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

PINS Ref: APP/G5180/W/24/3340223

LPA Ref: DC/21/05585/FULL1

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Closing for the Council

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1. This is the Closing Statement for the London Borough of Bromley.

**The Development Plan**

1. The development plan comprises the London Plan 2021, the Bromley Local Plan 2019, and Bromley Town Centre Area Action Plan (BTCAAP) 2010. It is the Council’s contention that no weight should be given to the BTCAAP for the following reasons:
	* It predates Local Plan and the London Plan,
	* It is set to expire next year, and
	* The Council wrote to MHLG in November 2023 to ask for it to be revoked under s.25 Planning and Compulsory Purchase Act 2004 in 2023[[1]](#footnote-1),

Amanda Reynolds also stated during the Roundtable session[[2]](#footnote-2) that the BTCAAP should have no weight, explaining that the “*dots for tall buildings were all in the wrong place*”, and that the plan was “*always a flawed document*”.

When there is a shortfall of HLS the policies in the development plan may be deemed out of date. However it is worth noting that the Inspector in the Worsley Bridge decision said, referring to a lack of 5YHLS, “*notwithstanding that they are deemed out-of-date, they should nonetheless carry some weight in the balance. The proposal would not accord with the development plan as a whole.*”[[3]](#footnote-3)

1. The Council have a relatively recent Local Plan, and is committed to a clear programme, and are actively taking steps to review the Plan that are set out in the Report of Bromley’s Development Control Committee[[4]](#footnote-4) which proposes[[5]](#footnote-5) a timeline for production of a new plan by 2027. Whilst the Appellant’s advocate suggested that a new Local Plan might never be adopted, no weight should be given to that – it is pure unfounded speculation based on no evidence.

**Main issue 1: Housing**

Viability

1. Ramsay Evans gave evidence for the Appellant concerning the viability of the scheme. He said in cross examination that any viability is of a moment in time. It is effectively a snapshot.
2. He was asked in evidence in chief about returns to the proposed scheme, and said he couldn’t see a smaller scheme working on the site. There is, however, no evidence before the inquiry on viability of any such reduced scheme and also there is no evidence from the Appellant of the viability of any other scheme, and the Inspector should give no weight to this speculation.

Housing Land Supply

1. It is agreed between the parties that the starting point for an assessment is the current NPPF[[6]](#footnote-6), unless and until a new NPPF is published. It is also agreed in the Statement of Common Ground[[7]](#footnote-7) that there is a presumption in favour of development and the tilted balance applies. However the Inspector also needs to take account of other parts of the Framework, for example paragraph [139] dismissing appeals on the grounds of poor design, and section 11 of the NPPF concerning the impact on heritage.
2. The Statement of Common Ground on Housing sets out the agreed and disputed matters on 5YHLS[[8]](#footnote-8). The Council’s case is 2.96 years supply. The Appellant’s case is 2.4 years supply. These differences are due to:
	* the level of provision from small sites; and
	* the contribution from South Eden Park Road.

Small Sites Provision

1. The parties take a different approach to calculating projected small sites delivery. The Council bases its projections on small sites permissions and a windfall assumption which is advocated in the adopted London Plan. The Appellant bases their projections solely on empirical trend data, which is an overly simplistic approach that can be unreliable.
2. Ben Johnson has set out the reasons for his calculations in his proof. He also highlighted his concern about the GLA datahub figures which feed through into Housing Delivery Test figures. The Council ask the Inspector to adopt Ben Johnson’s calculations and methodology.

South Eden Park Road

1. The site was granted planning permission in 2018, but it is not correct to blame Bromley for its lack of development. It is well on its way: the below ground level pre-commencement conditions have all been discharged. The Appellants have submitted a very short email[[9]](#footnote-9) from the agent which suggests the site may not come forward quickly. The context is not known and Ben Pycroft agreed[[10]](#footnote-10) that we are not fully informed of it. The Inspector is invited not to give any weight to the email and conclude that there is every possibility that this site will come forward by 2026.

Future Housing Land Supply

1. It is not helpful to speculate about future housing land supply. Whether some of it comes from appeals is not relevant to the Inspector’s deliberations. The Appellant has referred to other Inspectors’ decisions which can be distinguished on their facts and the weight of factors in the planning balance.
2. The important point at this inquiry is that both parties agree that very substantial weight should be given to the proposed housing provision.

