



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 Website: www.replanning.co.uk

REVISED PLANNING APPLICATION

BY

RIGHTON PROPERTIES

RELATING TO
A PROPOSED REDEVELOPMENT OF
'TREES'
CONISTON ROAD
BROMLEY
BR1 4JB



PLANNING STATEMENT

OUR REF: JA/17/268

JOHN ESCOTT BA (HONS) DipTP MRTPI PETE HADLEY BA (HONS) DipTP MRTPI JOE ALDERMAN MA MRTPI
NEAL THOMPSON BSc (HONS) MSc MRTPI RACHEL ESCOTT BA (HONS) DipTP
CONSULTANT: BOB MCQUILLAN BA (HONS) MCD MRTPI MRICS

1. INTRODUCTION

- 1.1. On behalf of our clients, Richton Properties, we are submitting this revised planning application proposing a redevelopment at the above address. This follows the refusal of application reference 18/02909/FULL1 and the subsequent appeal under reference APP/G5180/W/19/3222725.
- 1.2. The findings of the Inspectorate have informed this revised submission. It is our view that the changes made to the proposal in response to the earlier decision are such that planning permission should reasonably be granted.
- 1.3. The application is supported by a full set of planning drawings prepared by Brouard Architects and an updated arboricultural report prepared by tree consultants, Sylvan Arb.
- 1.4. While the previous application was on the basis of the saved policies of the Bromley Unitary Development Plan (2006), the Bromley Local Plan (2019) had been adopted by the time of the earlier appeal decision. The Inspector's findings in relation to the earlier scheme are a significant material consideration and, in our assessment, this revised proposal fully addresses sole concern which was raised.
- 1.5. Having due regard to the overall objectives of the Council's Development Plan policies we would respectfully request that planning permission is granted for this revised scheme.

2. THE APPLICATION SITE AND SURROUNDING AREA

- 2.1. The site is located on the western side of Coniston Road towards the junction with Elstree Hill. The topography of the area is such that the site slopes downwards from front to back.
- 2.2. The plot is triangular in shape and contains an existing detached property plus a detached garage building. The wider area is distinctly residential in nature and is not subject to any specific policy protection by the Council. It is not located within a conservation area and the existing building is not listed; the principle of its replacement has been established by virtue of the earlier application and appeal.
- 2.3. The Council's mapping records indicate that the site is partially covered by an area or 'blanket' Tree Preservation Order (TPO) dating from the 1960s, with a more recent (2010) TPO covering a number of trees along the Elstree Hill boundary. This includes a protected Whitebeam tree to the front of the property which formed part of the Inspector's deliberations during the earlier appeal.

3. RELEVANT PLANNING HISTORY

- 3.1. Under reference 18/02909/FULL1 an application was submitted which proposed the demolition of the existing dwelling and detached garage and the erection of a terrace of five properties (2 x 4 bedrooms and 3 x 3-bedroom houses) with associated car parking, landscaping, cycle and refuse storage.
- 3.2. In August 2018 this application was refused by the Council for two reasons; the first related to concerns over the potential for the proposed parking arrangements to have a negative impact on the free flow of traffic and existing conditions of highway safety, with the second reason relating to the loss of trees to the front of the site.
- 3.3. The applicants lodged an appeal against this decision, and, in May 2019, the Inspector's decision was received under reference APP/G5180/W/19/3222725. In broad terms, the Inspector was satisfied that sufficient evidence had been provided to demonstrate that conditions of highway safety would not be harmfully effected, and the proposed parking arrangement (including spaces along Elstree Hill) were satisfactory and in accordance with the levels required and overall objectives of the Council's parking policies within the Local Plan.
- 3.4. However, the Inspector shared the Council's concerns with regards to two trees on site T27 (an unprotected Oak tree) and T28 (a protected Whitebeam) and concluded that the loss of these trees would be harmful to local character.
- 3.5. Clearly this earlier appeal decision is a significant material consideration in this case. The findings of the Inspector have been fully reviewed and the scheme updated accordingly; a copy of the Inspector's report is attached at **APPENDIX 1**.

