

**IN THE MATTER OF**

**2-4 RINGERS ROAD AND 5 ETHELBERT ROAD  
BROMLEY, BR1 1HT**

**APP/G5180/W/24/3340223**

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**OPENING STATEMENT  
MADE ON BEHALF OF THE APPELLANT**

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**No5**  
BARRISTERS  
CHAMBERS

## **Introduction**

1. While there is a housing crisis all around this country, for many years the situation in the London Borough of Bromley has been particularly acute. Well-designed new homes, in appropriate locations, are urgently needed now.
2. It is in that context that the Appellant proposes a high-quality redevelopment of 2-4 Ringers Road and 5 Ethelbert Road (“the Site”), to provide 94 market and affordable dwellings, along with co-working spaces, a cycling café, and amenity space for new and existing local residents (“the Proposed Development” or “the Scheme”).
3. As will become clear over the course of the Inquiry, the Site is an ideal location for a scheme of this kind. It has been identified as within an opportunity area for growth by the Council. It is a Site that allows delivery of much-needed homes without associated harmful impacts. Indeed, as the Appellant’s witnesses will show, the Scheme complies with the key policies of the London Plan (2021) (“the London Plan”) and the Bromley Local Plan (2019) (“the Local Plan”).
4. The London Borough of Bromley (“the Council”), initially refused the scheme for six reasons (“RfR”). However, a number of matters have since been agreed. A section 106 obligation would deal with RfR 6. The Council no longer maintains a daylight objection with regard to future occupiers. Similarly, viability is now agreed. Accordingly, the main remaining issues as identified at the case management conference will be:
  - a. the effect on the character and appearance of the area;
  - b. the effect of the Proposed Development on the historic environment;
  - c. whether the Proposed Development would provide appropriate living conditions for future occupiers, with particular reference to outlook, privacy, play space provision, and inclusive design;
  - d. the effect of the Proposed Development on living conditions of surrounding occupiers, with particular reference to outlook, daylight and sunlight, and privacy; and
  - e. the effect of the Proposed Development on the local housing supply, with particular reference to the Council’s housing land supply position, affordable housing, and the provision of family accommodation.
5. In Opening, we take these issues in turn. Finally, we turn to the planning balance.

## Design and Townscape

6. The Site is part of a townscape that has been considered acceptable for significant change via the 2010 Bromley Town Centre Action Plan, the Local Plan Site 10 allocation and the more current 2023 Urban Design SPD and Town Centre SPD<sup>1</sup>. It is neither covered by any townscape related designations, nor within a defined Area of Residential Character, as set out by the Local Plan. Similarly, the Site is not within any of the key views identified by the London View Management Framework, nor the Bromley Town Centre Conservation Area Statement.<sup>2</sup>
7. Indeed, the Site is part of a townscape which is varied in its architectural character and style, with taller buildings interspersed across the town centre, as well as set back from the High Street and perceived in the immediate context of low rise suburban areas.<sup>3</sup>
8. The Proposed Development would not be overly dominant nor an overbearing addition to that existing town centre skyline: it would reflect the composition of existing views of taller buildings, providing visual interest and not competing with the Churchill Theatre.<sup>4</sup> The Proposed Development would also not be out of context, as its immediate surroundings include tall buildings (existing and proposed, including the future building at 66-70 High Street) which are defined by notable changes and contrasts in building heights, set across relatively wide streets.<sup>5</sup>
9. The Scheme is sensitive to the topography with Block B stepping down in height along Ethelbert Road, and the high quality design and improved street scene would benefit the character and appearance of the area. The Proposed Development follows an appropriate approach to town centre development, taking a low performing, low density site and changing it, through masterplan thinking and consultation, into a high-quality and deliverable design.

