



# ROBINSON ESCOTT PLANNING LLP



CHARTERED TOWN PLANNING AND DEVELOPMENT CONSULTANTS

DOWNE HOUSE, 303 HIGH STREET, ORPINGTON, KENT BR6 ONN. TEL: 01689 836334 FAX: 01689 878091

Email: [enquiries@replanning.co.uk](mailto:enquiries@replanning.co.uk) Website: [www.replanning.co.uk](http://www.replanning.co.uk)

**AN APPEAL BY:  
MR E OZDEMIR (SOUTHEAST DEVELOPERS)**

**AGAINST A REFUSAL OF PLANNING PERMISSION FOR:  
DEMOLITION OF EXISTING DWELLING AND  
CONSTRUCTION OF PART TWO/THREE STOREY BLOCK COMPRISING 4 X  
TWO BEDROOM AND 1 X ONE BEDROOM FLATS, PARKING, CYCLE STORAGE,  
LANDSCAPING AND REFUSE AREA**

**AT:  
BILLINGFORD, ELSTREE HILL, BROMLEY, BR1 4JE**

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**GROUNDS OF APPEAL**

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**SEPTEMBER 2015**

1. **INTRODUCTION:**

- 1.1. An application for planning permission was made by Robinson Escott Planning on behalf of Mr E Ozdemir of Southeast Developers [‘the appellant’] and was validated by the London Borough of Bromley Council [‘the Council’] on 12 May 2015 and assigned reference number DC/15/01673/FULL1. The application sought the following development:

*Demolition of existing dwelling and construction of part two/three storey block comprising 4 x two bedroom and 1 x one bedroom flats, parking, cycle storage, landscaping and refuse area.*

- 1.2. A full description of the development is outlined in **Section 4** of the Planning, Design and Access Statement which is has been submitted with this appeal.
- 1.3. The application was submitted following careful consideration of appeal reference APP/G5180/A/13/2198830 which is attached to this submission in **APPENDIX 1**. However, the application was refused on 5 August on the following grounds:

*1. The proposal, by reason of its bulk and siting in relation to the neighbouring residential dwelling would have a seriously harmful impact on the residential amenities that the occupiers of that property might reasonably expect to continue to enjoy, resulting in an overbearing and unacceptable visual impact, thereby contrary to Policy BE1 of the Unitary Development Plan, Supplementary Planning Guidance, Policies 3.5 and 7.4 of the London Plan and the NPPF.*

*2. The proposal would, as a result of its excessive bulk and scale, result in a visually dominant and overbearing form of development which would be out of character with the prevailing form of development in Elstree Hill and harmful to the distinctive character of the area, thereby contrary to Policies BE1 and H7 of the Unitary Development Plan, Supplementary Planning Guidance, Policies 3.5 and 7.4 of the London Plan and the NPPF.*

- 1.4. Given the nature of the appeal this statement will focus solely on these reasons for refusal. In all other respects the Council concluded that the proposal was compliant with policy objectives and as such was acceptable, which included the principle of flats on the site, parking and access. The reasons for refusal relate to the proposals impact on the amenity of a neighbouring property (27 Elstree Hill), and the design of the building and its impact on the surrounding character of the area.
- 1.5. Preceding the assessment against the grounds of refusal will be a description of the site and its surroundings, a review of the recent planning history on site, as well as a full evaluation of the relevant planning policy framework identified in the decision notice.

**2. APPEAL SITE AND SURROUNDNG AREA:**

- 2.1. The site comprises a substantial two storey detached house which is situated on the eastern side of Elstree Hill, to the northern end of the road close to the junction with Coniston Road. The northern boundary of the site abuts Kirkstone Way, a private road which serves a small cluster of dwellings.
- 2.2. There is currently a large parking area in front of the dwelling and a boundary wall and mature landscaping bounds the site along the eastern and southern boundaries. The garden of the site is situated to the south and west of the main building.
- 2.3. A feature of the area is the topography. Elstree Hill slopes downwards in a broad north to south direction.
- 2.4. The character of the area is defined by substantial, two storey detached houses with variations in age and architectural style. There are three storey town houses in close proximity to the site within Ullswater Close, which adds to this mixed character although it is acknowledged that the previous Inspector (**APPENDIX 1**) noted that these were separate and distinct in their character. Notwithstanding this properties such as Yew Tree Lodge to the north of the site are substantial buildings in terms of bulk and built frontage. There are similar buildings to the west of the site, further down Elstree Hill and to the east along Coniston Road heading towards the Bromley Court Hotel.