The Inspector's findings in decision reference APP/G5180/W/19/3222725

- 3.6. As stated, the Council's refusal of planning permission for the earlier 5-unit scheme was based on two issues. These related to any effect on highway safety (with particular regard to the proposed parking spaces on Elstree Hill) and any effect on the character of the area through the loss of trees (including one tree (T28) the Whitebeam) which is the
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subject of a TPO. All other issues or considerations were agreed with the local planning authority a being acceptable.

- 3.7. On the first issue relating to highway safety the Inspector considered the detailed evidence provided to the Council in the form of the initial Technical Highways Note prepared by Motion Highway Consultants and the supplementary Addendum Highways Report which was prepared in response to the Council's reason for refusal. These documents are contained at **APPENDIX 2** for information.
- 3.8. The Inspector confirmed that these reports clarified the extent of the applicant's ownership and provided detailed additional information regarding the proposed parking layout, including the dimensions of the surrounding roads.
- 3.9. The detailed evidence provided to the Inspector illustrated how a 6.0m wide carriageway with 2.0m wide footways on either side (in accordance with guidance contained within the Manual for Streets documents) could be created along Elstree Hill. In paragraph 9 of the decision the Inspector clearly concluded that:

'I am not persuaded that in relative terms the proposed scheme would give rise to a significant harmful effect to highway safety in the locality taking into account the existing informal parking arrangements and the remaining width available on Elstree Hill to accommodate both motorists and pedestrians alike. Additionally, the general good visibility that is afforded to drivers in this area will be sufficient to prevent any conflict with other motorists or pedestrians'.

- 3.10. On the basis of the evidence provided, therefore, the Inspector concluded that the proposed parking spaces on Elstree Hill were acceptable and a satisfactory level of parking for the development would be achieved. This was on the basis of a 5-unit development which, again, is a consideration moving forward.
- 3.11. It is clear, therefore, that the proposed redevelopment of the site for housing purposes would not unacceptably harm highway safety or result in any significant inconvenience for

users of the road. No conflict with Bromley Local Plan Policies 30 and 32, or the relevant policies of the London Plan, was identified by the Inspector.

- 3.12. The second key issue under consideration during the earlier appeal related to trees on site. Detailed arboricultural information was provided to the Council with further information provided to the Inspector during the appeal.
- 3.13. The Council's tree officer concluded during the determination of the earlier application that ***'the removal of all proposed tree felling is considered justified, with the exception of the Oak tree and Whitebeam tree situated along the front boundary'***. Therefore, the Inspector considered the effect of the proposed development on these two trees which are T27 (Oak) and T28 (Whitebeam).
- 3.14. During the course of the appeal, as set out in paragraphs 11 to 14 of the Inspector's decision, it was acknowledged and accepted by all parties that trees located within the Tree Preservation Orders that cover the site would not receive any harmful effect from the development, save for some concern over T27 and T28. However, it was suggested by the applicant's tree consultant and accepted by the Council that only T28 (the Whitebeam) is a tree which is formally protected. T27, therefore, carries no inherent protection but the Council raised a concern with its proposed removal.
- 3.15. The Inspector considered that *'the evidence before me indicates that both T27 and T28 are generally in good condition with an expected 20+ years life expectancy'*.
- 3.16. He considered that *'whilst only T28 benefits from a TPO, I find that both T27 and T28 to the front of the appeal site form a prominent feature in the street scene, which positively contribute the wider tree-lined character of the surrounding area'*.
- 3.17. Ultimately, therefore, the appeal was dismissed on the basis of a harmful effect on the character and appearance of the appeal site and surrounding area as a result of the previously proposed loss of two trees, T27 and T28. This finding has informed this revised proposal.

4. THE REVISED PROPOSAL

4.1. Following the Inspector's decision, this revised proposal makes relatively minor changes to the scheme to address the sole remaining issue, that being the previously proposed removal of T27 and T28 from the front of the site. In essence, the scheme has been reduced from 5 units to 4 with Plots 3 and 4 slightly redesigned in order to take account of the need to retain these trees.



