



**Appeal by Driver and Vehicle
Standards Agency**

Bromley Court Hotel,
Coniston Road, Bromley,
BR1 4JD

Statement of Case

On Behalf of:

**Driver and Vehicle
Standards Agency**

LB Bromley
Application
DC/17/05825/RECON

29th March 2018

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1. Introduction

- 1.1. This appeal is submitted on behalf of the Driver and Vehicle Standards Agency (“the Appellant”) against the refusal of planning permission by the London Borough of Bromley (LBB) for the variation of Condition 5 of planning permission DC/17/00422/FULL2 (the first permission).
- 1.2. The DVSA is an executive agency, sponsored by the Department for Transport, aiming to improve road safety in Great Britain by setting standards for driving and motorcycling, and making sure drivers, vehicle operators and MOT garages follow roadworthiness standards. DVSA are responsible for the statutory regulation of driving instructors and trainers, and promoting voluntary registers and non-statutory activities to improve road safety and driving standards.
- 1.3. The DVSA provides a range of licensing, testing, education and enforcement services. There are over 400 practical driving and multi-purpose test centres and theory test centres run by the DVSA nationally.
- 1.4. The first permission was for:

“Change of use of part of hotel to driving test centre (Sui Generis) for a temporary 12 month period”
- 1.5. The first permission was approved on the 10th April 2017 and was subject to 5 conditions. Condition 5 required the use to cease on or before the 31 March 2018.
- 1.6. A temporary solution was acceptable to the appellant because alternative permanent premises were expected to be secured. In the event, finding suitable premises took longer than anticipated but have now been found. A planning application for the appropriate change of use planning permission will be submitted this spring.
- 1.7. The fundamental purpose of the appeal proposal is to ensure the Appellant can continue to operate an essential service - the continuous provision of driver licence testing – pending the opening of the permanent solution. A S73 planning application (DC/17/05825/RECON) (the appeal application) was submitted to seek an extension of the temporary planning permission for another 12 months in order to enable the continuation of service, including a contingency period. This application was refused by notice dated 14 February 2018 for a single reason:

“The continued use of the site as a driving test centre, by reason of noise and increase in vehicular activity, would result in a detrimental impact upon the amenities of nearby neighbours and would compromise road safety in the area, thereby contrary to Policies BE1 and T18 of the Unitary Development Plan and draft Policies 37 and 32 of the Unitary Development Plan.”
- 1.8. This Appeal Statement sets out the Appellant’s case in support of their planning appeal against this decision. It is very rare for DVSA to submit a planning appeal but it is considered this decision is unjustified.
- 1.9. The following sections of the Statement are structured as follows: Section 2 sets out the location and surroundings of the Appeal Site, and Section 3 examines the Planning History. Section 4 sets out the appeal proposals and Section 5 presents the policy context. Our assessment of the appeal proposal is set out in Section 6, with summary and conclusions in Section 7. Section 8 sets out the proposed conditions.
- 1.10. The Appellant considers the Written Representation route to be appropriate for the consideration of this appeal.
- 1.11. Please see **Appendix 1** for a List of Documents submitted in support of this appeal.

2. The Appeal Site and Surrounding Area

THE APPEAL SITE

- 2.1. The Appeal Site forms part of the Bromley Court Hotel which is situated in south-east London, approximately one mile north of Bromley town centre. The site fronts the western side of Coniston Road, from which access is taken.
- 2.2. Bromley Court Hotel site extends to 1.107 hectares and was originally built as a suburban villa by Charles Long, later 1st Baron Farnborough, in c. 1800. It originally sat in a much larger estate, bordered to the east by the London Road and to the west by the River Ravensbourne. Bromley Court Hotel was established as a hotel in 1904 and the subject building is three-four storeys in height and is in good structural condition. It is served by a dedicated car park providing 82 bays.
- 2.3. The Appeal site comprises two ground floor meeting rooms within Bromley Court Hotel; the Bowie room and the MacMillian room which extend to 37.70 sq. m. There are also twelve car parking bays within the car park which are used by examiners and candidates. The six used by candidates are dedicated whilst examiners use any which are free. The plan at **Appendix 2** shows the location of the candidate car parking and the route to the waiting room. The appellant first occupied the property on 18th January 2017 and it became fully operational on 30th January 2017.
- 2.4. The hotel is neither listed nor locally listed as being of architectural and/or historic interest. The site falls within Flood Zone 1, with an annual flooding probability of less than 1 in 1,000.
- 2.5. The hotel has a Public Transport Accessibility Level (PTAL) of 1b equating to a 'Very Poor' level of public transport accessibility. It is well sited for driving test purposes, having direct access to the main road network (i.e. the A21) and off street car park. The stretch of Avondale Road between Coniston Road and the A21 is a private road owned by the hotel.

THE SURROUNDING AREA

- 2.6. The surrounding area is predominantly suburban in character, with 2 storey detached dwellings situated along Coniston Road. However, Bromley Hill (A21) is located one street block north-east of the site, connected via Avondale Road and is an arterial vehicle route that connects the site to the wider Bromley and metropolitan area. Uses along the A21 are more mixed.
- 2.7. At the junction of Bromley Hill (A21) and Avondale Road, there is a large commercial unit occupied by Beadles Volkswagen. This use generates a similar level of vehicle movements, and given the nature of the use it is considered not dissimilar to that of a driving test centre, as prospective buyers can test drive cars. These test drives generate an additional level of vehicle traffic to the immediate area, and are undertaken on local roads, including Coniston Road.
- 2.8. Further north at Bromley Hill (A21) there is a cluster of commercial and leisure units, including a car site, quasar elite and a garage that again generate car users and visitors to the area.

