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## **PLANNING APPEAL**

**BY**

**RICHTON PROPERTIES**

**RELATING TO  
THE PROPOSED REDEVELOPMENT OF**

**'TREES'  
CONISTON ROAD  
BROMLEY  
BR1 4JB**

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**GROUNDS OF APPEAL STATEMENT**

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**OUR REF: JA/PR/17/268**

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**1. INTRODUCTION**

- 1.1. We are instructed by Richton Properties to prepare this appeal against the refusal of planning permission under application reference 18/02909/FULL1; the application proposed the redevelopment of the property known as ‘Trees’, Coniston Road, Bromley BR1 4JB.
- 1.2. The application was submitted to the London Borough of Bromley and validated on the 26<sup>th</sup> June 2018 and sought planning consent for the demolition of the existing dwelling and detached garage on site and the erection of a terrace of five new properties. The scheme comprises 3 x 3 bedroom terraced houses and 2 x 4 bedroom terraced houses, each with onsite car parking spaces and generous outside amenity areas. The application sought full planning permission.
- 1.3. By a decision notice dated the 23<sup>rd</sup> August 2018 the Council refused planning consent for the following two reasons –
- 1. The proposed development would not provide an adequate layout of car parking on site and would be liable to obstruct the public right of passage and prejudice the free flow of traffic and conditions of general safety along the adjacent highways contrary to Policies T3 and T18 of the Unitary Development Plan, Draft Policies 30 and 32 of the Proposed Submission Draft Local Plan and Policies 6.12 and 6.13 of the London Plan.*
  - 2. The proposed development would result in the loss of protected trees to the front of the site which in the interests of amenity and environmental importance are considered desirable to maintain contrary to Policy NE7*

*of the Unitary Development Plan, Draft Policy 73 of the Proposed  
Submission Draft Local Plan and Policy 7.21 of the London Plan.*

- 1.4. In light of the above there are two issues for consideration in this appeal. The first relates to car parking/highways considerations and whether the proposed layout of car parking to serve the development gives rise to any demonstrable conflict with the relevant policies of the Development Plan. The second issue relates to trees and whether the loss of protected tree(s) to the front of the site would give rise to any materially harmful effects or conflict with the relevant policies of the Development Plan.
  
- 1.5. The appeal scheme is assessed and analysed in this grounds of appeal statement. It is the appellant's case that the proposal would result in a development which is compliant with the London Plan, the saved Unitary Development Plan (2006) for the London Borough of Bromley, and the recently adopted Bromley Local Plan in respect of car parking and highways considerations.
  
- 1.6. Having regard to the Council's second reason for refusal, further investigation by the appellant's tree consultant has established that in fact only one tree '*to the front of the site*' is covered by a Tree Preservation Order. There is sound arboricultural justification for the loss of a single (category B) tree given the significant overall benefits of the appeal proposal. This issue is discussed in detail later in this statement.
  
- 1.7. Overall, there are significant areas of common ground with the local authority. There is no objection to the proposal in terms of the principle of the redevelopment of the site for housing purposes or the delivery of five residential properties on site. There are no technical objections from a drainage or environmental health perspective, and there is no allegation that the proposed development would give rise to any harm to the amenities of neighbouring properties.

1.8. This appeal, therefore, focuses on the specific issues raised by the Council's decision notice and evidence will be provided in response to each of the issues raised.

2. **THE APPEAL SITE, SURROUNDING AREA AND RELEVANT PLANNING HISTORY**

2.1. In order to avoid repetition, the Inspector's attention is drawn to a detailed analysis of the application site and surrounding area which is contained within the Design and Access statement which was submitted to the Council at application stage. The Planning Statement prepared by RE Planning also contains an assessment of the existing property and the wider area.

2.2. The site is located on the western side of Coniston Road towards the junction with Elstree Hill. The topography of the area is such is that the site slopes downwards from front to back. The immediate area is suburban in its general characteristics, and is in a sustainable residential location a short distance from Bromley Town Centre.

2.3. In terms of relevant planning history, the Council's online planning records do not contain any record of applications relating directly to the application site itself. The Council planning officer's report also confirms that there is no planning history relating to the site which would preclude a residential redevelopment, in principle.

