

Statement of Common Ground Daylight and Sunlight

LB Bromley reference: DC/21/05585/FULL1

Planning Inspectorate reference: APP/G5180/W/24/3340223

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

11 July 2024

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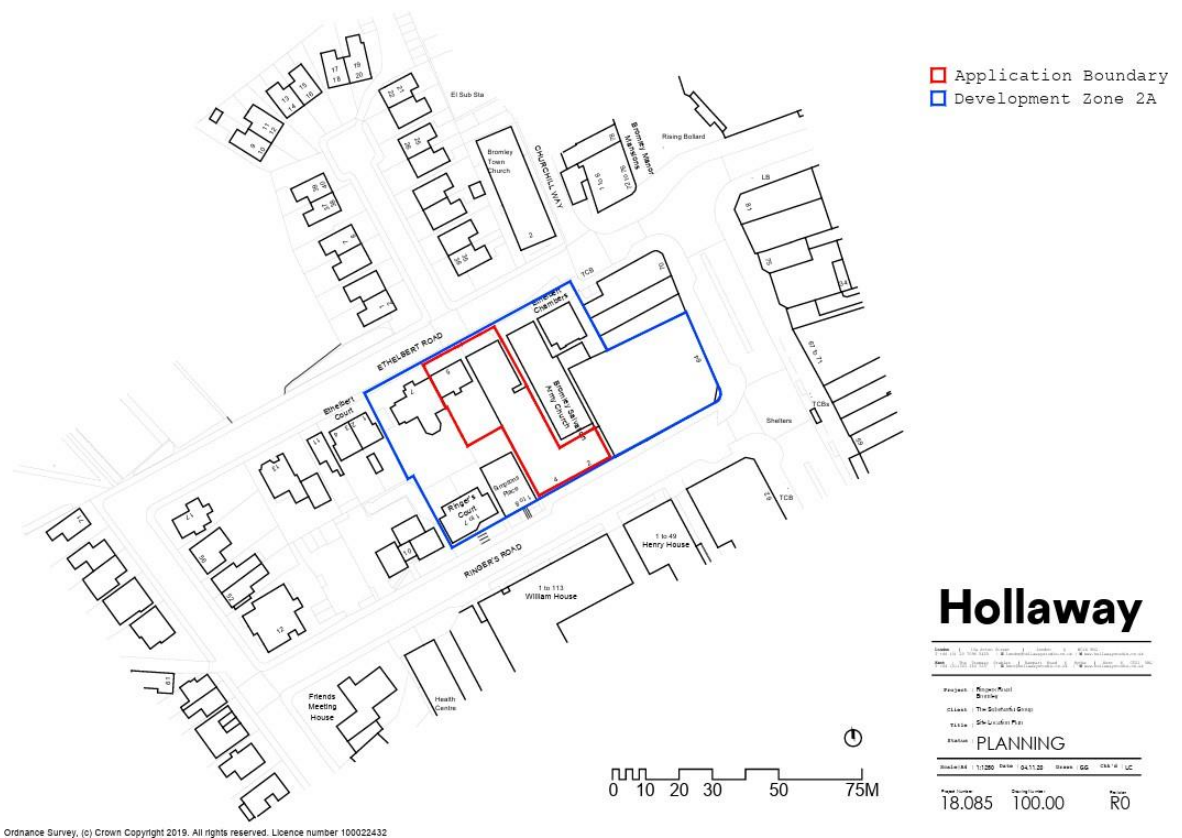
1. Introduction

- 1.1. This Statement of Common Ground is written in relation to an appeal that has been submitted relating to the proposed redevelopment of the site at 2-4 Ringers Road and 5 Ethelbert Road, Bromley, BR1 1HT (“the appeal site”).
- 1.2. The purpose of this Statement of Common Ground is to detail the matters related to Daylight and Sunlight which are agreed and disputed by the appellant, Ringers Road Properties Limited, and the London Borough of Bromley (“LBB”).
- 1.3. This appeal concerns a detailed application for planning permission submitted to LBB dated 24 November 2021. The application was validated on 25 February 2022.
- 1.4. The agreed description of development is as follows:

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).
- 1.5. The application was reported to the Council’s Development Control Committee on 30 November 2023 with an officer recommendation that planning permission should be refused. Initially, the officers recommended that permission should be refused on 7 grounds, including in respect of drainage matters.
- 1.6. Following pre-Committee discussions, the objection on drainage matters was resolved and the final recommendation from officers was that permission should be refused on 6 grounds.
- 1.7. By decision notice dated 19 December 2023, planning permission was refused with 6 reasons for refusal listed.
- 1.8. 2 of the reasons listed related to the conditions arising with respect to levels of daylight and sunlight within the proposed development as well as the adjacent neighbouring receptors.
- 1.9. This planning appeal is made against that decision to refuse planning permission.