Proposed site plan

4.2. As per the submitted plans the proposal is to demolish the existing dwelling and garage on site and erect a terrace of four properties comprising 2 x 3-bedroom and 2 x 4-bedroom houses. Each property will benefit from two dedicated parking spaces (one within the Coniston Road frontage and a secondary space on Elstree Hill, as previously proposed and found to be acceptable by the Planning Inspectorate).

4.3. Plots 3 and 4 have been pushed back into the site to provide a greater separation distance from T27 and T28, with the properties around 2.5m further from T27 (the unprotected Oak) than the existing development on site. This has created a vastly improved relationship between the proposed dwellings and both trees which are now shown to be retained in line with the findings of the earlier appeal Inspector.

- 4.4. The applicant has commissioned Sylvan Arb arboricultural consultants to inspect both trees and consider both the current and the proposed use of the site and to ensure that this revised proposal allows for the long-term retention of these trees, with any necessary mitigation measures set out within the Sylvan Arb report.
- 4.5. The reinspection of both trees has resulted in a slightly smaller root protection distance for the unprotected Oak tree (T27) but suggests a larger root protection distance for T28 (the Whitebeam) which is the subject of a TPO. While both trees are shown to be retained the Sylvan Arb conclusion is that T28 should be downgraded from category B to category C due to its *'uncharacteristic multi-stemmed form presenting structural concerns that will undoubtedly require periodic canopy containment works, thereby limiting the future potential of the tree to become of any greater significance'*.
- 4.6. It is proposed to remove impermeable hard surfacing from within the root protection areas of both trees and the report contains a detailed Tree Protection Plan and Method Statement setting out the tree protection measures to be implemented as part of the development. These could be secured by way of a suitably worded planning condition attached to a planning approval.
- 4.7. In all other respects it is important to identify significant areas of common ground between the applicant and the local planning authority during the course of the earlier application and appeal. The Council's previous assessment identified the following:
- The previously proposed five dwellings were accepted as being appropriate for the site – the only reason the scheme now comprises four dwellings is to take account of the need to retain two trees along the Coniston Road frontage;
 - The Council was previously satisfied that a housing development on the site does not give rise to any harm to the overall residential character of the area;
 - The proposed terrace design sits comfortably within the context of the existing street scene;
 - Each unit will be of a high quality in accordance with all minimum space and other requirements of the London Plan and the Mayor's Housing SPD;

- The development of five units on the site was at an appropriate density – it logically follows, therefore, that a four-unit scheme does not give rise to any concerns of overdevelopment;
 - The proposed design is attractive and appropriate to the site's location;
 - There will be no negative effects on the existing levels of residential amenity nearby;
 - There are no concerns from a drainage point of view; and
 - The scheme will deliver appropriate levels of cycle parking and refuse storage areas.
- 4.8. It should be stressed, again, that the appeal decision earlier this year established one sole issue to be addressed in this revised proposal, that being the retention of two trees (T27 and T28) along the Coniston Road frontage. This revised scheme suitably addresses this sole issue and the proposal therefore represents a sustainable development which should receive the Council's support.

5. RELEVANT PLANNING POLICY CONSIDERATIONS

National Planning Policy Framework (2019)

- 5.1. The main purpose of the Framework remains to achieve sustainable development through a plan-led system. The presumption in favour of sustainable development remains and, if development is sustainable, this should go ahead without delay.
- 5.2. Section 4 deals with decision making and states the local planning authorities should approach decision on proposed development in a positive and creative way. Decision makers are urged to approve applications for sustainable development where possible.
- 5.3. Section 5 of the revised Framework sets out the government's objective of significantly boosting the supply of homes and delivering a sufficient supply of new houses that meet specific needs.
- 5.4. Paragraph 70 refers to windfall sites and states that plans should consider the case for setting out policies to resist inappropriate development of residential gardens, only where development would cause harm to the local area. The Government also recognises that small and medium-sized sites make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.
- 5.5. In relation to highway, parking and sustainable transport matters, paragraph 109 of the revised NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 5.6. Section 11 requires local planning authorities to ensure that planning policies and decisions promote an effective use of land in meeting the need for homes and other uses.
- 5.7. The Government continues to recognise that design is indivisible from good planning, and that high-quality design is a key aspect of sustainable development.