3. **PLANNING HISTORY:**

- 3.1. The planning history of the site has already been outlined in the original planning, design and access statement, which has been submitted as part of this appeal. This reviews the conclusions drawn by the previous Inspector. Given the importance of this decision, and how this has informed this appeal scheme, this relevant planning history will be referred to in this statement where appropriate.
  
- 3.2. In addition, it is important that the case officer's report for the application is reviewed as part of this appeal submission, as it expands on the reasons for refusal. This is outlined in **APPENDIX 2** of this report.

4. **PLANNING POLICY:**

4.1. The decision notice issued by the Council has alleged conflict with the following policies:

***Bromley Unitary Development Plan***

4.2. Policy BE1 is a general criteria setting policy, against which development proposals in the Borough are tested. It seeks to ensure that developments achieve a high standard of design and relate well to surrounding properties and the wider townscape, as well as ensuring that neighbouring occupiers' privacy and amenities are not harmed.

4.3. Policy H7 considers housing density and design and requires new developments to achieve a density of development consistent with the guidance published at Table 4.2 of the UDP. In addition, it seeks to ensure that developments are well designed and laid out.

***London Plan***

4.4. Policy 3.5 relates to the quality and design of housing and sets out the Mayor's objective that all new housing is designed to the highest quality both inside and out and accounts for their context and the wider environment. Associated with this policy is Table 3.3, which sets out minimum gross internal areas for residential property and requires that 2 bedroom 3 person units should be at least 61sqm and 1 bedroom 2 person units should be 50sqm.

4.5. Policy 7.4 deals with local character and seeks to ensure that developments should have regard to the form and structure of an area and the scale of development. The policy seeks to ensure that developments build upon the positive elements of an area's character and enhance this, where possible.

***Supplementary Planning Guidance***

4.6. The Case Officer's report (**APPENDIX 2**) outlines two SPGs:

SPG1 – General Design Principles

SPG2 – Residential Design Guidance

4.7. These outline general design guidance which proposed development should adhere to. None of these documents go into any detail in regards to specific character areas.

***National Planning Policy Framework***

4.8. The Ministerial foreword explains that the Government's focus is promoting sustainable development, it states, "*Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.*" This presumption in favour of sustainable development is again explained at paragraph 14.

4.9. The Framework sets out a presumption in favour of sustainable development, encouraging the approval of such development without delay. Pursuing sustainable development involves seeking positive improvements in the quality of the built environment as well as in people's quality of life including improving the conditions in which people live and work.

4.10. Section 6 (Delivering a wide choice of high quality homes) advises at paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development. The advice at paragraph 50 is for the delivery of high quality homes, providing a mix of housing based on current and future needs.



4.11. As regards to the design of new development, the Government sets out at paragraph 58 its commitment to ensuring that developments optimise the development potential of a site and ensuring that developments respond to local character and history. Paragraph 60 states that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. Finally paragraph 65 of the NPPF explains that LPAs should not refuse planning permission for buildings which promote high levels of sustainability simply because of concerns about compatibility with surrounding development.



5. **THE APPELLANTS CASE:**

- 5.1. The introduction section identifies the two grounds of refusal which was that the council perceived that the extensions would be detrimental to the amenity of a neighbouring property (27 Elstree Hill) and in regards to the design of the development. This section will therefore focus on these planning considerations. However, it is important to highlight that the Council nor the previous Inspector (**APPENDIX 1**) refused the application on the principle of development i.e. the provision of flats on site or regards to parking and access.
- 5.2. The case officer's report is an important document to review when assessing the grounds of refusal, and it is referred to where appropriate in this section. A full copy is outlined in **APPENDIX 2**. Both reasons for refusal will be addressed in turn.

**Ground of Refusal 1 - Does the proposal harm neighbouring amenity?**

- 5.3. Reviewing the case officers report (**APPENDIX 2**) it is apparent that the only property that is perceived to be affected by the proposed development is 27 Elstree Hill. No other reference is made to any other adjoining properties. This is supported by the conclusions of the Inspector under the previous appeal (**APPENDIX 1**), who concluded that the development would not be harmful to the living conditions of the occupiers of The Chalet, to the north-west of the site. This section will therefore solely focus on 27 Elstree Hill.
- 5.4. Furthermore, from reviewing the case officer's report and subsequent reason for refusal, the loss of amenity only relates to visual impact / loss of outlook. Therefore the case officer was satisfied that the development was acceptable in terms of other amenity considerations such as privacy, daylight and sunlight. This section will therefore only review the proposed development in terms of loss of outlook / visual impact.