2. Description of the appeal site

2.1. The appeal site is show outlined in red, below.



- 2.2. The appeal site is located in Bromley town centre, to the west of the High Street. It comprises a plot of land which is bound by Ringers Road to the south, Ethelbert Road to the north. A Salvation Army Church lies immediately to the east and residential development extends to the west.
- 2.3. The site extends to an area of approximately 0.1ha and comprises previously developed land. The site is allocated for housing led mixed use development in the Bromley Local Plan and forms part of a London Plan designated Opportunity Area. The Bromley Town Centre Area Action Plan also identifies the site as being a location suitable for a tall building.
- 2.4. Existing uses on the site comprise a mix of Use Class E floorspace (approximately 1,103sqm) and 6 flats.
- 2.5. Land levels drop to the south along the High Street towards Bromley South station and from the High Street to the west along Ringers Road and Ethelbert Road.
- 2.6. The site is located within an urban context with dense development immediately to the south and west of the site.

3. Description of the surrounding area

- 3.1. An agreed description of the surrounding area is set out in the main Statement of Common Ground and so is not repeated here.

4. Planning history

- 4.1. The planning history on the application site and the surrounding sites are set out in the main Statement of Common Ground and so it is not repeated here.
- 4.2. Of the planning permissions listed surrounding the site those at 66-70 High Street (19/04588/FULL1) and 62 High Street (21/04667/FULL1) are relevant in the context of daylight and sunlight matters.

5. The proposed development

- 5.1. The proposed development comprises the demolition of all buildings on the appeal site and the construction of 2 new buildings standing between 10 and 14 storeys in height, containing commercial space, ancillary residents' amenity spaces and 94 flats across both blocks, comprising a mix of 1 and 2 bedroom homes.
- 5.2. Block A is situated to the south of the site, fronting Ringers Road, and extends up to 14 storeys in height. This building will be accessed via a residential entrance off Ringers Road, which will provide access to the lobby and internal lift and stair core. At ground and lower ground floor levels will be approximately 100 sqm of amenity facilities for the residents which will include co-working areas. This will be accessible for all future residents of the development in order to generate greater interaction between the future residential community and support enhanced homeworking conditions which has the added benefit of keeping residents in Bromley Town Centre across the week and thus boosting further the local economy. Residential units will be located across the upper floors.
- 5.3. The development steps down to the north, with Block B fronting Ethelbert Road rising to 12 storeys. Access to this building will be via Ethelbert Road. This will accommodate 423 sqm of Class E commercial floorspace on the lower levels. It is proposed that this will be used as a smaller café unit at ground and first floor (152 sqm), along with a larger space across ground and lower ground floor levels to be provided as affordable workspace (271 sqm). Again, the proposed homes are arranged across the building's upper floors.
- 5.4. In total Block A (fronting Ringers Road) would contain 45 flats and 98 habitable rooms. Block B (fronting Ethelbert Road) would contain 49 flats and 131 habitable rooms.
- 5.5. The amended affordable housing contribution comprises 10 flats, which equates to a contribution of 11% by unit and 12% by habitable room. The affordable housing contribution will comprise 6 Social Rent and 4 Shared Ownership homes. Early and late stage review mechanisms will be included in the s.106 agreement, facilitating an enhanced contribution in the future. The mechanisms will not facilitate any reduction in affordable housing delivery.
- 5.6. Development viability and affordable housing delivery has been agreed.

6. Planning policy and guidance

Adopted planning policy

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that applications for planning permission are decided in accordance with the development plan unless material considerations indicate otherwise.
- 6.2. The extant development plan for the London Borough of Bromley, as of 11 July 2024, comprises:
- **London Plan (March 2021)**
 - **Bromley Local Plan (January 2019)**
 - **Bromley Town Centre Area Action Plan (October 2010)**
- 6.3. The guidance document which the London Borough of Bromley uses to assess Daylight and Sunlight Matters is 'Site layout planning for daylight and sunlight: a guide to good practice' (BR 209) 2022 edition by Paul Littlefair, Stephanie King, Gareth Howlett, Cosmin Ticleanu & Adam Longfield
- 6.4. The above BR209 document also refers to the British Standard "Daylight in buildings" (BS EN 17037) and its UK National Annex for recommendations for interior daylighting.