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<sup>1</sup> These SPDs are found at CD5.1 and CD5.2

<sup>2</sup> Bromley Town Centre Conservation Area Statement CD 5.5 (Dated 2011)

<sup>3</sup> Mr Hammond's Proof at §§4.12-4.30

<sup>4</sup> Mr Hammond's Proof at §§6.2-6.24

<sup>5</sup> Mr Hammond's Proof at §§6.25-6.37

10. The bespoke articulated façade maximises the dual aspect units without prejudicing neighbouring sites. Corner windows and balconies break down the massing and add interest, whilst brick detailing provides shadow, depth and texture to side elevations.<sup>6</sup>
11. The design has evolved sensitively through the design review process and through extensive consultation. The design review panel acknowledged the Appellant's commitment to the design and brought about the introduction of community co-working spaces at the ground floor and improved frontages.<sup>7</sup> The bright communal co-working space means residents can work onsite without needing to resort to second bedrooms.<sup>8</sup> Following discussions with officers, the height has been lowered from the initial proposal to respect the height of the Churchill Theatre.<sup>9</sup> In light of a public consultation event, the design now also includes a cycling café.<sup>10</sup> A second staircase has been incorporated to meet fire safety requirements, and the scheme is supported by the Health and Safety Executive and the London Fire Brigade.<sup>11</sup>
12. In all, the scheme proposes a high-quality design that would bring beneficial change to the area, forming a coordinated part of the Ethelbert and Ringers Road townscape.<sup>12</sup> While the Proposed Development would be visible, there would not be visual harm, as demonstrated by the TVIA<sup>13</sup> which predicts a range of beneficial effects and is the only townscape and visual assessment before the Inquiry.

## Historic Environment

13. The Council's case on heritage has clearly gone awry. In particular, the fundamental impact of the approved building at 66-70 High Street has not been properly acknowledged. Like with the appeal scheme, the Council initially refused that building on the basis of impact to the Conservation Area.<sup>14</sup> The Inspector disagreed with Officers, finding there would be no harm. That decision establishes a clear principle: this is not a part of the setting of the Conservation Area that is sensitive to tall, large modern buildings.

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<sup>6</sup> See section 4 of Mr Richards' Proof

<sup>7</sup> See §§3.30-3.39 of Mr Richards' Proof

<sup>8</sup> Mr Richards' Proof at §3.38

<sup>9</sup> Mr Richards' Proof at §4.3

<sup>10</sup> Mr Richards' Proof at §3.37

<sup>11</sup> Mr Richards' Proof at §§2.2-2.3, §3.48

<sup>12</sup> Mr Hammond's Proof at §§8.13-8.33

<sup>13</sup> CD1.54

<sup>14</sup> LPA ref. 19/04588/FULL1

14. A general change in the townscape would be seen in views outward from the Conservation Area to the south of Ethelbert Road with the Scheme in place. However, this is a longstanding and established pattern of development, with existing and consented taller buildings visible beyond the Conservation Area.<sup>15</sup> 66-70 High Street would feature strongly in southerly views, where it would become something of a landmark for the modern hinterland beyond the Conservation Area.<sup>16</sup>
15. The Proposed Development would not interfere with, or affect, any of the “key views” identified in the Conservation Area Statement.<sup>17</sup> In terms of the allegation in RfR3 that the appeal proposal would be “overly dominant and overbearing” as an addition to the town centre skyline, the visualisations show that the “no harm” approved building for 66-70 High Street would be the dominant addition.<sup>18</sup> By comparison, the appeal proposal would appear a relatively modest addition.
16. Where it would be visible, the Proposed Development would simply add to a condition that already exists: the presence and sense of the existing and emerging large-scale modern developments to the south.<sup>19</sup> In short, Mr Froneman will explain to the inquiry that this is another case where no harm would arise in heritage terms.