3. Planning History

- 3.1. A full list of applications in relation to Bromley Court Hotel showing on the London Borough of Bromley's online planning application portal can be found at **Appendix 3**. For expediency, the most significant applications are discussed below.
- 3.2. Bromley Court became a hotel in 1904 and has been used as a hotel continuously since then. The hotel use consequently pre-dates the commencement of the Town & Country Planning Act 1947.

The First Permission

- 3.3. On the 6th February 2017, the DVSA applied for planning permission for the change of use to use two rooms within the hotel building as a driver's licence testing centre (sui generis) for a temporary 12-month period at Bromley Court Hotel, Bromley Hill, Bromley, BR1 4JD. The application was made retrospectively because the it was submitted just after the commencement of driver testing.
- 3.4. The proposal comprised the use of two rooms of Bromley Court Hotel; the Bowie room and the MacMillan room, together with 12 spaces in the car park. The Bowie room would be used as the staff's writing/administration office, while the MacMillan room would be the waiting room for those awaiting examination. 6 of the car parking spaces would be used for candidate/instructor parking and another 6 by the examiners for parking their own vehicles.
- 3.5. The first application (ref. 17/00422/FULL2) was received by LBB on 31st January 2017 and subsequently validated by LBB on 17th February 2017. The application was assigned to Paul Mellor, the case officer.
- 3.6. In response to the 21-day statutory consultation, representations were received which were summarised in the officer's delegated report that can be found in **Appendix 4**, as follows:
 - "One letter of general support received.
 - Concern raised in respect to the increase in vehicle movements and parking and general congestion on surrounding highway network.
 - Car parking for the hotel use is diminished by the proposal and further development of the hotel should provide suitable car parking.
 - Vehicle test manoeuvres on Coniston Road would add to the parking and highway safety issues on the road.
 - The location is inappropriate for such a use, impacting on a large number of local residents.
 - The use is already operating at the hotel and should not be until planning permission is granted
 - Notification of the application has not included the entirety of Coniston Road residents.
 - Concern is raised that the proposed use will be permanent, not temporary as applied for."
- 3.7. The London Borough of Lewisham were consulted but had no comments. LBB Environmental Health also raised no comments. LBB Highways requested an occupancy survey to examine whether the proposed candidate parking was sufficient. This survey was submitted on 31st March 2017 that provided information on the actual number of parking spaces occupied in the hotel car park during week days between 10:00 – 12:00 and 13:00 – 15:00 on two busy weekdays. These findings concluded that the parking was sufficient, and was considered acceptable in highways safety terms. The results of the occupancy survey can be found in the submission documents.
- 3.8. The application was determined under delegated powers. The main conclusions were:
 - The proposed use will not affect the operation of Bromley Court Hotel, as the use was ancillary to the main hotel use; the character of the hotel and wider area was not considered to be significantly affected either.

- The proposed use operated during daytime hours and was confined to the existing building and hotel car park. It was not considered that the development generates a degree of noise and disturbance that impacts harmfully to the amenities of neighbouring properties and was therefore compliant with Policy BE1 of the Unitary Development Plan.
- In regards to highway safety, the provision of 12 car parking spaces was considered to not impact harmfully. The use was accepted that it would generate an additional level of traffic at the site, but this was recognised given the nature of the use. Nevertheless, given the small number of tests that was proposed to be conducted daily, it was considered there will only be minimal impact on conditions of highway safety.
- The results of the submitted occupancy survey demonstrated that there will be no detrimental impacts to either the hotel's or DVSA's operations and there will be no overflow of parking onto Coniston Road or other neighbouring roads. The proposal therefore complied with Policies T1, T2, T3 and T18 of the Unitary Development Plan.
- In conclusion, it was considered the siting, size and design of the proposal was acceptable and did not result in the significant loss of amenity to local residents nor impact detrimentally on the character of the area. No impact on highway safety resulted from the proposal.

3.9. Planning permission was issued on the 10th April 2017. It was subject to 5 conditions:

- I. Implementation within 3 years (but retrospective submission so automatically implemented);
- II. The parking spaces are to be provided and retained for use by the proposed development;
- III. Development to be carried out in accordance with the approved plans;
- IV. The use is not to operate on Sunday, Bank Holiday, Christmas Day or Good Friday nor before 8.00am or after 4.00pm on any other day;
- V. The driving test centre use shall cease on or before 31 March 2018.

3.10. The reason given for condition 5 was:

"In order that the situation can be reconsidered in the light of circumstances at that time in the interest of the character and amenities of the area".

3.11 These conditions have all been observed.

4. The Appeal Proposals

- 4.1. In this section, we describe the appeal proposals. In the first part, we set out the details of the planning application subject of this appeal, in the second we draw attention to operational details of the proposed use as currently operating. Whilst these draw on comments submitted in support of the two applications, if there is any discrepancy reliance should be placed on the comments in this statement as they are the most up to date.