- 5.8. Paragraph 127 seeks to ensure that development proposals add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and are sympathetic to local character and history.
- 5.9. Paragraph 130 recognises that whilst poor design which fails to take opportunities available for improving the character and quality of an area should be avoided, design should not be used by the decision maker as a valid reason to object to development.

PLANNING PRACTICE GUIDANCE (PPG) (2014)

What we consider to be the relevant parts of the PPG are set out below.

Design

- 5.10. Achieving good design is about creating places, buildings or spaces that work well for everyone, look good, last well, and will adapt to the needs of future generations. Development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development.
- 5.11. Planning policies should look to create streets that support the character and use of the area. Plans, policies and decisions can effectively manage physical form at a variety of scales. This is how planning can help achieve good design and connected objectives. Where appropriate the following should be considered:

Layout – the way in which buildings and spaces relate to each other.

Form – the shape of buildings.

Scale – the size of buildings.

Detailing – the important smaller elements of buildings and spaces.

Materials – what a building is made from

THE DEVELOPMENT PLAN

The London Plan

- 5.12. The London Plan explains that the Mayor is clear that London desperately needs more homes in order to promote opportunity and real choice for all Londoners. Accordingly, Policy 3.3 recognises the pressing need for more homes and requires Boroughs to achieve and exceed the relevant minimum Borough annual average housing targets.
- 5.13. Policy 3.4 indicates that, taking into account local context and character, design principles and public transport capacity, development should optimise housing output.
- 5.14. Policy 3.5 emphasises that housing development should be of the highest quality internally, externally and in relation to their context and to the wider environment.
- 5.15. Policy 7.4 recognises that each area will have a different character, and while clear regard must be had to the form, function and structure of an area, proposals should not seek to replicate nearby development but rather represent a positive addition that contributes to the established character of a particular part of each London Borough.
- 5.16. Policy 7.6 seeks to ensure that proposals will make a positive contribution to the streetscape and the wider public realm. The use of appropriate high-quality materials and design is also considered to be appropriate. The Mayor is clear in this policy that proposals must not necessarily replicate the local architectural character, but that the use of sites should be optimised whilst employing good quality design and the use of high-quality materials.

Bromley Local Plan (2019)

- 5.17. Policy 1 – Housing Supply – sets out that the Council will make provision for a minimum average of 641 additional homes per year over the Plan period. The policy recognises that this target will be achieved, in part, with the development or redevelopment of windfall sites.
- 5.18. Policy 4 – Housing Design – requires all housing developments to achieve a high standard of design and layout. Developments are required to respect local character,
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spatial standards, physical context and density. The minimum standards for dwellings as set out within The London Plan and the Mayor's Housing SPG should be adhered to, along with the provision of sufficient external private amenity space that is accessible and practical. Off-street car parking should be well integrated within the overall design of the proposed development.

- 5.19. Policy 8 – Side space – states that when considering applications for new residential development, including extensions, the Council will normally require a minimum of 1.0m side space from the side boundary of the site to be retained for the full height and length of the building. Where higher standards of separation already exist within residential areas, proposals will be expected to provide a more generous side space. The supporting text of Policy 8 sets out that the objectives of the policy are to prevent a cramped appearance and unrelated terracing from occurring.
- 5.20. Policy 30 – Parking – sets out the Council's residential parking standards. states that the Council will normally require off-street car parking spaces to be provided in new residential development, with the amount of car parking requirement dictated by the PTAL rating of the site. In this case a PTAL rating of 3 generates a minimum parking requirement of 3.5 spaces.
- 5.21. Policy 32 – Road Safety – states that the Council will consider the potential impact of any development on road safety and will ensure that it is not significantly adversely affected.
- 5.22. Policy 37 – General Design of Development – sets out general development management criteria to enable an assessment to be made as to whether the design of the development is of a high standard, achieves a good layout, respects the amenities of neighbouring residents and those of future occupants.
- 5.23. Policy 73 – Development and Trees – requires proposals for new development to take account of existing trees on site and on adjoining land, and states that Tree Preservation Orders will be used to protect trees of environmental importance and visual amenity. The policy also suggests that the Council will seek suitable replanting where trees have to be felled as part of development proposals.