### **Living Conditions – Future Occupiers**

17. In relation to proposed living conditions, the development comprises 94 flats, all of which meet relevant standards for internal size and external private amenity space. Moreover, during discussions with the Council in the build-up to the Inquiry, it has been agreed that internal light levels within the development are also acceptable.
18. The Council’s objection on proposed living conditions now rests on a suggestion that there is an overreliance on single aspect design, that there is inadequate children’s play space, and that there would be an unacceptable relationship between the proposed flats creating poor outlook and mutual overlooking.

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<sup>15</sup> Mr Froneman’s Proof at §2.55

<sup>16</sup> Mr Froneman’s Proof at §2.38

<sup>17</sup> Bromley Town Centre Conservation Area Statement CD 5.5 (Dated 2011)

<sup>18</sup> Mr Froneman’s Proof at §2.68

19. Mr Batchelor's evidence shows that there are no single aspect north facing flats and that overall the development comprises 79% dual or triple aspect design.<sup>20</sup> In its evidence, the Council has not offered any alternative calculation.
20. Mr Batchelor will also explain that the provision of playspace on site is acceptable, and that the offsite contribution would ensure adequate provision for future residents without affecting local residents' access to playspace.<sup>21</sup>
21. Finally, the careful, considered design and layout ensures an acceptable relationship would be provided between flats in the development.<sup>22</sup> Mr Batchelor's evidence identifies other cases in the Borough where similar levels of separation have recently been approved; he points to a lack of consistency in the Council's approach to the assessment of this appeal proposal.

### **Living Conditions – Neighbours**

22. The Council's fifth RfR relates to the development's impact on neighbours.
23. Mr Batchelor will deal with the development's visual impact and privacy. His evidence notes the vague assertions made by the Council: in the Committee Report, decision notice and indeed in Ms Daye's evidence, the Council has failed to identify any neighbouring flats or rooms that would be adversely affected in these regards.<sup>23</sup>
24. Mr Batchelor's conclusion is clear: the proposed relationships are acceptable in terms of visual and privacy and in no way unusual in the context of a modern, regenerated town centre.
25. Mr Keating will deal with the remaining daylight and sunlight matters. As his Proof explains, while the BRE Guidance document sets out a methodology and provides numerical guidelines for assessing impacts, they are not expressed as mandatory targets: the BRE document emphasises the need for flexibility.<sup>24</sup>

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<sup>19</sup> Mr Froneman's Proof at §2.70

<sup>20</sup> Mr Batchelor's Proof at §6.13

<sup>21</sup> Mr Batchelor's Proof at §§6.62-6.74

<sup>22</sup> Mr Batchelor's Proof at §§6.36-6.70

<sup>23</sup> Mr Batchelor's Proof at section 70.

<sup>24</sup> BRE Guidelines are at CD8.1

26. A key aspect of this flexibility is the local context of a specific location. For example, in terms of Vertical Sky Component (“VSC”), while the BRE suggest a retained VSC of 27%, there are many examples in London and in Bromley demonstrating that VSCs between 5%-11% at ground floor level and between 13%-21% at first floor level are acceptable in an urban context.<sup>25</sup>
27. The Site is located in a town centre, within an allocated site for development, adjacent to a main high street and also next door to large scale residential development (both newly built and recently consented). That location can be described as a dense urban environment, and that context is critical.
28. A wide scope of surrounding buildings have been assessed for daylight and sunlight impacts. A large majority of them would meet the relevant BRE recommendations, and even more would be only marginally short of the recommendations.<sup>26</sup>
29. Nonetheless, in order for the Site’s identified growth potential to be realized, it is inevitable that a loss in daylight would occur to some surrounding properties. Rather than focusing on relative loss metrics, Mr Keating considers that the most useful way of understanding impacts in these circumstances is to understand retained levels of daylight/sunlight.
30. In each case where Mr Wade has identified “significant” impacts, Mr Keating will show that there are important mitigating factors that render any such impacts acceptable. For example, impact to daylight along Henry and William House is most significant where there are already recessed balconies, deep internal rooms, and projecting wings on either side of the window.<sup>27</sup> The BRE Guidance specifically identifies those as particular circumstances where loss to daylight is unavoidable. Simpsons Place, directly adjacent to the Scheme to the west, sees reductions beyond the BRE recommendations but it retains an acceptable VSC.<sup>28</sup> The Salvation Army building would also experience daylight and sunlight impacts, being directly adjacent to the Site. However, it is not a residential receptor.<sup>29</sup>