- 5.5. The following extract from the case officer’s report (**APPENDIX 2**) discusses the Council’s concerns:

*“The proposed building would provide a more significant bulk above ground floor level and, for instance, the existing single storey study on the southern elevation would be replaced by a two storey element incorporating a lower ground floor. While the two storey element incorporates a reasonably deep pitched roof the bulk of the building would be significantly greater than existing, and closer to No.27. This is of particular concern taking into account the Inspector’s previous reasoning relating to the sensitive relationship between the site and the neighbouring property. The existing relationship between the dwellings results in No.27 Elstree Hill having a constrained outlook. While the proposal represents a limited improvement over the previous application, it is not considered that it overcomes the previous concerns regarding residential amenity. The height and bulk of the proposed building would make an already delicately balance relationship between the dwellings worse”.*

- 5.6. As part of this appeal, a 3-D massing model (**APPENDIX 3**) and 3-D massing model showing trees and hedges (**APPENDIX 4**) have been produced to address this first ground of refusal. The 3-D massing models highlight the footprints, scale and bulk of the existing building and compares these to the appeal proposal.
- 5.7. The combined plan view demonstrates that there is a minimal difference in footprint between the two. As the principle building line has been brought forward by 2 metres, this has moved the bulk and massing of the roof away from the rear elevation of 27 Elstree Hill. The existing two storey roof (highlighted in red on **Figure 1.0 – APPENDIX 3**) outlines that the existing building is far more prominent than the appeal scheme when viewed from 27 Elstree Hill. **Figures 3.0, 3.1 and 3.2 of APPENDIX 3**

record the minimal differences between the existing building and the appeal scheme in terms of bulk and mass.

- 5.8. **APPENDICES 3 and 4** highlight existing and proposed views from a first floor window at 27 Elstree Hill. The existing view from 27 Elstree Hill shows that currently there are significant overlooking issues between the two properties. Billingford currently has a prominent bedroom window (drawing number **5187-SK-001**) which overlooks 27 Elstree Hill. The existing dwelling also has a raised terrace which also creates an uncomfortable relationship between the two properties in regards to privacy. The proposed development significantly improves this situation by removing all habitable rooms from the southern elevation as well as the raised terrace. This significant improvement is an important benefit of the appeal scheme which should be given considerable merit.
- 5.9. **Figures 5.0, 5.1 and 5.2** outline that the outlook from Number 27 Elstree Hill will be notably improved as a result of the development. The provision of a cat slide roof instead of the two storey flank reduces the massing and bulk of the building. By moving the principle building line forward by 2 metres the taller parts of the building will be moved away from the outlook of this first floor window. This again demonstrates that the outlook and visual amenity of Elstree Hill will be improved as a result of the development.
- 5.10. The relationship between the two properties will also be improved by the provision of a subtle landscaping scheme. This will provide a verdant line between the two properties and will allow for a pleasant backdrop to the proposed development.
- 5.11. **APPENDICES 3 and 4** highlight that the proposed development will significantly improve the relationship between the two properties in regards to privacy and this is a crucial consideration which needs to be reflected on as part of this appeal. In addition, the 3-D massing models demonstrate that the bulk and massing of the proposed development

is moved away from the outlook at 27 Elstree Hill. This again represents a significant improvement to the relationship between the two properties. Finally, the 3-D models demonstrate the positive impact a landscaping condition would have which would provide a sensitive and verdant line between the two properties.

- 5.12. Therefore the proposed development will therefore improve the amenity of 27 Elstree Hill in regards to privacy and outlook / visual impact. The appeal scheme is therefore in full accordance with Policy BE1 of the Bromley UDP, Supplementary Planning Guidance and Policies 3.5 and 7.4 of the London Plan.