The policies in the development plan relevant to Daylight and Sunlight matters with respect to the proposed redevelopment of the appeal site are listed in the table below. Those policies shown in italics are those listed on the Council's decision notice:

| Policy Reference | Title |
|------------------------------------------|--------------------------------------|
| London Plan (March 2021) | |
| <i>D6</i> | <i>Housing quality and standards</i> |
| <i>D9</i> | <i>Tall buildings</i> |
| Bromley Local Plan (January 2019) | |
| <i>37</i> | <i>General design of development</i> |

7. Matters agreed

7.1. The following matters are agreed between the Council and appellant.

Daylight and Sunlight matters

- 7.2. BRE guidance on site layout planning for daylight and sunlight is a good practice guide which is to be interpreted flexibly rather than applying mandatory standards to be met.
- 7.3. The guide clearly states that the advice provided within is not mandatory and should not be seen as an instrument of planning policy further stating that the numerical guidelines provided should be interpreted flexibly.
- 7.4. The site is an allocated site, located within an urban context within a metropolitan town centre and therefore these considerations should be taken into account when interpreting the BRE guidance
- 7.5. The BRE guidance refers to both the illuminance method and the daylight factor for assessing whether a room is adequately daylight, should either of these recommendations be met then it can be considered that a room is compliant with the BRE recommendations.
- 7.6. The level of sunlight in the living spaces within the proposed development site are considered adequate.
- 7.7. The ground floor courtyard area providing communal amenity space for the proposed development will satisfy the BRE criteria for sunlight overshadowing.
- 7.8. 12 Ringers Road and 52-56 Ravensbourne Road have been included in the assessment scope.
- 7.9. Transient overshadowing images have been provided.
- 7.10. The assessment model of the proposed scheme is based on extruded 2D plans, sections and elevations for Blocks A and B.
- 7.11. The surrounding context and existing building have been modelled based on the Zmapping photogrammetric model and corrected with additional details based on the topographical survey available and planning portal information.
- 7.12. The position of the existing building is correct and based on topographical information to inform an accurate baseline.
- 7.13. The position and height of the proposed Blocks A and B are correct and the parapets and balustrades have been included.
- 7.14. The impact assessment includes two scenarios:
- Proposed scheme against existing surrounding context only; and,
 - Proposed scheme against existing and cumulative surrounding context
- 7.15. Gatwick MET weather files have been used for climate based assessments.

- 7.16. A full scheme assessment of the proposed scheme has been carried out.
- 7.17. Overshadowing assessments on the balconies have been carried out for those where the living spaces in the proposed scheme do not meet the sunlight exposure target.

8. Matters in dispute

- 8.1. It is agreed between the appellant and Council that the proposed development complies with the development plan in all respects, save for the policies identified in the reasons for refusal.
- 8.2. The matters which relate to Daylight and Sunlight which remain in dispute are provided below, relating to the reasons for refusal.

Ringers Road and Ethelbert Road, Bromley
Statement of Common Ground

| Matter | XCO2 (Appellant) | EK McQuade (LBB) | Prospect of resolution |
|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17 Ethelbert Road to be included in assessment | Given the distance from the scheme and the results of the neighbouring properties assessed, likelihood of impact is very low. | 17 Ethelbert Road can be discounted because of the results observed overall within the XCO2 rebuttal. | Resolved |
| Usage of significance criteria to quantify impacts to VSC, NSL, APSH, WPSH | This is a very simplistic approach and fails to consider DLSL holistically. It only recognises reductions in DLSL which is only part of the overall consideration. It fails to consider what light the neighbours would be left with, which in our opinion has a fundamental bearing on the policy test of whether satisfactory living conditions are maintained | The interpretation of the DLSL results is an important aspect of this appeal. The XCO2 results show a large number of windows failing VSC and rooms failing NSL assessments. Ultimately, the reductions in light are going to be noticeable to those affected occupants. The significance criteria method as quoted in Section H of the BRE Guidance sets out a clear way of categorising the severity of impact where large numbers of windows fall short of recommended reduction tolerances. This is a starting point in which to consider the impact in each room and how it will affect the occupant. It is important to show the reduction in daylight and sunlight in each window room. Only once the reductions are quantified and discussed would it then be appropriate to look at urban typology values. | Resolved Appellant now agrees with LBB on 11 July 2024 with the use of significance criteria methodology to quantify the reductions in DLSL light beyond those of BRE sub-urban target ratings in principle. |
| Windows assessed on Ringers Court | As there is limited satellite imagery available for Ringers Court and other parts of the site, it is contended that approximations made in the model are reasonable. Along the side of Ringers Court, a Google Streetview search shows what appears to be a staircase, and there is no certainty of any windows along the lower level. Another example is 7 Ethelbert Road, where trees are majorly obscuring the existing building, which appears to be derelict. Efforts have been made to include detail as far as possible, however given the | We know from our joint site inspection that there are windows on the flank elevation of Ringers Court, these can be seen on the October 2020 Google Streetview however it is agreed that these windows serve a WC and Bathroom on all levels and therefore would be exempt from the DLSL analysis. We disagree with the reduced weighting due to the perceived derelict nature of this property as its future use needs to be considered, especially if the building is to be fully restored. | With regards to 7 Ethelbert Road we are not in agreement because, the property is not derelict, it is currently occupied, and we were not able to inspect this site. |