New Draft London Plan

- 5.24. The new London Plan was published in late 2017 and was the subject of a consultation process. The Plan includes strong measures to increase housing delivery and sees the London Plan's housing target ambitiously increased. The recent Inspectors report recommending adoption of the updated Plan identifies Bromley as having a capacity-based requirement which is substantially higher than the current target of 641 dwellings per annum (DPA).

The Mayor's Housing Supplementary Planning Guidance

- 5.25. The Mayor's Housing Supplementary Planning Guidance provides guidance on how to implement the housing policies in The London Plan. It is informed by the NPPF and the Government's Housing Strategy for England and sets out the minimum space standards for new residential development in London.

London Borough of Bromley Supplementary Planning Guidance

- 5.26. The Council has adopted two SPGs relating to new residential development in the Borough. These are SPG1: General Design Principles and SPG2: Residential Design Guidance. These documents set out the Council's approach to improving the quality of the Borough's built environment.

Notable recent appeal decisions in relation to housing delivery in the London Borough of Bromley

- 5.27. There have been two recent planning appeal decisions within the London Borough of Bromley, both where planning permission has been granted and where the issue of housing delivery within the Borough has been addressed. These are appeal reference APP/G5180/W/18/3206947 at Hayes Street Farm, Hayes Lane, Bromley and appeal reference APP/G5180/W/18/3206569 at land to the rear of the former Dylon International

premises, Station Approach, Lower Sydenham SE26. Both of these appeal decisions are from June 2019.

APP/G5180/W/18/3206947 – Hayes Street Farm, Hayes Lane, Bromley

5.28. The Inspector in this case considered the extent to which the delivery of new housing should be considered a public benefit where new housing was being proposed in a conservation area and, in this case, where there was also an effect on nearby listed buildings.

5.29. In paragraphs 40 and 41 of his report, the Inspector stated the following:

40. The appellant considers that the extent of this public benefit is affected by whether the Council can demonstrate a 5YHLS. I disagree because BLP Policy 1 states that the Council will make provision for a minimum average of 641 additional homes per annum over the 10-year plan period and LP Policy 3.3 states that Boroughs should seek to achieve and exceed (my emphasis) such minimum borough annual average housing targets. I cannot give full weight to the new draft LP requirement for Bromley of 1,424dpa (set out in the 2017 SHLAA) because this figure has not been moderated or tested at Examination (or no conclusion has yet been reached on such), but the trend for the Borough is only ever likely to be upwards, and probably considerably upwards, of the current minimum figure of 641dpa.

*41. **This means that any provision of new housing in the Borough should be treated as a significant or substantial benefit or be given significant or substantial weight as a benefit.** I give short shrift to the Council's argument that because only nine new houses would be provided, such a benefit would be less than substantial. That is because the NPPF seeks to boost significantly the supply of housing, which signals that **any new houses must command substantial weight as a benefit.** It would be nonsensical to consider otherwise, because if only a large amount of housing would be considered substantially beneficial then an equal cumulative benefit arising from a number of smaller sites would not have been afforded the same weight as a benefit.*

5.30. This decision reaffirms our view that the provision of new residential properties at the application site in this case should be given substantial weight as a public benefit. The Inspector also concluded in the Hayes Street Farm case that the Council has continuously struggled to even deliver its minimum annual housing requirement; this is a material consideration in this case.