Appropriate Mix

1. Policy H10[[11]](#footnote-11) of the London Plan provides that “*schemes should generally consist of a range of unit sizes*”. The supporting text[[12]](#footnote-12) explains that “*one-person and one-bed units are the least flexible unit type so schemes should generally consist of a range of unit sizes*.” The supporting text to Policy 1 of the Local Plan[[13]](#footnote-13) reads *“The 2014 SHMA highlights that the highest level of need across tenures within the Borough up to 2031 is for one bedroom units (53%) followed by 2 bedroom (21%) and 3 bedroom (20%) units”.* The supporting text to Policy 2 of the Local Plan[[14]](#footnote-14) reads “*Sites that trigger the affordable housing policy should provide a mix of unit sizes in light of the information set out in the SHMA which shows a need for 1-3 bedroom units (with 1 and 2 bedroom units having a higher need).*” Mark Batchelor accepted in cross examination[[15]](#footnote-15) that Local Plan policies 1 and 2 need to be read in context of the supporting text. In conclusion, the lack of provision of 3 beds is contrary to London and Local Plan policy.
2. The need for 3 bed units is set out in Ben Johnson’s proof. He provides at Table 2[[16]](#footnote-16) the need for 3 bedroom properties across London, which at 14% of demand was only a little behind the demand for two bedroom properties, at 16%. At Table 1[[17]](#footnote-17) he sets out an extract from the Bromley Housing Register of March 2024. There is almost no difference between the need for 2 and 3 bed units. The percentage of need for 2 bedroom units is 27.8%, and for 3 bedroom units it is 27.2% - a difference of 0.6%. In cross examination, Mark Batchelor was asked about how he would describe the need for 3 bedrooms at 27.2% by comparison with 2 bedroom units at 27.8%. He didn’t give a clear answer. It was put to him that the difference was imperceptible, and he said it was a small gap[[18]](#footnote-18). The simple and correct position is that set out by Ben Johnson in his proof[[19]](#footnote-19): “*This information is helpful to illustrate that there is a continuing and increasing need for three bedroom units, essentially equal to the need for two bedroom units.”*
3. It is clear the Appellants never intended to include 3 beds in this scheme. Helpfully, Ramsay Evans confirmed in cross examination[[20]](#footnote-20) that he hadn’t undertaken a viability analysis of the inclusion of 3 bed units. Richard Hammond said during the Townscape Roundtable[[21]](#footnote-21) that he had not been given a brief for 3 beds, also his brief was specifically for 1-2 beds. It is material that this development has no 3 bedroom properties in breach of policy requirements.

Affordable Housing

1. Both parties agree substantial weight should be given to the provision of affordable housing. Annie Gingell agreed in cross examination[[22]](#footnote-22) that this weight needs to be considered in the planning balance along with a range of other factors. Further, it was suggested that Bromley was not taking any steps to provide affordable housing, but that is not correct. It is noteworthy that Bromley has a strategy for providing more affordable homes: both the Corporate Strategy[[23]](#footnote-23) and the Housing Strategy[[24]](#footnote-24) refer to providing 1,000 affordable homes. These are both relatively recent documents. This was explained by Ben Johnson in his evidence[[25]](#footnote-25). While the Appellant’s position has been to ascribe the housing crisis to Bromley, it is a national issue, and the Council’s position is that it is taking all the steps that it reasonably can.

**Main Issue 2: Impacts on the living conditions of future occupiers**

1. Karen Daye’s evidence[[26]](#footnote-26) was that the proposed development is not a high quality development because:
	* there is inadequate playspace provision for under 5s;
	* the design is not inclusive;
	* the outlook is oppressive, and
	* privacy is compromised.

She explains in her proof[[27]](#footnote-27) that for these reasons, it is in breach of policy requirements. NPPF paragraph 135(e) requires a “*high standard*” of amenity for residents, and London Plan policy D6, and Bromley Local Plan policy 4 require high quality and high standards. Karen Daye’s overall assessment is that it is unsatisfactory accommodation.

Play space

1. There is inadequate play space. The Council objects to both quantum and quality of play space for under 5s. The quantum is not enough, and the quality is inadequate because it is shared with the proposed amenity space and the proposed commercial space, as well as having the pedestrian route through. As Karen Daye said in her evidence, residents would want to walk out in their dressing gowns with their children, and that won’t be possible with the current design. She referred to the supporting policy context in her proof[[28]](#footnote-28). The Council’s case is also that the courtyard amenity space provision is not genuinely playable and therefore the open space cannot be double counted as play space.