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|-------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| | unoccupied and derelict nature of the building currently, we would question any impact to existing building users. | | |
| Planning Search | This has now been undertaken, and all information found has been incorporated into the updated assessment. | This has been observed within the XCO2 rebuttal and it appears that a planning search has been undertaken . | Resolved |
| Trees | Trees have been excluded from the technical model based on common practice owing to their difficulties to accurately model, the complexities arising with simulation their physical iteration with direct and diffuse light and their varying nature throughout the year (deciduous trees). | We agree that it is the norm for trees to be excluded from the assessment – that is common practice. But, the Council say there are a significant number of trees around the development, and we don't know what the impact of those trees will be to the VSC, NSL, APSH and Overshadowing Assessments . | Low |
| Use of notional room layouts | I agree that notional room layouts for NSL calculations should not be used where internal layouts are available however in lieu of available information there is still value in reporting NSL results based on notional room layouts. These should be caveated, however, stating they are based on assumed layouts and as such reduced weight should be given to their results. | The NSL methodology can be used for notional room layouts, i.e., where the verified room dimensions are not known, but it is better to use VSC methodology where the verified room dimensions are not known. | Medium |
| Use of VSC for proposed scheme assessment | Although they can be used in a proposed scheme assessment, they offer limited practical value in interpretation of the results over the sDA analysis and therefore are not required. | It is disagreed that the VSC assessment offers limited practical value in interpretation of the results. | Low |

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|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| Incorporation of lift overruns | Given their height and location away from the parapet this is unlikely to have a material impact on results. | Due to ongoing reduced confidence in the accuracy of XCO2's 3D modelling, this observation was initially considered necessary. | High |
| Omission of NSL Contour Drawings from XCO2 rebuttal | The NSL Contour diagrams were erroneously omitted from the rebuttal technical appendix where the numerical NSL results were provided, however these have been shared with EK McQuade on 1 st July 2024. | The NSL contour drawings have not provided to PINS and should have been submitted | High |
| Validity of neighbouring impact assessment daylight and sunlight results | We believe we have now brought the assessment up to an acceptable standard for the purposes of this submission. | <p>As per my proof the results of the XCO2 assessment was wrong because the model was incorrect, there are still remnant errors identified in the XCO2 rebuttal assessment.:</p> <ul style="list-style-type: none"> - The XCO2 Existing Building 3D model has a minor anomaly on the height of the parapet on the Ringers Road elevation. This is 0.91m too high and will have an implication on the baseline results for the ground floor Henry House, William House and Salvation Army Church. - The internal model of Salvation Army Church is inaccurate in regard to wall thickness of the 'Main Room' at ground floor level. - These errors will see a slight change in the reported results, however it is envisaged that they will not alter the EK McQuade conclusions for properties classified with substantial light | High |

Ringers Road and Ethelbert Road, Bromley
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| Matter | XCO2 (Appellant) | EK McQuade (LBB) | Prospect of resolution |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| | | loss impacts | |
| Urban factor for impacts | I have inferred from EK McQuade's proof of evidence that an acceptable urban shortfall would be 30% over existing values only however given local and regional planning context as well as due consideration for the site allocation a greater level of loss should be acceptable. | I do not agree that any greater loss of 30% reduction in light should be acceptable. | Low |
| Alternative targets | Adequate rationale for the use of alternative VSC targets has been provided in the XCO2 proof of evidence. | <p>I disagree because, mere saturation of multiple case precedents quoted have not established a credible alternative target rate for the appellants development site and vicinity. Hence the reason for the use of the significance criteria as a starting point for quantifying the reduction impacts.</p> <p>We believe that substantial impacts using alternative targets will still be present to 11 neighbouring properties for VSC, 6 neighbouring properties for alternative NSL of say alternative retained values of 50% proposed or more and one neighbouring amenity area.</p> <p>An alternative retained light benchmark needs to be set / agreed if XCO2 want to run with this claim.</p> | Low |

9. Core documents

- 9.1. The Council will maintain a list of Core Documents for use during the Inquiry with these being uploaded to a specific page on the LBB website.

10. Declaration

10.1. The above has been agreed by the Council and appellant.

| Signed and dated on behalf of the appellant | Signed and dated on behalf of the London Borough of Bromley |
|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| Signed  Tomas Keating | Signed  Daniel Wade |
| XCO2 Energy Ltd on behalf of Ringers Road Properties Limited | EK McQuade Ltd on behalf London Borough of Bromley |
| 11/07/2024 | Date 11/07/2024 |