APP/G5180/W/18/3206569 – Land to the rear of the former Dylon International premises, Station Approach, Lower Sydenham

5.31. The Inspector in the 'Dylon' case considered the Council's current five-year housing land supply position in some detail. Paragraphs 7 to 18 of the Inspectors report are pertinent to this proposal.

5.32. Whilst the Council currently maintain that they have a five-year supply of deliverable housing sites, the Inspector was clear that evidence that completions will begin within five years must be demonstrated by the local planning authority. In paragraph 18 of his decision the Inspector was scathing of the Council's approach where he states that 'what the lpa has provided comes, in my view, nowhere close to the clear evidence to demonstrate that there is a realistic prospect that housing completions will begin onsite within the relevant five year period'.

5.33. He goes on to conclude that, even without addressing the issues regarding windfalls, dwelling uplift, completions before the base data and office to residential conversions, his conclusions on the contribution of allocated sites and sites with outline planning permission within the recently adopted Local Plan reduces the Council's housing land supply to 'some 4.25 years'. He recognises that this is 'materially below' a level of under-supply that the Council themselves acknowledged as being significant.

5.34. Importantly, the Inspector concludes in paragraph 18 that 'the lpa cannot support the submission that it can demonstrate a five-year housing land supply'.

5.35. Again, this decision reinforces our view that substantial weight should be attributed to the delivery of new housing development in a Borough which has consistently struggled to deliver against its housing targets and identified need.

The Inspector further recognised that, as with the Inspector in the Hayes Street Farm case, the emerging London Plan will necessarily significantly increase the current housing target for the Borough. The '*grave housing crisis facing London*' was sufficient for him to conclude that **'very substantial weight' should be attached to the contribution that new housing development makes to the provision of market housing within the London Borough of Bromley.** This, too, is a significant material consideration in the determination of the proposed development at this site.

6. CONCLUSION

- 6.1. In light of the foregoing, the steps taken in response to the Inspector's comments are such that the proposed residential development of four dwellings on site is compliant with the Bromley Local Plan. The development fully accords with Policy 1, Policy 4, Policy 8, Policy 37 and (importantly) Policy 73 with particular reference to trees.
- 6.2. The prevailing residential characteristics of the street would be fully maintained, and the development will complement the immediate area. This fully accords with the objectives of Policy 4, Policy 8 and Policy 37 of the Local Plan.
- 6.3. It has been held during recent appeal decisions that substantial weight must be given to the benefits arising from the delivery of any new housing within the London Borough of Bromley. The Government continues to have a strong focus on delivering new housing - this site represents one such opportunity.
- 6.4. The spatial standards of the area would be respected and maintained, and the steps taken fully address the sole remaining issue following earlier submissions on site.
- 6.5. Sufficient car parking spaces are to be provided in a location and layout which will have no negative effects on existing conditions of highway safety in the locality. The proposed parking arrangements are therefore fully in accordance with the Council's requirements in Policies 30 and 32 of the Local Plan.
- 6.6. All tree removal required to facilitate the development has previously been agreed with the Council's tree officer. This scheme also allows the retention of the unprotected Oak tree (T27) and the protected Whitebeam (T28) which have been deemed to be of value to the character and appearance of the area. The retention of these trees, therefore, is such that there is no longer any conflict with the overall aims and objectives of Local Plan Policy 73.
- 6.7. As before, the scheme will not affect nearby residential amenities in any negative way and the development will provide much needed additional family accommodation in a sustainable location a short distance from Bromley town centre.

- 6.8. Given the steps that have been taken and the lack of any apparent conflict with the overall aims, objectives and requirements of the Bromley Local Plan, it is respectfully suggested that planning permission should reasonably be granted subject to any necessary safeguarding planning conditions.

APPENDICES

- APPENDIX 1** Copy of decision reference APP/G5180/W/19/3222725 relating to the previous 5-unit scheme under LBB ref: 18/02909/FULL1
- APPENDIX 2** Highways Technical Note dated April 2019 and Addendum Highways Report dated December 18