Inclusive Design

1. The design is not inclusive. Karen Daye gave evidence about the lack of wheelchair accessible units and their inappropriate siting. This evidence was not challenged by the Appellant, and the Inspector is invited to adopt it. The proposed development does not distribute wheelchair accessible units across the floors, but instead concentrates them all on the lower floors. These are also the floors with the least light. Nearly half of the wheelchair accessible units have a Spatial Daylight Autonomy (sDA) of lower than 40% and will be classed as poorly lit. Karen Daye in her proof[[29]](#footnote-29) explains that this is contrary to policy.

Outlook

1. The outlook is oppressive. Karen Daye gave evidence[[30]](#footnote-30) to say that the occupants of the lower-level flats in blocks A and B will look through their windows directly onto the walls of neighbouring buildings, for example, there is a 1.22m gap between Block A and the rear of the TK Max building. That is poor outlook. The angled windows in the flank of Block B also have constrained viewpoints, and that is a poor outlook feature which applies particularly to the upper floor flats in Block B[[31]](#footnote-31). Karen Daye in her proof explains[[32]](#footnote-32) that due to the height, scale and proximity of the blocks to one another, occupants would be faced with an unduly oppressive outlook. Karen Daye also highlighted in particular the flank walls of adjoining buildings being 1-1.5m away and the 1.2-1.6m distance between window and wall in the west facing windows of Block A floors 1-3[[33]](#footnote-33).

Privacy

1. The privacy of future residents is compromised by the development. The minimum separation distances have been calculated most accurately by Dan Wade[[34]](#footnote-34), and were unchallenged in his cross examination. The Appellant’s figures[[35]](#footnote-35) of between 12.5 and 15m are not a fair reflection of the true gap. Karen Daye gave a vivid illustration of just how narrow the width of 7.68m between the blocks was by explaining in her evidence in chief that it was “*less than width of this room*”. A key privacy issue is mutual overlooking, with bedrooms looking directly into each other, block to block.

**Main Issue 3: Living conditions of surrounding occupiers (daylight and overshadowing)**

Daylight

1. The Appellants have accepted that a considerable amount of work was undertaken by Dan Wade to deal with the errors in the modelling. An application for a partial award of costs has been made and is not resisted by the Appellant. Tomas Keating explained in his Rebuttal[[36]](#footnote-36) that there “*were a number of technical errors within the assessment model… as well as some gaps in the assessment methodology”*. He expressed his “*regret”* and noted he had “*failed to carry out an adequate quality assurance review”* which was “*evidently an error which I hold myself fully accountable for and seek to redress*”. He also said he expressed his “*gratitude to Dan Wade for pointing out these errors*”.
2. As a result of the work done to check and correct the errors, the parties agreed the Statement of Common Ground for Daylight and Sunlight. In due course a hand written Addendum to the Statement of Common Ground was provided agreeing that outstanding errors in the Appellant’s model were present, but not likely to have any meaningful impact on the results.
3. Dan Wade explains in his Rebuttal that he relies upon a “traffic lights system”[[37]](#footnote-37) which shows adequate light provision coloured in green, which is deemed a “pass”, and inadequate light provision coloured in amber and red, which is deemed a “failure”. We invite the Inspector to adopt his system, as there was no challenge to it. It is immediately clear from looking at Dan Wade’s tables[[38]](#footnote-38) that there is a considerable amount of unacceptable light loss: there are many windows coloured in red. His Rebuttal goes on to analyse[[39]](#footnote-39) 6 properties would be particularly affected by light loss:
	* Henry House,
	* William House,
	* Simpsons Place,
	* Salvation Army Church – Community Centre,
	* 62 High Street, and
	* 33-36 Ethelbert Court.

He concludes[[40]](#footnote-40) by stating that those 6 properties “*will experience an unacceptable impact on a large percentage of their windows / rooms / amenity areas beyond those reasonable expectations of urban target setting”*. There was no challenge to this conclusion in cross examination and we invite the Inspector to adopt it.