**Ground of Refusal 2 – Is the design of the development harmful to the character of the area?**

- 5.13. The previous appeal (**APPENDIX 1**) was dismissed on the basis that it would harm the character and appearance of the area. Reviewing specific paragraphs from this appeal decision highlights the concerns of the previous scheme. Paragraph 6 of the Inspectors report highlights the issues in terms of scale and states:

*“...when viewed from Elstree Hill, the principal elevation would show three floors of accommodation and, despite occupying the same footprint as the existing building, would be significantly more bulky.....this disproportionate increase in scale and bulk would be apparent from public viewpoints on Elstree Hill adjoining the site...”*

- 5.14. With regards to the height of the dismissed scheme, paragraph 7 of the Inspectors report records:

*“The ridge of the proposed building would also be considerably higher than the existing building. Whilst it would be lower than the ridge height of the adjoining Yew Tree Lodge*

*that is a function of the sloping ground level and would not justify the increased height of the building”.*

5.15. The Inspector concludes in paragraph 11:

*“Nevertheless, the scale and bulk of the proposed building would jar with its neighbours. The proposed building would be out of proportion with both Yew Tree Lodge and 27 Elstree Hill and, therefore have a harmful effect on the character and appearance of the area”.*

5.16. These paragraphs of the appeal decision (**APPENDIX 1**) have directly informed the amended design which is under consideration at this appeal. The scheme under consideration has been significantly amended in the following ways to address the previous dismissal ground relating to design:

- The number of units now sought for the development is now five, down from seven;
- The main roof ridge height has been reduced by 0.54 metres (just 0.22 metres higher than existing);
- Development is now two storey’s in height as opposed to three storey’s when viewed from the street scene;
- Removal of dominant gable frontage and dormer windows on the front elevation;
- Removal of loft accommodation;
- Significant reduction (1.9 metres) in roof ridge height along the western flank of the proposed building;
- Significant reduction in eaves height (1.4 metres) along the western flank;
- Relocation of the building, moving the principle building line 2 metres forward;
- Significant reduction in the level basement accommodation;

5.17. A clear comparison of how the proposed development has been amended from the dismissed scheme is outlined on the submitted street scene plan (**drawing number 5187-PD-003**) and the elevation plan (**drawing number 5187-PD-005**) as well as in **APPENDICES 3 AND 4**. Furthermore, the dismissed scheme is outlined in **APPENDIX 5** of this appeal submission.

5.18. However, as above, notwithstanding the changes the case officer refused the scheme on design grounds. This focused on three paragraphs within the case officers report (**APPENDIX 2**) which will be discussed in turn.

5.19. The first paragraph assesses the height, bulk and width of the building:

*“...while the roof accommodation proposed under the previous application has been deleted, the actual ridgeline of the roof is only slightly lower than the previous proposal. The general bulk and width of the building when viewed from Elstree Hill remains uncharacteristic in the context of the surrounding area, and in terms of front to rear depth of the building and its appearance viewed from the very narrow Kirkstone Way, the proposals are little changed”.*

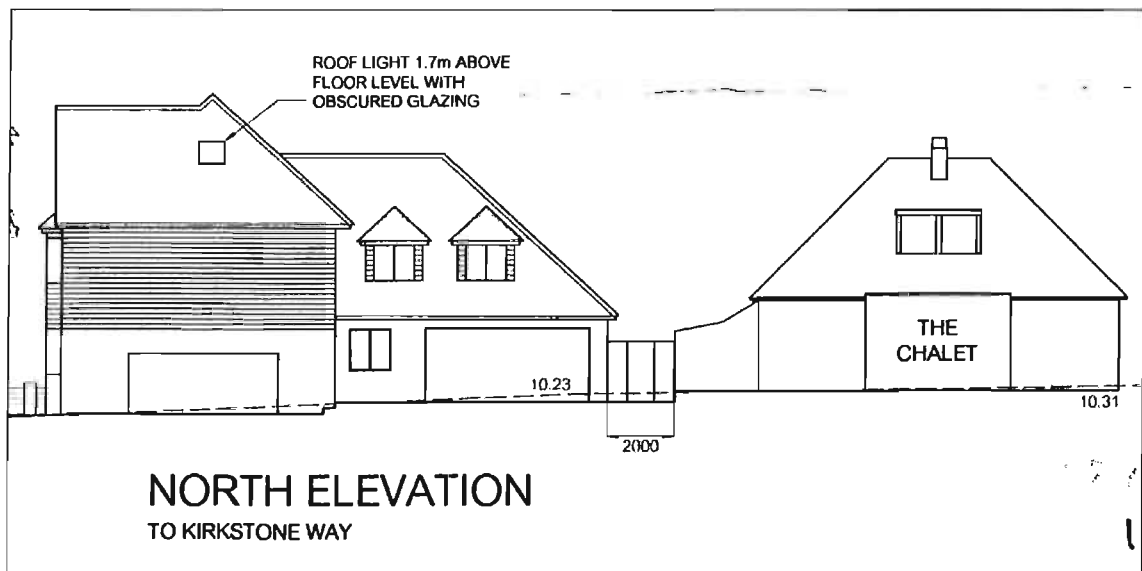
5.20. In terms of height, the proposed built form now exhibits a stepped roof profile which reflects the sloping topography of Elstree Hill and significantly reduces the bulk and presence of the building. At its highest point, the height of the building has been reduced by 0.54 metres from the previously dismissed scheme and is just 0.22 metres higher than the existing building. The staggered nature of the roof profile ensures that the lower part of the roof is 1.9 metres lower than the refused scheme at roof pitch and 1.4 metres lower at eaves. It is also important to highlight that this lower part of the roof matches the existing roof pitch height of the dwelling and is lower at eaves height.