The Application Subject of This Appeal

- 4.2. In December 2017, it became evident that the permanent solution for the test centre was not going to be delivered before the 31 March 2018 and consequently the temporary consent needed to be extended. It is essential for the Appellant to continue to operate an essential service - the provision of driver licence testing – pending the opening of the permanent solution in order to meet local demand.
- 4.3. A Section 73 application was submitted to the London Borough of Bromley on the 12 December 2017 to vary Condition 5 (time limit) of the first permission to allow the Driving Test Centre to continue operating from Bromley Court Hotel for another 12 months, until 31st March 2019. It was thought that this period would be more than sufficient to allow the permanent centre to be secured and would allow for any unforeseen delays.
- 4.4. On the 20 December 2017, LB Bromley issued an invalid notice requesting additional information in order to validate the application:
- “Details of the DVSA’s plan going forward to find a permanent test centre location. Further justification would be helpful as to why a further months is required.” (sic)*
- 4.5. A statement responding to this request was sent to the Council on the 20th December 2017 It confirms that a permanent test centre site had been identified and that it was programmed to commence operation in autumn 2018.
- 4.6. The application was subsequently validated but backdated 21st December 2017 (reference DC/17/05825/RECON).
- 4.7. On the 2nd January 2018, the Highway officer raised concerns about the overflow from the hotel’s car park onto side roads and disruption caused by the driving school. Additional information was requested on four matters:
- An up-to-date occupancy survey and any overflows if any from it;
 - Traffic counts of the learner drivers;
 - A parking stress survey on neighbouring roads;
 - Accident records from the time the application was permitted.
- 4.8. We comment that the appeal proposals are not for a ‘driving school’ but we nevertheless responded to the points raised on the same day. We resubmitted the car park occupancy survey undertaken in relation to the first permission which demonstrated that there was sufficient capacity within the car park during the day and so would be no overspill. These counts were undertaken with the driving test centre in operation and so included candidate and examiner vehicles. We also set out the timing and number of tests per day and referred to vehicle accident records showing there have been no accidents since the grant of the first permission. At the same time, we enquired whether an updated occupancy survey and, if necessary, parking stress survey were required and if so what areas should be surveyed. The response from Cushman and Wakefield can be found in an email correspondence in **Appendix 5**.
- 4.9. The Highway officer also submitted his final response on the same day and confirmed that he had visited the site and observed it in operation for c.35 minutes and that the additional information submitted satisfied his concerns. In particular he commented:

- At the time of the site visit about 25% of the car park was vacant;
- As the application does not seek to change or increase levels of parking and merely to continue existing levels of parking an updated occupancy survey was not necessary;
- During his site visit, only two learner cars entered the hotel and there was one on Coniston Road. As he was leaving, two driving instructors were getting ready to leave the test Centre;
- He observed 5 parking bays allocated to the driving test centre of which 3 were empty;
- It was agreed that there is no overspill of car parking but that in any event there was plenty of parking available on Coniston Road;
- He had double checked the accident records and found no record of any accidents.

- 4.10. In the light of these observations, the Highway officer commented that he had no objection to the proposed extension. A copy of his final response is submitted as **Appendix 6** for convenience.
- 4.11. The application received 85 objections from people living at 64 addresses, as there were cases of more than one objection being submitted from the same address. The addresses included people living in nearby to the appeal site but also living further away such as in Wimbledon, Greenwich, Kensington, Bishop Stortford, Kent, Sussex and Stockton on Tees. A petition which was submitted against the first permission was also resubmitted. The full details and analysis of these objections is detailed in **Appendix 7**.
- 4.12. Due to the number of objections, the application had to be reported to committee and was reported to the LB Bromley Plans Sub-Committee No. 2 meeting on 8th February 2018. The report was prepared by the case officer, which can be found in **Appendix 8**, identified three main issues:
- i. Impact on the character of the area;
 - ii. Impact on the amenities of surrounding residential properties;
 - iii. Impact on highway safety.
- 4.13. With respect to the first issue the case officer concluded that the overall operation of the hotel would not be affected and that neither its, nor the character of the wider area, would be affected.
- 4.14. With respect to the second issue the case officer concluded that the development does not generate a degree of noise and disturbance that impacts harmfully on the amenities of neighbouring residential properties.
- 4.15. With respect to the third issue the case officer concluded that following a review of the latest occupancy survey, accident records, learner driver counts and parking stress, there was no highway safety objection and the level of activity would not result in a significant impact on highway safety.
- 4.16. In the light of his assessment the officer concluded "...the size, and design of the proposal is acceptable in that it does not result in a significant loss of amenity to residents nor impact detrimentally on the character of the area. No impact on highway safety results from the proposal."
- 4.17. The case officer accordingly recommended that planning permission be granted subject to five conditions. These were the same as imposed on the first permission with the exception that the length of the temporary permission be extended by a further 12 months and would expire on the 31/03/19.
- 4.18. The appellant responded to the local residents' concerns through a written statement which was circulated to Members prior to Committee, found at **Appendix 9**. The response stated:

- The DVSA is committed to having the permanent test centre open by the end of 2018;
- Staff at the hotel have not raised any concerns about traffic congestion or complaints from neighbours;
- Driving instructors are highly qualified and are trained not to conduct inappropriate manoeuvres that would impact residents or other road users;
- Driving examiners and instructors are highly trained in relation to pedestrian safety;
- examiners are not aware of any reports of car damage.