1. In cross examination[[41]](#footnote-41), Dan Wade was asked about other appeal decisions. His evidence in reply was that he hadn’t been provided with an accurate model to compare the present proposal to those other decisions and had focused on the numerous attempts to resolve the modelling issue. The relevance of the decisions referred to by Tomas Keating are questionable. By way of example, he agreed in cross examination that the Whitechapel decision was pre BRE Guidance. The decisions are also distinguished on their own facts, and the Inspector has not been asked to visit any of those sites. As a result the Inspector is invited to afford them limited weight.
2. It is also significant that Tomas Keating agreed in cross examination that he had not been asked to consider any alternative scheme.
3. However, having been provided with voluminous information shortly before he was due to give evidence, Dan Wade did do a significant comparison using his traffic light system with another application by Waitrose approved by the Council last night. He provided a traffic light system showing the levels of light for the Waitrose development[[42]](#footnote-42), and his calculations were not challenged in cross examination. It is evident from that analysis that there are numerous distinctions and differences between the sites. On his measurements, there was a much more significant impact on neighbouring proposal for the appeal scheme than for the Waitrose proposal. He made it clear there was a significant, quite different, impact on Perigon Heights, the most impacted neighbouring property for the Waitrose scheme, by comparison to properties he identified as impacted by the Ringers’ Road scheme. Tomas Keating accepted in cross examination that he didn’t know the Waitrose site, and that any daylight issues had to be understood in terms of the planning balance.
4. Both parties accept that the BRE guidance should be applied with some flexibility. Essentially, the differences between the parties relate to whether the loss of daylight is acceptable in an urban context. We ask Inspector to adopt Dan Wade’s methodology and conclusions regarding the impacts on the surrounding occupiers.
5. Whilst the Salvation Army is not a residential premises, there will be a significant impact on this important community facility. Alicia Begley explained to the Inquiry the following points:
	* 400 people pass through their doors per day, and it is in use 7 days a week[[43]](#footnote-43);
	* There is a clear intensity of use of the building for vulnerable people in Bromley, and it is important as a local facility;
	* The appeal scheme would result in the loss of light to the upstairs facilities (a children’s room and a bathroom for homeless persons) and the downstairs rooms, including the two halls and the kitchen area,
	* There was a lack of consultation by the Appellants. In paragraph 3 of her letter submitted to the Inquiry on Day 1 (dated 15 July 2024), she states: “***Lack of consultation*** *– the developers have had little to no contact with the Salvation Army, especially locally. However, they did turn up unannounced on Friday 12 July in a last-minute attempt to “develop the relationship”.*”
6. Karen Daye gave evidence to say the light for the Salvation Army building would be “*seriously compromised*”. During the Roundtable, Alex Richards indicated that the Appellants had offered the Salvation Army a different location if they sold and moved, but there is no clear evidence of any negotiations before the inquiry, and the opportunity to put this point to Alicia Begley was not taken and therefore the Inspector should give no weight to it.

Visual impact

1. There is a negative visual impact on surrounding occupiers because of the size and the scale of the proposed development. Karen Daye in her evidence explained[[44]](#footnote-44) there was a “looming presence” which impacted particularly the Salvation Army, Ethelbert Close, Ethelbert Court, and Simpsons Place. While the Appellants have submitted photographs of rely on trees and vegetation to screen the resident of 7 Ethelbert Road from the building, that should be given very little weight because that vegetation is beyond the Appellant’s control. Karen Daye further explained in her proof that the low rise context would “*exacerbate the overbearing visual impact of Block B with windows and balconies visible above the extent of tree canopy which would also impact on privacy and the perception thereof*”.[[45]](#footnote-45)

Privacy and Overlooking

1. Karen Daye said during her evidence in chief that a core concern was that several neighbouring properties would be “*very significantly affected*” by the development. She explained that during the site visit it was “*evident and striking*” how close the blocks would be to the neighbours, and that a key issue was both “*direct overlooking and the perception of being overlooked*”.
2. One neighbour, Mr Daniel Round-Turner made it clear he felt privacy was a significant issue. He told the inquiry: “*our kids won’t be able to play in our backyard, their balcony space looking into our property*”. He also explained directly the impact of the loss of light: as a family they want solar panels but they have concerns about light availability after construction. Mr Round-Turner provided an Impact Statement which further explains his concerns[[46]](#footnote-46).