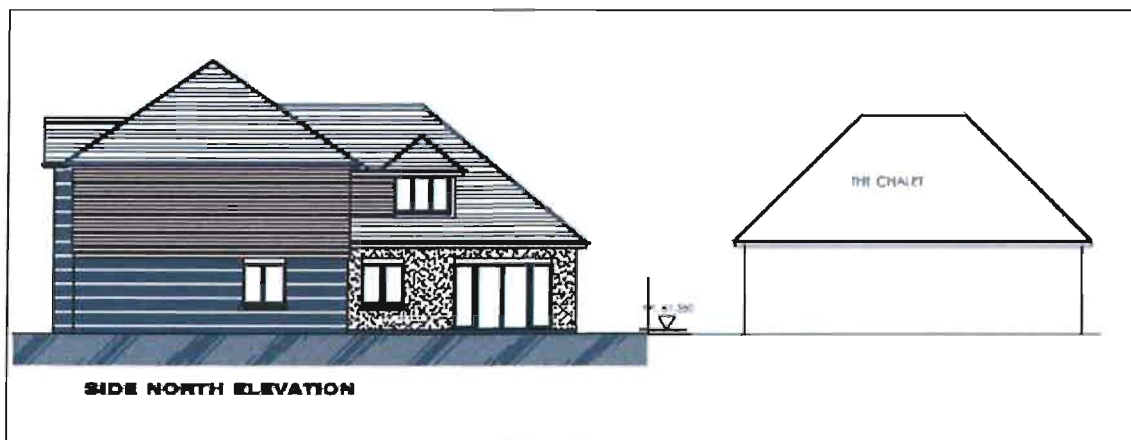
5.21. With regards to the width of the building, the built form will only be 0.8 metres wider than the existing dwelling (i.e. 14.1 metres). This is entirely comparable with Yew Tree Lodge to the north of the site, which is 16.5 metres wide and other built form in Coniston Road (which average 19.5 metres wide). In terms of bulk, the building will exhibit a two storey appearance from the street scene, with no accommodation in the roof, and the basement flat being concealed and incorporated into the topography. This reduces the bulk and scale of the building from Elstree Hill and provides a more proportionate increase to the existing building.

5.22. In relation to the front to rear depth of the building, the replacement built form continues to be in broadly the same location as the existing dwelling. It will be 2.03 metres (just 0.4 metres closer) from the northern boundary with Kirkstone Way ensuring that the spacious character between this property and Yew Tree Lodge is retained. It is also alleged that the proposal is little changed from the dismissed scheme when viewed from Kirkstone Way and on the corner of Elstree Hill. However the below comparison clearly identifies the changes from the dismissed scheme which have broken up the buildings massing and bulk. The reduction in height of the building, the removal of the gable and removal of one dormer clearly demonstrates the significant amendments made to the scheme from this perspective.





*Figure 1: Dismissed scheme.*



*Figure 2: Proposed scheme.*

5.23. The building will also be set well back from the highway, being 15-17 metres from the boundary wall. When viewed from the street scene, the informal character of the road and associated verge increases this distance further. The above points therefore address the first paragraph of the case officer report in relation to design.

5.24. The second paragraph of the case officer's report states:

*“...it is acknowledged that the bulk of the previously proposed front gable has been replaced by a more modest hipped roof, although the multiple hips and staggered gables / single storey / catslide elements presents a quite complicated appearance on this corner plot, with the main bulk concentrated on the corner of Elstree Hill and the narrow roadway wat Kirkstone Way”.*

5.25. In response to this the building has been designed to have a subtle appearance to produce a two storey scale to the building, which ensures that the proposal exhibits the typical built form of other houses in the area. The Inspector accepted in paragraph 4 of his report (**APPENDIX 1**) that there is some variation and architectural style in the area. The proposal reflects this, using modest gables, traditional materials and an asymmetrical form. This asymmetrical form creates a subservient mass to the proposed built form and reflects the existing building and topography of the area. The scale and massing of the building is entirely appropriate on this corner plot.

