Back Position" established by the extant permission 19/05265 is a Material Consideration.
- 6.1.8 Paragraph 156 of the Framework states that the wider environmental benefits associated with increased production of energy from renewable sources is capable of being a Very Special Circumstance.
- 6.1.9 Outstanding and innovative design which promotes high levels of sustainability and reflects the high standards in architecture so long as they fit in with the overall form and layout of their surroundings is capable of being a Very Special Circumstance to which significant weight should be given.
- 6.1.11 Paragraph 90 of the National Design Guide states that natural features are a critical component of well-designed places. They include natural and designed spaces.
- 6.1.10 Achieving Biodiversity Net Gain (BNG) in excess of policy requirements is capable of being a Very Special Circumstance.
- 6.1.11 The development and diversification of an agricultural rural business is capable of being a Very Special Circumstance.
- 6.1.12 Enhancing a Public Right of Way and providing better facilities for users as well as enhancing the beneficial use of the Green Belt is capable of being a Very Special Circumstance.
- 6.1.13 The appellants argue that the provision of a self-build dwelling is capable of being a Very Special Circumstance. Sections 2 and 2a of the Self-Build and Custom House

Building Act 2015 place a duty on the Council to give enough suitable development permissions to meet the identified demand.

Heritage

- 6.1.14 The Appeal Scheme would not cause harm to the setting of the listed building, Foxbury.
- 6.1.15 A single storey extension and alterations to the roof of Bothy Cottage and a part one/ part two storey side and rear extension to Bothy Cottage were permitted in 1998 (98/00973) and 2003 (03/02987).
- 6.1.16 Planning permission was granted under reference 19/05265 for part single storey, part two storey side and first floor rear extensions to Bothy Cottage and first floor rear extension to Bothy House. This permission has been implemented and remains extant.
- 6.1.17 Alterations have, therefore, taken place to Bothy House/Bothy Cottage and further alterations have been permitted and remain extant.
- 6.1.18 The drawings accompanying planning permission 99/01961 show that Polo Mews North has been altered and reconfigured.
- 6.1.19 The approved drawings in respect of planning permissions 00/01002 and 00/03312 show that Polo Mews South has to some extent been rebuilt. 6.1.20 Extant planning permission 19/05265 permits a ground and lower ground rear extension to Polo Mews South incorporating excavation works.
- 6.1.21 Neither Bothy Cottage/Bothy House nor Polo Mews (North and South) as they currently exist are, therefore, original i.e. either as first built or as existing on 1st July 1948.
- 6.1.22 The Appeal Site is within the Chislehurst Conservation Area.
- 6.1.23 Bothy Cottage/Bothy House and Polo Mews (North and South) are locally listed and comprise non-designated heritage assets.
- 6.1.24 Where a development proposal would 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.
- 6.1.25 The effect of the application on the significance of a non-designated heritage asset should be taken into account. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Highways

- 6.1.26 The Appeal Scheme would result in fewer parking spaces on the Appeal Site than currently exist.
- 6.1.27 Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network.
- 6.1.28 There is space on the Appeal Site to provide policy compliant cycle storage and this could be secured through planning condition.

- 6.1.29 There is space on the Appeal Site to provide policy compliant electric vehicle charging points and this could be secured through planning condition.

BNG

- 6.1.30 The Appeal Scheme would secure an over policy compliant level of 15.29% Biodiversity Net Gain ("BNG") in habitat units and 46.85% BNG in hedgerow units.

7. MATTERS NOT AGREED

- 7.1 The following matters are not agreed between the Appellant and the LPA, and are therefore likely to be the focus of the Inquiry:

- 7.1.1 It is not agreed that the Appeal Scheme would cause harm to the openness of the Green Belt and to the rural character of the locality.
- 7.1.2 It is not agreed that the Very Special Circumstances in this case do not clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm.
- 7.1.3 It is not agreed that the Appeal Scheme would fail to preserve or enhance the character or appearance of the Chislehurst Conservation Area.
- 7.1.4 It is not agreed that the Appeal Scheme would cause harm to the significance of locally listed buildings.
- 7.1.5 It is not agreed that proposed number of parking spaces is excessive.

8. CONDITIONS AND OBLIGATIONS

- 8.1 ***[This section will be discussed in further detail between the LPA and the Appellant as the Appeal progresses]***

- 8.2 The Appellant and the LPA agree that, in the event the Appeal is allowed, the following must be captured through conditions and/or obligations:

Conditions

- 8.2.1 **Hydrogen** – in order to secure the benefit of this part of the VSC, the condition would require the Appellant to provide an Energy Statement setting out how the hydrogen power will be used and to be agreed with the LPA. The condition would also restrict occupation of Vine House until the Statement has been implemented.
- 8.2.2 **BNG** – a suitably worded condition to ensure the delivery of 15% BNG and maintenance of the same.
- 8.2.3 **Landscaping** – a suitably worded condition to secure the landscaping details and ensure development is undertaken in accordance with the same and maintained accordingly.

Obligations

- 8.2.4 **Use of the vineyard** – an obligation which would effectively restrict the area of land to be used only as a vineyard for a designated period of time.

8.2.5 **Public benefits** – obligations to secure the proposed public benefits (improvements to PROW FPO42, creation of a dedicated picnic area and a new community orchard).

Signed on behalf of Appellant

Emma Hargreaves..... Date18/06/2024. . .

PositionAssociate, Pinsent Masons LLP

Signed on behalf of LPA

...*David Bord*..... Date18/06/2024..... . .

Position ...Principal Planner, London Borough of Bromley