4.19. The online minutes for the referred to oral representations in objection to the application received at the meeting and to the receipt of further written objections received. Reference was also made to the supporting documentation received from the DVSA. The minutes then state:

“members having considered the report, objections and representations, resolved that variation of condition 5 be refused for the following reason:-“

4.20. The application was refused by notice dated 14 February 2018 for a single reason:

“The continued use of the site as a driving test centre, by reason of noise and increase in vehicular activity, would result in a detrimental impact upon the amenities of nearby neighbours and would compromise road safety in the area, thereby contrary to Policies BE1 and T18 of the Unitary Development Plan and draft Policies 37 and 32 of the Unitary Development Plan”.

Operational details

- 4.21. In order to remove any ambiguity about how the test centre operates arising from either the submitted documentation or the representations, the following statement has been prepared. This statement supersedes all previous statements and we invite the appeal to be determined of the following.
- 4.22. The proposal is for a driving test centre and not for a driving school. Only learner drivers who have passed their theory examination and who are judged sufficiently competent by their instructor to sit their driving test will attend the test centre. If the candidate passes the test, they will qualify for a full driving licence and will be able to drive unaccompanied on all roads subject only to updating their insurance and displaying a P-plate.
- 4.23. The test centre proposes to continue using a small part of the Bromley Court Hotel as a car driver license testing centre in the same manner as it has been operating since it first opened. It is only a temporary use operating until 31st March 2019 or until such earlier time as the permanent facility becomes available. Whilst the 31 March 2018 date for the cessation of the use under the first permission will have lapsed before the appeal is determined, it is intended to continue the operation of the driving test centre until this appeal is determined.
- 4.24. The driving test centre use will operate from two meeting rooms within the Hotel; the Bowie room and the MacMillan room. The Bowie room will be used by 6no. staff for assessment writing/administration purposes and the MacMillan room is used by customers as a waiting room. Hotel facilities will be available to both candidates and examiners. Access to the MacMillan room is via a separate entrance away from the main hotel reception area but close to the candidate car parking area.
- 4.25. The test centre benefits from the right to use 12 car parking spaces within the main hotel car park. Six of these spaces are reserved and dedicated for use by test candidates and the other six are for use by DVSA examiners but are not reserved. The location of these bays and their relationship to the waiting room is shown on the plan submitted at **Appendix 2**.
- 4.26. The test centre will be for car driver testing only and will operate Monday-Friday only. Tests will start and finish on site with the practical element of the test being conducted elsewhere on the

public highway. A maximum of 6no. examiners will operate from the site on any given testing day. The core testing times are; 08:10, 09:07, 10:14, 11:11, 12:38, 13:35 & 14:32 and so each examiner will undertake a maximum of seven tests per day.

- 4.27. Test candidates arrive at site in the vehicle in which they will be tested up to 10 minutes before their test commences. They are accompanied by their instructor and park in a reserved bay. They then report to the waiting room and return with their allocated examiner to the vehicle to begin their test. The driving test takes up to 40 minutes at the end of which they return to a reserved bay and find out their result. The examiner then returns to the Bowie room whilst the candidates depart the site before the candidates for the next test arrive. Instructors are not permitted to allow candidates to practice in the car park in or out of test centre operational hours.
- 4.28. When the test commences, the test vehicle crosses Coniston Road and travels to the junction with the A21 Bromley Hill via Avondale Road, which is a private road owned by the hotel. At the junction the vehicle will either turn either left or right onto Bromley Hill. Vehicles return to the test centre along the same route, from Bromley Hill via Avondale Road.
- 4.29. Since December 2017, there have been four changes to driving test requirements, one of these is that candidates will follow directions from a satellite navigation system and therefore vehicles stay predominantly on main roads. None of the routes spend any time around the centre as they all head out to open roads, following the satellite navigation towards West Wickham or Beckenham.
- 4.30. The roads around Bromley Court Hotel have been used by instructors for learner driver teaching before the appellant commenced operating from Bromley Court Hotel. That activity is not related to the test centre. That activity will continue after the temporary operation of the test centre ceases.
- 4.31. No changes to the current accommodation are proposed in terms of access and/or parking arrangements by either the DVSA staff or candidates as part of the Section 73 application. The DVSA have worked closely with the hotel management since operation commenced and are always mindful of the hotel's business and clientele in respect to the off-road element of the test. The DVSA meet regularly with hotel staff to review the arrangement and to ensure that no concerns have been raised with the test operations by hotel staff or by local residents to hotel staff.
- 4.32. The property was leased by the appellant to serve as an additional temporary service point for the DVSA's public service activities to assist in the management, and reduction, of waiting time service targets for driving test appointments experienced in the area. It remains essential to meet the scale of demand for driver testing in the locality.
- 4.33. It is intended that testing will be consolidated on a permanent basis at a new test centre. It is expected that the DVSA board will agree lease terms during spring 2018 and that the new centre will open before the end of the year.
- 4.34. Additional time is sought for continued testing at the appeal premises to cover the period up until the permanent centre is open, including some contingency to allow for any prolonged negotiation/delays in acquiring or fitting out the new premises.

5. Planning Policy and Guidance

5.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

5.2. For this Appeal Proposal, the development plan comprises:

- i. The London Plan: the spatial development strategy for London Consolidated with alterations since 2011 (March 2015) (“The London Plan”);
- ii. LB Bromley Unitary Development Plan ‘Saved Policies’ (July 2006) (“the Local Plan”).