**Main Issue 4: Design and Townscape**

1. The NPPF paragraph 139 is the starting point for any assessment. It provides that “*Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.”*
2. In the Roundtable session, Amanda Reynolds highlighted the following points:
	* The most important point is that a design led response for a site like this in the centre of a development block starts with a comprehensive Masterplan that responds to the SPD[[47]](#footnote-47), the topography and the context. Such a Masterplan would not attempt to simply maximise the potential development on the site, but respond to the context. There is no such Masterplan here. As such, this is not a design led response.
	* The built form of the appeal proposal should respond to the topography by stepping down the hill. This is not what happens here: Block A increases in height, not decreases, and it steps up the hill, not down. To respond to the context, the blocks should be lower in absolute heigh and physically step down the hill. That is not the case with the appeal proposal. While the design has taken topography into account, it has not responded in an appropriate way as set out in the SPD at paragraph 7.10.
	* The appeal proposal is too close to the boundaries of the appeal site, which negatively adds to the overall massing, and very importantly negatively impacts the developability of other sites in SA 10.
	* The appeal proposal has far too many proposed units: it is not a low density scheme. Site Allocation 10 is designated for the development of 1,230 dwellings. To achieve that number, there need only be 425 units per hectare[[48]](#footnote-48), but the appeal proposal has a density of 926 units per hectare, which is 2.2x the required level, and a density that is too high. The point is, there is no need to deliver in the density argued by the Appellant to reach the quantum of units required for SA 10 (1,230)[[49]](#footnote-49).
	* Bromley South is a tall cluster around the train station which is separate and can be distinguished from Site Allocation 10. Bromley South is at the bottom of the hill, not the top.
	* Because of the overall massing, there are design flaws: the large blank wall facing down the hill increases the sense of mass. It is not possible to add more windows to that wall because of overlooking and privacy issues. These features would not be prevalent if their design was less big.
3. In her proof, Amanda Reynolds further expanded upon these points. Her drawings[[50]](#footnote-50) of the development on the hilltop, showing the sloping hill, are particularly noteworthy. Her proof highlighted the “*large and assertive buildings which do not enhance the established character of either the High St area nor the surrounding residential areas stepping down the hills to the west*”[[51]](#footnote-51). Her proof also emphasised that “*no thought has gone into the potential heights of other buildings”[[52]](#footnote-52).*
4. Amanda Reynolds finished her evidence at the Roundtable with this sentence: that the building was “*too high, too big, and overdevelopment*”. We invite the Inspector to adopt those conclusions. Furthermore a number of density calculations have been submitted to the inquiry but the key point is regardless of whether the Council or the Appellant figures required to realise development numbers are used, the figure is still drastically less than the density at the appeal site, which supports the view that the appeal proposal is unnecessarily dense and and an overdevelopment.
5. The view that this building was poorly designed was shared by local residents. There were over 100 objections from residents. Comments include: “*ugly and far too high*”[[53]](#footnote-53); “*big ugly blocks”*[[54]](#footnote-54), “*just plain ugly*[[55]](#footnote-55)’; “*ugly high rise blocks*”[[56]](#footnote-56), “*ugly unimaginative building*”[[57]](#footnote-57), “*a visible eyesore*”[[58]](#footnote-58), “*monstrous*”[[59]](#footnote-59), “*nothing but an eyesore*”[[60]](#footnote-60).
6. The overall view of poor design is supported by officers, members, and the GLA[[61]](#footnote-61) who said in their Phase 2 report:

*“At consultation stage, significant concerns were raised about the very restricted separation distance of 8-12 metres between habitable rooms in the two tall buildings, including single aspect units, with balconies much closer. Significant concerns were also raised about the window openings on the side elevations, which would provide limited daylight or outlook, more-so should neighbouring sites come forward for development. Consequently, significant concerns were raised about residential quality in terms of privacy, overlooking, daylight and sunlight; as well as the quality of the very restricted and overshadowed communal residents’ amenity space between the two tall buildings, which would also worsen should neighbouring sites come forward for development. The proposals would also prejudice development of the adjacent sites, even with relatively limited height. Significant concerns were raised with the design, layout, massing, height, and density of the proposals, suggesting over-development of the site.*

1. There were further objections from the Bromley Civic Society[[62]](#footnote-62), who said they wished “*to object in the strongest terms to this proposal*”, citing detriment to the High Street setting and the views from the west within the Conservation Area, as well as the proposal’s “*unattractive blank face*”.