5.26. The final paragraph on the case officer’s report relating to design states:

*“The concerns raised by the Inspector in relation to the juxtaposition of the previously proposed building and height of Yew Tree Lodge, in addition to the comparison between the existing building and that proposed remain relevant to the assessment of this proposal. Similarly, concerns raised in respect of the previous proposal in terms of the proportion of the site covered by the building and hard surfaces, expressed in terms of the excessive scale and over-intensive use of the site have not been adequately overcome by the revised proposals.”*

5.27. When assessing the juxtaposition between the proposed development and Yew Tree Lodge the bulk and scale of the building from Elstree Hill reflects the presence of this adjoining building, thus directly addressing the Inspectors comments in paragraph 6 of the appeal decision (**APPENDIX 1**). The asymmetrical built form of the building,

enhanced by the staggered roof profile, also assists in reducing the bulk of the new build and ensures that the building does not compete with Yew Tree Lodge. This is reflected by the respective height and width of the building in comparison to Yew Tree Lodge, as depicted on the submitted street scene plan (drawing number **5187-PD-003**).

- 5.28. In addition, the assertion that the Inspector raised concerns in regards to hard surfaces at the front of the building is incorrect. The Inspector actually noted that the relocation of the access (the same arrangement for this appeal scheme), would reduce views of the site and that a lot of the front of the building is already hard surfaced. A sensitive soft landscaping scheme, incorporated into the parking area supports this conclusion. Furthermore, the Council's concerns over the intensive use of the site were not supported by the Inspector (Paragraph 10 of the Inspectors Report – **APPENDIX 1**). In addition, the number of units sought under this development has been reduced from 7 units to 5 units. The previous scheme with reference to Table 3.2 of the London Plan, had a density of 77.8 units per hectare and therefore the density matrix did not support the proposal. By reducing the number of units, the scheme now achieves a density of 55.5 units per hectare, comfortably within the London Plan matrix. The proposal optimises the potential of the site as in accordance with paragraph 58 of the NPPF and London Plan Policy 3.4.
- 5.29. It has therefore been outlined that the amended proposal clearly addresses the ground of refusal, ensuring that the replacement built form complements the scale, form and materials of adjacent buildings. The site layout ensures that built form and space about the buildings is designed to a high quality and complements the surrounding plots. The scheme retains the spacious nature of plots and is set well away from the highway and neighbouring properties. Overall, the development preserves and enhances the residential character of the area.
- 5.30. The scheme is therefore in full accordance with policies 3.5 and 7.4 of the London Plan and policies H7 and BE1 of the Bromley UDP.

**6. CONCLUSION:**

- 6.1 This Grounds of Appeal Statement has demonstrated that the development will improve the relationship with the neighbouring property at 27 Elstree Hill. The proposed building will remove overlooking windows and an existing external terrace which will significantly improve the privacy to the occupiers of 27 Elstree Hill. In addition, in regards to outlook and visual impact, the appeal scheme moves the bulk and mass away from the rear of 27 Elstree Hill which results in a considerable enhancement in terms of amenity. The proposal is therefore in full accordance with Policy BE1 of the Bromley UDP, Supplementary Planning Guidance and Policies 3.5 and 7.4 of the London Plan.
- 6.2 This statement has also highlighted that the replacement built form complements the scale, form and materials of adjacent buildings. In addition the site layout ensures that development preserves and enhances the character of the area and is in full accordance with Policies H7 and BE1 of the Bromley UDP and Policies 3.5 and 7.4 of the London Plan.
- 6.3 The appeal scheme is therefore in full accordance with the Development Plan and the appeal should be allowed.

7. **APPENDICES:**

**APPENDIX 1:** - APPEAL DECISION (APP/G5180/A/13/2198830)

**APPENDIX 2:** - CASE OFFICERS REPORT (DC/15/01673/FULL1)

**APPENDIX 3:** - 3-D MASSING MODEL COMPARISON

**APPENDIX 4:** - 3-D MASSING MODEL COMPARISON SHOWING TREES AND HEDGES

**APPENDIX 5:** - DISMISSED SCHEME DRAWINGS