5.3. There is no neighbourhood plan in place which includes the appeal site.

5.4. Emerging planning policy can also be a material consideration in the determination of planning applications and appeals. The weight that is attached to emerging documents increases as the stages of adoption advance and according to the extent of unresolved objections and degree of consistency with the NPPF.

5.5. At the current time, The NPPF, the London Plan and the LB Bromley local plan are all subject of review and so we address the emerging documents below.

5.6. The relevant adopted and emerging planning policies are identified below and an assessment made as to whether the emerging policies amend the development plan context for the assessment of these proposals and if so the weight which should be attributed to the emerging policies.

5.7. Further assessment is undertaken in subsequent sections as to whether the proposals accord with the development plan and the weight to be attached to emerging policies and any material considerations in terms of acceptability of the appeal proposal in the overall planning balance.

National Planning Policy and Guidance

National Planning Policy Framework

5.8. In the Ministerial Introduction to National Planning Policy Framework (NPPF) it is stated that “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”.

5.9. Each of the three dimensions of sustainable development are operative in the consideration of the Appeal Proposal. There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- **“an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
- **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural

resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”

- 5.10. These roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions.
- 5.11. The presumption in favour of sustainable development at the heart of the Framework (paragraph 14) which instructs that for decision-taking this means:
- *“approving development proposals that accord with the development plan without delay; and*
 - *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.*
- 5.12. As highlighted in Section 1 above, the encouragement of sustainable economic development is at the heart of the Framework and is of key relevance to the determination of this application. Paragraph 19 of the Framework confirms that planning should operate to encourage and not act as an impediment to sustainable growth. It states that significant weight should be placed on the need to support economic growth through the planning system. Paragraph 20 states local planning authorities should plan proactively to meet the development needs of business, support an economy fit for the 21st century and achieve economic growth.
- 5.13. Paragraph 32 of the NPPF provides guidance on assessing the transport impacts of proposals and concludes:
- “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

Development Plan Policy

A. The London Plan 2015

- 5.14. The London Plan forms the ‘strategic’ tier of the statutory development plan affecting the site. London Borough Local Plans therefore need to be in general conformity with this plan, and its policies guide decisions on planning applications by local planning authorities and the Mayor. The plan does not contain any direct reference to driving test centres but does address ‘social infrastructure which it defines as:
- “Social infrastructure*
- Covers facilities such as health provision, early years provision, schools, colleges and universities, community, cultural, recreation and sports facilities, places of worship, policing and other criminal justice or community safety facilities, children and young people’s play and informal recreation facilities. This list is not intended to be exhaustive and other facilities can be included as social infrastructure.”*
- 5.15. The reason for refusal does not refer to any policies in The London Plan however we consider the following is relevant.
- 5.16. **Policy 3.16 – Protection & Enhancement of Social Infrastructure** acknowledges the need for additional and enhanced social infrastructure provision to meet the needs of its growing and

diverse population. Those development proposals which provide high-quality social infrastructure will be supported in light of local and strategic social infrastructure needs assessments.

- 5.17. **Policy 4.1 – Developing London’s Economy** places emphasis on supporting the greater contribution outer London can make to the capital’s economic success. The policy goes on to support and promote outer London as an attractive location for national government as well as businesses, giving access to the highly-skilled London workforce, relatively affordable workspace and the competitive advantages of the wider London economy.
- 5.18. **Policy 6.13 Parking** seeks to see an appropriate balance between promoting new development and preventing excessive car parking provision. Maximum parking standards are set out in the London Plan. However, there is no parking standard for Driving Test Centres (Sui Generis), given the unique use and operational requirements.
- 5.19. **Policy 7.4 Local Character** states development should have regards to the form, function and structure of an area, place or street. Planning should have regard to the pattern of grain of the existing spaces, contribute to a positive relationship between the urban structure, and allow buildings that make a positive contribution to the character of a place to influence the future character of the area.

B. Bromley’s Unitary Development Plan ‘Saved’ Policies (2006)

- 5.20. The London Borough of Bromley’s Unitary Development Plan (UDP) was adopted in July 2006 and the ‘saved’ policies continue to be part of the Development Plan. Again the plan makes no direct reference to driving test centres. The reason for refusal refers to two policies, BE1 and T18. We also consider that policies C1 and T3 are relevant.
- 5.21. **BE1 Design of New Development** states proposals are expected to be of a high standard of design and layout. Development proposals should not detract from the existing street scene, should respect the amenity of occupiers of neighbouring buildings and those of future occupants and ensure their environments are not harmed by noise and disturbance.
- 5.22. **C1 Community Facilities** stipulates that those proposals for development of change of use that meets an identified health, education, social, faith or other needs of particular communities or areas of the Borough will normally be permitted provided that it is accessible by modes of transport other than the car and accessible to the members of the community it is intended to serve. In this way, the Council seek to promote the provision of developments that would meet the current and future health, education, faith, social or other needs of particular communities or areas of the Borough. It is recognised that community facilities can support social inclusion.
- 5.23. **T3 Parking** Off-street parking spaces in new development will be expected to provide levels no higher than the parking standards set out in Appendix II. These parking standards do not provide guidance for Sui Generis, but the policy does define that parking requirement generated by non-residential development can consist of operation and non-operational parking. Operational parking of development is associated with the premises that are deemed essential to the use such as spaces for staff, these standards are dependent of the nature and factors of the proposed use.
- 5.24. **T18 Road Safety** states when determining planning applications, the Council will consider the potential impact on road safety and will seek to ensure road safety is not adversely affected.