**Main Issue 5: Historic environment**

1. Dorian Crone explains[[63]](#footnote-63) in his proof that the setting of the Bromley Town Conservation Area “makes a positive contribution to the ability to appreciate and understand of its significance, character and appearance”, based on an appreciation of the the pedestrianised High Street as a traditional shopping street and the historic semi-rural setting of the hill top town in views across the suburban townscape. He goes on to conclude[[64]](#footnote-64) that “*the appeal scheme would have a tangible visual impact on the setting of the Conservation Area and the ability to appreciate and understand its significance, character and appearance as experienced from the High Street and Ravensbourne Valley character areas… I consider that the inappropriate height and scale of the appeal scheme, its massing, visual coalescence and resulting bulky appearance as experienced cumulatively with other tall buildings from the High Street, Church House Gardens and from the open spaces to the west, which is not relieved by either the topography or the design, compromises the ability to experience the character and appearance of the Conservation Area.”*
2. Dorian Crone’s view[[65]](#footnote-65) is that the scheme would have “*a moderate adverse effect on the setting of the Conservation Area*”, constituting “*a low level of “less than substantial” harm to a designated heritage asset*”, and that he agrees with the relevant Reason for Refusal. His view was that the harm was cumulative, and represented a “*developing wall*” of adverse impact on the Conservation Area[[66]](#footnote-66). His point was that whilst 66-70 was acceptable in heritage terms, the cumulative impact of 66-70 and the appeal proposal was not.
3. There were objections from the Bromley Civic Society “*in the strongest possible terms”[[67]](#footnote-67).* The Officer’s Report to Committee assessed the impacts on the heritage area to be “*unacceptable*”[[68]](#footnote-68), and the Council’s Conservation Officer[[69]](#footnote-69) explained that:

*“the over-dominant scale and massing of the proposed buildings would visually overwhelm the modest market town character of the Bromley Town Centre Conservation Area… the proposal, alongside the existing and other emerging tall buildings in this location, including the allowed appeal scheme for the re-development at 66-70 High Street, would cause negative cumulative impact which would be against Historic England’s guidance on the setting of heritage assets.”*

1. The GLA Phase 2 report was reviewed by Dorian Crone and its conclusions are worth setting out in full on the heritage point[[70]](#footnote-70):

*“The harm caused to heritage assets means that the proposals are not in accordance with London Plan Policies HC1. Considerable weight and importance must be given to the harm identified. The NPPF requires the harm to designated heritage assets to be weighed against the public benefits of the proposals… The public benefits are considered to be limited, particularly taking into account the height of the proposed buildings, and would not clearly and convincingly outweigh the harm to the Conservation Area.”*

1. We invite the Inspector to prefer these conclusions. It is the Council’s case that there is cumulative harm, by virtue of the addition of two tall towers on the edge of the Conservation Area. It is difficult to see how the opinion of Dorian Crone, an extremely well qualified witness, and the opinions of those eminent bodies, could be written off as “*ludicrous”*, as they were by Ignus Froneman, but the Inspector will draw his own conclusions. It is clear from Dorian Crone’s figure 14b by way of example, that this was a reasonable and measured position. Ignus Froneman relied on the Watford decision, but he then accepted in cross examination that it was in fact very different. For all these reasons, we ask the Inspector to give less than substantial weight to the heritage harm and prefer the evidence of Dorian Crone.

**Main Issue 6: Assessment of Planning Balance**

1. Karen Daye assessed the weight to be given to the factors in this appeal. We invite the Inspector to adopt her weighting scale[[71]](#footnote-71) of Substantial / Significant; Moderate; Limited; and Neutral. Substantial weight was accepted by both Karen Daye and Mark Batchelor in cross examination as the highest in the scale of weight. Karen Daye’s assessment is her own view and is informed by the evidence of the Council’s expert witnesses where relevant. She set out in her proof her opinion on the planning benefits[[72]](#footnote-72) of the appeal proposal:

7.5 Planning Benefits

*- the net gain delivery of 88 additional homes makes a substantial contribution to housing supply in the Borough to which I attribute* ***very substantial weight***

*- whilst accepting the benefits of delivery of a 1 and 2 bed unit mix to overall supply, the total lack of 3 bed units means that I would afford this benefit* ***moderate weight***

*- the provision of affordable housing should be afforded* ***substantial weight***

*- Economic benefits in terms of construction jobs, increased local spend and enhanced Council Tax and New Homes Bonus and Affordable Workspace to which I would attribute* ***moderate weight.***

*- BNG / UGF –* ***limited weight***

1. Having set out and assessed the planning benefits, Karen Daye then sets out and assesses the planning harm. It is the Council’s case that this harm significantly and demonstrably outweighs the planning benefits:

 7.6 Planning Harm

*- the design and the impact on the character and appearance of the area relating to the location and quantum of development proposed I would give this harm* ***very substantial weight***

*- living conditions of future occupiers, I would give this harm* ***substantial weight***

*- living conditions of surrounding occupiers, I would give this harm* ***substantial weight***

*- light impacts on existing and future occupiers, I would give this* ***substantial weight***

*- impact on setting of conservation area, I would give this harm* ***limited weight***

1. In Appendix 2 of Karen Daye’s proof[[73]](#footnote-73), a Summary Planning Balance Matrix table shows the relevant harm-benefit scale[[74]](#footnote-74), and it clearly shows there is Significant / Substantial Harm across this proposal. Furthermore in key cross examination, Mark Batchelor said that even if the Inspector concludes that the design is poor, this appeal should be allowed in the context of the HLS shortfall. In the Council’s view this is not the exercise which the Inspector should undertake, the Inspector should weigh the benefits against the harms.
2. Mark Batchelor provided additional benefits[[75]](#footnote-75) which Karen Daye then considered in the balance. Karen Daye’s view is that Mark Batchelor has double counted benefits for design and townscape, and for small sites and development location. The Appellant has taken them as separate issues, rather than part and parcel of the same issue: townscape and respectively housing provide the context in which design is considered. It is noteworthy that while the Council have given careful consideration to the benefits, as well as the harm, Mark Batchelor has given very little consideration to any harm at all, relying almost entirely on perceived benefits and repeating the views of his own experts. In that context, the Council say his analysis is not evenly weighted, and that of Karen Daye is to be preferred.
3. The key guidance for assessing the planning balance is set out in the Framework. The Council’s case is that the harm significantly and demonstrably outweighs the benefits.

**106 Agreement**

1. In the Conditions and 106 Roundtable, Paul Courtine explained that the use of cascading is a new issue which was not referred to in the Appellant’s Statement of Case and for which there is no justification. There is a provider identified by Ramsay Evans and any cascading provision is therefore entirely unnecessary. Further Ben Johnson and Paul Courtine explained that cascading provisions have not been used in Bromley during their tenure. If there is a cascade on site delivery is uncertain and if the Councik get enough money to buy the equivalent there is no certainty of when those units would become available.

**Conclusion**

1. This is a development that in its current form is inappropriate, with significant and demonstrable harms. The Inspector is invited to dismiss the appeal.