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<sup>25</sup> See section 6 of Mr Keating’s Proof

<sup>26</sup> See section 6 of Mr Keating’s Proof along with his Rebuttal

<sup>27</sup> Mr Keating’s Rebuttal §§4.2.2-4.2.19

<sup>28</sup> Mr Keating’s Rebuttal at §§4.2.37-4.2.41

<sup>29</sup> See analysis in Mr Keating’s Rebuttal at §§4.2.20-4.2.24

31. As to overshadowing, the Appellant's assessment revealed that only two amenity spaces would see impacts beyond the BRE recommendations in the cumulative surrounding context, but in the existing surrounding context they would meet the recommendations – demonstrating that the emerging scheme at 66-70 High Street is the driving factor in this result, not the Proposed Development.<sup>30</sup>
32. In all, the impacts of the scheme on neighbouring occupiers, including privacy, visual impact and daylight and sunlight, would be acceptable when understood, as they must be, in the town centre context proposed.

## Housing

33. This application is not made in a vacuum but against the context of a very well-established national housing crisis and affordable housing emergency. Windfall sites like this are needed to support the instruction in the NPPF to significantly boost supply.
34. The Council cannot demonstrate a five-year housing land supply ("5YHLS"). Indeed, it has been unable to do so for several years. Even when the Council claimed it could demonstrate a 5YHLS, appeal Inspectors have concluded that those claims were unfounded<sup>31</sup>.
35. The base date, housing requirement (including shortfall) and buffer are all agreed. The extent of the shortfall is not agreed. The contribution from small sites and one large site (South Eden Park Road) are disputed.
36. In due course, the Inspector will be invited to conclude that the deliverable supply at 1<sup>st</sup> April 2021 is 2,628 dwellings, which against the adopted housing requirement, shortfall and buffer equates to 2.4 years; a significant shortfall of 2,840 dwellings.<sup>32</sup>
37. There is no plan-led solution to the 5YHLS shortfall, which is expected to continue in the coming years. Indeed, it is not expected that the London Plan housing requirement will be met in any of the years in the 5YHLS period<sup>33</sup>.

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<sup>30</sup> Mr Keating's Rebuttal at §5.9

<sup>31</sup> Mr Pycroft's Proof – Section 3 – pages 8-11

<sup>32</sup> See Table 7.2 of Mr Pycroft's Proof

<sup>33</sup> CD CD6.12, page 18



38. Against this background and given the current cost of living crisis, there is a great need to continue granting planning permissions and to build more homes, of all types. This is of utmost importance; not only from a social aspect but also an economic one.
39. In terms of unit mix, there is a shortage of all housing types and sizes in Bromley. The Council's policy does not prescribe a unit mix, but the 2014 Bromley SHMA, the 2017 London SHMA and the Council's Housing Register from March 2024 all show that it is 1- and 2-bedroom homes which are needed most.<sup>34</sup> These points are accepted by Mr Johnson.
40. The area immediately surrounding Bromley town centre already provides an abundance of family housing of different sizes and types, including terraced, semi-detached and detached houses.<sup>35</sup> What's evident is the comparative lack of 1- and 2-bedroom flats. Two recent permissions on nearby sites comprise only a mix of studio, 1- and 2-bedroom flats and unit mix was not an issue raised by the Council in relation to either proposal.<sup>36</sup> Frankly, it is surprising that the Council is maintaining its objection on this ground.
41. As to affordable housing, in April 2024, the Council's viability consultant agreed that the proposed scheme is unable to make any contribution towards affordable housing. The reduction in affordable housing from the time of the original application can be attributed to a number of factors including build costs increasing by circa 14% (equating to circa £3m) alongside private unit values increasing by only 2% (equating to circa £0.5m), as well as weaknesses in the registered provider market.<sup>37</sup>
42. Yet, the Appeal Scheme will still deliver vital and much needed affordable housing on site: 11% (10 dwellings) are to be provided on-site as affordable housing through planning gain (12% by habitable room). The tenure would comprise 60% Social Rent (6 units) and 40% Shared Ownership (4 units), in accordance with adopted policy.<sup>38</sup> The affordable housing provision will be secured through a Section 106 agreement, with any betterment in the position captured through the early and late-stage review mechanisms.
43. Miss Gingell's evidence illustrates why the benefits of this affordable housing offer in Bromley must be substantial:

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<sup>34</sup> As explained at section 5 of Mr Batchelor's evidence

<sup>35</sup> Ibid.

<sup>36</sup> 66-70 High Street and 62 High Street. The former was refused by the Council and allowed on appeal; the latter approved by the Council's Development Control Committee

<sup>37</sup> See p9 of Mr Evans' Proof

<sup>38</sup> across the 2nd and 3rd floors of Block B – see plans at CD8.15 & CD8.16.

- a. Since 2011/12, substantial shortfalls in delivery have arisen every single year against the need for 1,404 net affordable dwellings per annum identified in the 2014 SHMA.<sup>39</sup>
  - b. The local Housing Register is growing, and Bromley is also seeing increasing levels of homelessness.<sup>40</sup>
  - c. Bromley sees high levels of temporary accommodation use: in 2022/23 the Council spent more than £23 million on temporary accommodation.<sup>41</sup>
  - d. Bromley is seeing rising house prices, rents and worsening affordability ratios across both the median and lower quartile segments of the market.<sup>42</sup>
44. The recipients of new affordable homes are real people and families, in real need now.<sup>43</sup> Accordingly, both parties agree that substantial weight should be afforded to the affordable housing benefits of this proposal.<sup>44</sup>

### **Planning Balance**

45. This is a case where it is agreed by all parties that the NPPF's tilted balance is engaged. Mr Batchelor considers that the proposed development is policy compliant and can, therefore, be approved under paragraph 11c) of the NPPF.<sup>45</sup> However, if conflicts are identified, it is his evidence that permission should still be granted under paragraph 11d) of the NPPF because any adverse impacts do not significantly and demonstrably outweigh the benefits.
46. Mr Batchelor identifies a series of important benefits that would be realised in this case, including the delivery of housing and affordable housing; unit mix; the development's location on brownfield land in a town centre; townscape and design benefits; economic benefits through the construction and operational phases; and environmental benefits through BNG and urban greening. Set against these are very minimal harms arising.
47. In all, this scheme represents a compelling opportunity for the Council to deliver much-needed new homes of a high-quality design in an appropriate town centre location. The tilted balance weighs very much in favour of a grant of permission.

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<sup>39</sup> Miss Gingell's Proof at §§11.12-11.22

<sup>40</sup> Miss Gingell's Proof at §§7.17-7.30

<sup>41</sup> Miss Gingell's Proof at §§7.31-7.40

<sup>42</sup> Miss Gingell's Proof at section 9

<sup>43</sup> See Inspector Young CD7.12, p74 [13.101]

<sup>44</sup> See Mr Johnson's Proof at §3.17 and Miss Gingell's Proof at §10.33

<sup>45</sup> See section 8 of Mr Batchelor's Proof

48. Accordingly, in due course, the Inspector will be invited to allow the appeal.

**16<sup>th</sup> July 2024**

**CHRISTOPHER YOUNG KC**

**ODETTE CHALABY**

**No5 Chambers**

**Birmingham – Bristol – London**



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