Emerging Policies

A. The Revised National Planning Policy Framework

- 5.25. Consultation on a full revision of the NPPF is taking place until the 10 May 2018. It clarifies the operation of the presumption in favour of development, confirming that the balance test should operate on the basis that permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits of the development.

5.26. It states that significant weight should be placed on the need to support economic growth and productivity (paragraph 82), provide required social, recreational and cultural facilities (paragraph 93), and make the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (paragraph 117).

B. Emerging London Plan

5.27. The Mayor published the draft London Plan in November 2017 and the consultation period has now closed. The comments submitted during the consultation period will be reviewed by the independent Planning Inspector appointed by the Secretary of State to carry out the Examination in Public for the London Plan. The plan is set to shape how London's urban environment develops over the next 20-25 years.

5.28. **Policy GG5 Growing a good economy** states planning must conserve and enhance London's global economic competitiveness and ensure that economic success is shared amongst all Londoners. Additionally, planning should promote the strength and potential of the wider city region.

5.29. **Policy S1 Developing London's social infrastructure** details weight should be given to development proposals that seek to make best use of land, including the public-sector estate, should be encouraged and supported. This also involves the co-location of different forms of social infrastructure and the rationalisation or sharing of facilities.

C. LB Bromley's Emerging Local Plan

5.30. The London Borough of Bromley is currently in the process of preparing a new Local Plan which is anticipated to be adopted in spring/summer 2018. The independent examination has been completed and the Inspector's report is awaited.

5.31. **Draft policy 32 Road Safety** states the Council will consider the potential impact of any development on road safety and will ensure that it is not significantly adversely affected.

5.32. **Draft policy 37 General Design of Development** details all development proposals will be expected to be of a high standard of design and layout. The policy sets out criteria, the ones relevant to the Appeal Proposal are listed below:

- Positively contribute to the existing street scene and/or landscape; and
- Respect the amenity of occupiers of neighbouring buildings and those of future occupants, providing healthy environments and ensuring they are not harmed by noise and disturbance, inadequate daylight, sunlight, privacy or by overshadowing.

6. Assessment of Appeal Proposals

- 6.1. In this section, the planning merits of the Appeal proposals will be considered. In the light of the provisions on Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal proposal will be assessed against the prevailing policy background set by the Development Plan and all relevant material planning considerations, including Government planning guidance in the form of the NPPF and NPPG.
- 6.2. The Committee Report assessed the proposals under the following heads and so for consistency, we have adopted the same approach, with the addition of two headings:
 - i. Impact on Character
 - ii. Impact on Residential Amenity
 - iii. Highway Safety
 - iv. Need for the driving test centre
 - v. The permanent site

IMPACT ON CHARACTER

- 6.3. The reason for refusal alleges the operation of the test centre would have a harmful impact on the amenity of nearby neighbours by reason of increase in vehicular activity.
- 6.4. The Application was for change of use only, retaining the two existing ground floor rooms at the hotel for a driving test centre for a further 12-month period.
- 6.5. The site is considered suitable for the operational requirements of the DVSA; located as it is within the London Borough of Bromley, providing suitable/functional internal accommodation for a short temporary period of time and without the need for excessive financial outlay. Access facilitates the testing use and sufficient, allocated car parking spaces are provided for the use of both examiners and candidates. As aforementioned, 6no. reserved bays will be for candidates, with an additional 6no. spaces elsewhere on site for the use of examiners.
- 6.6. In planning policy terms, the site is undesignated as per the Proposals Map and does not have any other site constraints affecting the proposals. The proposals do not involve any physical alterations to the hotel. Consequently, the only impact that can arise on character is from the operation of the test centre.
- 6.7. The driving test centre use only operates during limited weekday hours which are off peak for the main hotel use (i.e. people staying over the night before will have left/be leaving and those staying the next night have not yet arrived). The operation of the test centre does not conflict with the operation of the hotel.
- 6.8. Emerging London policy S1 developing London's social infrastructure provides significant weight for social infrastructure development proposals that make the best use of land, especially encouraging the co-location of uses. Although, the decision notice or the Officer's committee report did not reference London Plan policy, we believe it to be relevant to this Appeal and further supports the case for approval.
- 6.9. The number of vehicle movements per hour are small relating to a maximum of six cars arriving at the hotel and six cars departing. The route taken means that vehicles on test do not travel along Coniston Road but enter the main road network via Avondale Road which has no houses or driveways fronting it.
- 6.10. We submit at **Appendix 10** a plan showing the location of local properties from which at least one objection was submitted to the appeal application. None of the properties are on the direct route taken by test vehicles and in fact the main concentration of objections comes from properties to the north-west of Hillbrow Road, over 200m from the test vehicle route. We consider that there

has been confusion over the use of local roads by instructors teaching learners and the operation of the driving test centre. The undertaking of lessons is not related to the location of the test centre but rather the pre-existing characteristics of the road in terms of vehicle numbers and road width. The use for teaching will continue whether or not the test centre continues in operation and the impacts of this activity should not be mistaken as arising from the test centre which does not use this part of Coniston Road.

- 6.11. We consider that this conclusion is supported by the comments of local residents which refer directly to drivers having lessons and to those drivers being in the area from 07.00am until 10.00pm – times at which the test centre is not operating notwithstanding driver testing does not take place in Coniston Road in any event.