Anne Williams

Peter Cruickshank

6 Pump Court

26 July 2024

1. On Day 1, this was confirmed by Ben Johnson in his cross examination. [↑](#footnote-ref-1)
2. Day 3 [↑](#footnote-ref-2)
3. CD7.13, paragraph [105]. [↑](#footnote-ref-3)
4. ID:8 - dated 06 June 2024 titled ‘Update on the Bromley Local Plan Review’, [↑](#footnote-ref-4)
5. Section 3.10 [↑](#footnote-ref-5)
6. December 2023 [↑](#footnote-ref-6)
7. CD11.1 at paragraph 7.10. The tilted balance footnote 8 NPPF. [↑](#footnote-ref-7)
8. CD11.2 at paragraphs 3.5-3.6. [↑](#footnote-ref-8)
9. CD9.9B, item EP6 in the Appendices to Ben Pycroft’s proof [↑](#footnote-ref-9)
10. In cross examination on Day 2 [↑](#footnote-ref-10)
11. CD4.3. [↑](#footnote-ref-11)
12. CD4.3, paragraph 4.10.4 [↑](#footnote-ref-12)
13. CD4.1 at paragraph 2.1.17 [↑](#footnote-ref-13)
14. CD4.1 at paragraph 2.1.30 [↑](#footnote-ref-14)
15. Day 2 [↑](#footnote-ref-15)
16. CD10.6 on page 6 [↑](#footnote-ref-16)
17. CD10.6 on page 5 [↑](#footnote-ref-17)
18. Day 2 [↑](#footnote-ref-18)
19. CD10.6 paragraph 2.6 [↑](#footnote-ref-19)
20. Day 2 [↑](#footnote-ref-20)
21. Day 3 [↑](#footnote-ref-21)
22. Day 2 [↑](#footnote-ref-22)
23. CD6.6, ‘Making Bromley Even Better 2021 – 2036 - Our Corporate Strategy’, at page 23. [↑](#footnote-ref-23)
24. CD6.7, ‘London Borough of Bromley Housing Strategy 2019 – 2029’, at page 23. [↑](#footnote-ref-24)
25. Day 1 [↑](#footnote-ref-25)
26. Day 4 [↑](#footnote-ref-26)
27. CD10.2, section 4 [↑](#footnote-ref-27)
28. CD10.2, section 4.4 to 4.16 [↑](#footnote-ref-28)
29. CD10.2, paragraphs 4.17 – 4.29. [↑](#footnote-ref-29)
30. Day 4 [↑](#footnote-ref-30)
31. CD8.13 is a drawing showing these windows and the surrounding buildings very clearly. [↑](#footnote-ref-31)
32. CD10.2, para 4.27 [↑](#footnote-ref-32)
33. CD10.2, para 4.28 [↑](#footnote-ref-33)
34. CD10.5b: Section 1.3 of Rebuttal of Dan Wade [↑](#footnote-ref-34)
35. CD9.1, para 6.54 [↑](#footnote-ref-35)
36. Sections 1.3 to 1.9 [↑](#footnote-ref-36)
37. Explained at section 3.1.1 [↑](#footnote-ref-37)
38. At 3.1.19 for the VSC methodology, and at 3.1.23 for the NSL methodology [↑](#footnote-ref-38)
39. In section 5 of his Rebuttal, see paragraph 5.1.1 [↑](#footnote-ref-39)
40. At section 7.1.1 of his Rebuttal [↑](#footnote-ref-40)
41. Day 4 [↑](#footnote-ref-41)
42. ID: 14: ‘Project Name: Waitrose Bromley’ (A3 document) [↑](#footnote-ref-42)
43. Day 1 [↑](#footnote-ref-43)
44. Day 4 [↑](#footnote-ref-44)
45. CD10.2, paragraph 5.8. [↑](#footnote-ref-45)
46. ID:18 [↑](#footnote-ref-46)
47. CD5.2, Bromley Town Centre SPD. [↑](#footnote-ref-47)
48. 1,230 divided by the developable area (2.89 hectares) [↑](#footnote-ref-48)
49. These matters are discussed in the documents provided by Ben Johnson on Day 5 (IDs 21 and 22). [↑](#footnote-ref-49)
50. Pages 14 and 15 [↑](#footnote-ref-50)
51. Paragraph 6.22 [↑](#footnote-ref-51)
52. Paragraph 6.24. [↑](#footnote-ref-52)
53. Mrs Anthea Perry, 5 Queensmead Road Bromley [↑](#footnote-ref-53)
54. Michael Ellery, 17 Farrier Close, Bromley [↑](#footnote-ref-54)
55. Mrs Annabelle Heasman, 38 Siward Road Bromley [↑](#footnote-ref-55)
56. Mr R W Terrett, 70 Madeira Ave Bromley [↑](#footnote-ref-56)
57. Mr Stephen Holloway, 5 Palace View Bromley [↑](#footnote-ref-57)
58. Mr Michael Gigg, 34 Manor Road Bromley [↑](#footnote-ref-58)
59. Mrs Elizabeth Moss, Riverside 3 Hayes Road Bromley [↑](#footnote-ref-59)
60. Mrs Vanessa Bowden, 21 Forde Avenue Bromley [↑](#footnote-ref-60)
61. CD3.5, Phase 2 report, at paragraph 45 [↑](#footnote-ref-61)
62. CD8.23 [↑](#footnote-ref-62)
63. Paragraph 4.28 [↑](#footnote-ref-63)
64. At paragraph 5.15 [↑](#footnote-ref-64)
65. Paragraph 5.17 [↑](#footnote-ref-65)
66. Figure 14b [↑](#footnote-ref-66)
67. CD8.23 [↑](#footnote-ref-67)
68. CD3.3, paragraph 6.5 [↑](#footnote-ref-68)
69. CD3.3, paragraph 6.5.13 [↑](#footnote-ref-69)
70. CD3.5, paragraph 51. [↑](#footnote-ref-70)
71. CD10.2 at paragraph 6.2 [↑](#footnote-ref-71)
72. At 1CD10.2, paras 7.5 and 7.6 [↑](#footnote-ref-72)
73. CD10.2A, page 12. [↑](#footnote-ref-73)
74. Day 6. The table was corrected during chief. [↑](#footnote-ref-74)
75. At 8.23 of his proof. [↑](#footnote-ref-75)