IMPACT ON RESIDENTIAL AMENITY

- 6.12. The reason for refusal alleges that the operation of the test centre have a detrimental impact on residential amenity by virtue of noise. There is no evidence produced by the council to substantiate this allegation.
- 6.13. The application received 85 objections but there are only three specific references to noise impact which we summarise:
- 49 Coniston Road – notes noise from learner drivers parking on the road and raising the bonnet – we comment that this activity will only happen at the start of the test and in the hotel grounds when part of the test ‘show me tell me’ exercise and so the observed activity is not part of the test centre’s activities;
 - 65 Coniston Road – refers to increases in air and noise pollution – we comment that this allegation is unsupported by evidence and does not indicate that either are unacceptable;
 - 125 Coniston Road – states that if she had paid money to stay at hotel would not be impressed that learners were taking up the car park and generating noise – we comment that there are no objections from hotel residents to the manager about the operation and that the hotel is content to allow the test centre to continue operating for an extended period which would not be the case if the centre was harming its business.
- 6.14. Local policy BE1 of the LB Bromley UDP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.
- 6.15. The proposal operates during daytime hours and is confined to the existing building and hotel car park. We acknowledge that the Appeal site is located in a residential area, however the test route does not use the local roads and there is relatively low levels of car trips generated and these are only during week days when neighbours will be awake. The level of traffic noise generated is no different to that generated by other vehicles and will be lost in the background against the noise generated by the higher volumes travelling along the A21. It is not considered that the development generates a degree of noise and disturbance that impacts harmfully on the amenities of neighbouring residential properties. .
- 6.16. There was a condition recommended as part of the application to ensure the Appellant did not operate on Sunday or Bank Holiday Xmas Day or Good Friday nor before 08:00 or after 16:00 on any other day, in order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the amenities of the area. This condition has been accepted by the Appellant.
- 6.17. Recent photographs of the appeal site can be found in **Appendix 11**. We comment that the candidate parking spaces are located the furthest away from residential properties, and therefore any noise which could be generated by the ‘show me tell me’ exercise will not adversely impact on any residents.
- 6.18. The Appeal proposal comply with local policy BE1 and is therefore considered acceptable.

HIGHWAYS SAFETY

- 6.19. The reason for refusal alleges that the driving test centre “would compromise road safety in the area”. No evidence has been produced by the Council to support this ground of refusal.
- 6.20. The test centre is already operational and the evidence which has been submitted on behalf of the appellant, which has been reviewed and corroborated by the Council’s own highways officer, is that there have been no accidents over the course of this operational period.
- 6.21. Although, residents have stated that there have been vehicle accidents and damages to parked cars, the Highway’s officer at LBB has confirmed that since the application was originally permitted in April 2017 there have been no records of any vehicle accidents in the surrounding area. We have also confirmed that since January 2017, the time at which the centre actually commenced operating, that there were not any accidents over this period. These results can be found in **Appendix 12**.
- 6.22. The Case Officer has stated in his Committee Report that no objections were raised from a Highways Safety perspective to the application, and that whilst it is inevitable there will be some slow traffic from the level of tests and activity at the site, it is not considered this would significantly impact highway safety.
- 6.23. . The Highway’s officer also stated “these young learners have to take driving lessons somewhere. When a driving lesson is going on a residential road the traffic slows down a little bit for few minutes but 5 cars in an hour on different roads in Bromley cannot have adverse impact on traffic volume.” We wish to re-emphasise that this proposal is not related to driving lessons but is for a test centre.
- 6.24. One of DVSA’s core priorities is to improve road safety, and to ensure new drivers are better prepared for the realities of driving on modern roads in today’s driving conditions. When taking their driving test, candidates arrive at the centre accompanied by Approved Driving Instructors (ADIs), who are highly qualified and are specially trained in increase road safety. When candidates take the test, they are accompanied by examiners who are also highly trained and safety aware. When candidates depart the test centre – whether they pass or fail – should they choose to drive they remain accompanied by an instructor as they have no insurance to drive alone at that time. The DVSA conducts regular Local Driving Test Manager (LDTM) surgery’s that seek to improve road safety awareness for both ADIs and examiners to ensure the highest possible levels of road safety.
- 6.25. Overall, the provision of a good driving test centre in this area will contribute positively to the safety on the local road and will not impact detrimentally on it. Therefore the application is in accordance with local policy T18 Road Safety and draft policy 32 Road Safety.
- 6.26. In conclusion, with the robust Committee Report and the Highways commitments’, the refusal by Committee Members was surprising and not based on any evidence. The issues raised by Committee Members have been fully addressed in the Officers Report and not been raised by Planning Officers.

NEED FOR THE DRIVING TEST CENTRE

- 6.27. It is not legally possible to drive a car on the public highway without the driver having been trained to the appropriate standard and having passes a test to demonstrate that the required level of competence has been reached. The DVSA is the executive agency, sponsored by the Department for Transport, responsible for the statutory regulation of driving instructors and trainers
- 6.28. The organisation provides a range of licensing, testing, education and enforcement services. There are over 400 practical driving and multi-purpose test centres and theory test centres run by the DVSA nationally.

- 6.29. One of DVSA's 2017 to 2018 main priorities is to offer 80% of candidates a car driving test appointment within 6 weeks of their preferred date, this has led to an increase pressure on DVSA to protect their driving test centres and to continue to open new centres to ensure these targets can be achieved.
- 6.30. The ability to drive is an essential skill, and will contribute to the Borough's wider regeneration initiatives, increasing resident's skill-sets and improving mobility and access to job opportunities; the proposals will ensure an active and compatible use at the site and employment/training opportunities will be retained as part of these proposals with 6no. staff members proposed to operate from these premises. In this way, it is considered that the proposals fully comply with London plan policies 3.16 Protection & Enhancement of Social Infrastructure and 4.1 Developing London's economy, as well as emerging London policy.
- 6.31. Therefore, the temporary presence of a driving test centre in Bromley will promote the opportunity for locals to increase their skills and raise their aspirations. This additional service point will allow candidates to be seen more efficiently and decrease the waiting times experienced in the area.

THE PERMANENT SITE

- 6.32. The appellant would like to provide some reassurance to the Planning Inspectorate, the LBB and residents that the driving test centre at Bromley Court Hotel is only a temporary solution, and no further extension of time will be sought.
- 6.33. Unfortunately, the appellant had no choice but to request additional time at Bromley Court Hotel, as there was significant difficulty in securing an appropriate alternative location in Bromley. Therefore, it was necessary for the appellant to continue to operate at the appeal site to meet the level of demand while the permanent scheme was to be sought.
- 6.34. A planning application for the permanent test centre is anticipated to be submitted during spring and to be operational before the end of the year.
- 6.35. Cushman and Wakefield are in the process of preparing the change of use planning application for the permanent site but the location of the cannot be shared into the public domain at present. We confirm the site is within a one mile radius of the temporary driving test centre site, to ensure that the appellant can continue to secure the appropriate level of testing provision to meet the level of demand experienced in the local area.
- 6.36. Further details of the permanent site can be provided to the Planning Inspectorate once the application is submitted.

The requested additional year is vital to ensure the appellant can continue to maintain a service level provision to the local communities until the permanent solution is ready.

7. Summary and Conclusions

- 7.1. This appeal relates to the refusal by the London Borough of Bromley for the variation of Condition 5 pursuant to planning permission ref. 17/00422 for change of use of part of hotel to driving test centre (Sui Generis) for a temporary 12 month period RETROSPECTIVE APPLICATION to allow an extension of the temporary permission to 31/03/19 at Bromley Court Hotel, Coniston Road, Bromley, BR1 4JD (reference 17/05825/RECON).
- 7.2. Whilst the Council's planning and highway officers found the proposals acceptable, and recommended approval subject to the imposition of conditions, Committee Members refused the Application on the basis the continued use of the site as a driving test centre, by reason of noise and increase in vehicular activity, would result in a detrimental impact upon the amenities of nearby neighbours and would compromise road safety in the area
- 7.3. The appellant has reluctantly submitted an appeal against the refusal. It is very rare for DVSA, to submit a planning appeal, but they feel as if the decision by Councillors to refuse the application was in contradiction to national and local policy, with no accompanying evidence to justify the decision.
- 7.4. This Statement of Case has set out why the proposals are policy compliant and acceptable and why they should be granted consent.
- 7.5. To confirm, our Grounds of Appeal are as follows:
- The Proposals are acceptable:
 - The proposals are policy compliant;
 - The principle of the driving test centre has been previously established via the previously consented scheme (17/00422/FULL2);
 - The test centre has operated since that time without harmful impact over the last 15 months;
 - There is no evidence of any traffic/pedestrian accidents in the area;
 - The objections raised to the application confuse it operation with the separate activities of driver instruction which do and will take place in the area irrespective of the presence of the test centre;
 - The driving test route does not use local roads and so vehicles will not pass the properties of nearby neighbours;
 - The use is only for a temporary period, albeit a longer temporary period than initially envisaged;
 - There is a local need for the test centre to meet demand for driving tests.
- 7.6. This Appeal has demonstrated that the Application has no negative impact on local amenity or the character or the area and has no highways impacts or safety issues.
- 7.7. Moreover, the Application has full Planning Officer support and there is no objection from the Highways Authority.
- 7.8. The Committee Report concludes:
1. *"Having had regard to the above it was considered that the siting, size and design of the proposal is acceptable in that it does not result in a significant loss of amenity to local residents nor impact detrimentally on the character of the area. No impact on highway safety results from the proposals"*

- 7.9. The Committee Report supports our case for the proposals which accord with national and local policy and accordingly planning permission should not be withheld.
- 7.10. We therefore respectfully request the inspector grants planning permission as soon as possible.

Cushman and Wakefield

March 2018

8. Proposed Conditions

8.1. The Committee Report proposed 5 conditions to be imposed on the planning permission. The appellant accepted these conditions:

1. Timing

The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision

2. Parking

Before commencement of the use of the land or building hereby permitted parking spaces and/or garages and turning space shall be completed in accordance with the approved details and thereafter shall be kept available for such use and no permitted development whether permitted by the Town and Country Planning (General Permitted Development Order 1995 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.

3. Approved Plans and Documents

The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.

4. Hours of Operations

The use shall not operate on any Sunday or Bank Holiday Xmas Day or Good Friday nor before 08:00 or after 16:00 on any other day.

5. Permission Expiration Date

The use of part of the building as a vehicle licence testing centre hereby permitted shall cease on or before 31/03/19 and shall revert to the previous hotel use on or before this date.