**3. THE APPEAL PROPOSAL**

- 3.1. Again, contained with the Planning Statement and Design and Access Statement is a detailed analysis of the application proposal. The scheme involves the demolition of the existing building and detached garage and the construction of a high quality terrace of five new properties.
- 3.2. The terrace building will have principal elevations facing Coniston Road, and the footprint is designed to be in a staggered format to take account of the site characteristics and to add visual interest to the street scene.
- 3.3. The widths of each of the units are approximately 5.3m, and the houses vary in height between 9.6m for Plots 1, 2 and 5 and 10m for Plots 3 and 4. Dual pitched roof structures are proposed along with front gable features shown on all units.
- 3.4. Each property would be served by two dedicated car parking spaces. The first is a forecourt parking space within the frontage of each property, and the second an allocated space along Elstree Hill on land which is within the appellant's ownership and forms part of the application site.
- 3.5. The application was supported by a detailed assessment of the car parking and highway implications of the proposed development in a Technical Note prepared on the applicant's behalf by Motion highways/transport consultants.
- 3.6. As the Council's online interactive map indicated that the area was covered by a 'blanket' Tree Preservation Order (TPO) made in 1960, the applicants engaged specialist arboricultural consultant Jim Quaipe of Quaipe Woodlands to prepare a full Arboricultural Survey and Planning Integration Report. Again, this was submitted to the Council as part of the application.

4. **RELEVANT PLANNING POLICY CONSIDERATIONS**

- 4.1. In an attempt to avoid duplication, the Inspector's attention is drawn to section 5 of the Planning Statement which supported this application. This contains a detailed breakdown of all relevant planning policy consideration including those set out within the National Planning Policy Framework (NPPF), the London Plan, the saved policies of the Bromley UDP (2006), the Government's Planning Practice Guidance Notes, and the Council's Supplementary Planning Guidance.
- 4.2. The reasons for refusal set out in the Council's decision notice allege conflict with Unitary Development Plan policies T3 and T18 in relation to parking and highway matters, and to policy NE7 in relation to arboricultural issues. The details of the requirements and objectives of these policies is set out within the planning statement.

***Bromley Local Plan (2019)***

- 4.3. It is of note that in January 2019 the Council formally adopted the new Bromley Local Plan (2019). It is therefore a material consideration in this appeal and reference is made in the Council's decision notice to policies which were draft at that time, but have now been adopted. The policies referenced are Policy 30 (Parking), Policy 32 (Road Safety) and Policy 73 (Development and Trees). The detail of these policies is set out below.
- 4.4. Local Plan Policy 30 – Parking – 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.
- 4.5. Table 1 of Policy 30 indicates that residential developments located in PTAL 2 – 6a locations should provide between 1-1.5 spaces for 3+ bedroom properties, and

developments in a PTAL 0-2 location should provide a minimum of 1.5 spaces for 3 + bedroom properties.

- 4.6. Policy 32 – Road Safety – largely reiterates the wording of UDP policy T18 by stating that the Council will consider the potential impact of any development on road safety and will ensure that it is not significantly adversely affected.
- 4.7. 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.
- 4.8. The supporting text of policy 73 stipulates that trees will be assessed against criteria which take into account public visibility, retention span, condition and the risk of loss.

**5. THE PLANNING OFFICER'S DELEGATED REPORT**

- 5.1. The Council's planning officer prepared a delegated report which seeks to set out the justification for the Council's reasons for refusal. Within this report there are a number of comments which are relevant to this appeal.
- 5.2. It is confirmed in the report that no objections are raised to the proposal from the Council's Environmental Health officer, nor from the Council's Drainage Engineer subject to a suitably worded planning condition. In terms of other internal consultation responses the report identifies feedback from the Council's Highways department and Tree Officer. These raise specific issues which are covered later in this statement as these relate directly to the reasons for refusal.
- 5.3. Within the main body of the report the planning officer recognises that housing is a priority use for all London Boroughs. It is recognised that the London Plan seeks to increase housing supply and that local planning authorities are urged to optimise housing potential to allow the delivery of new residential properties across London.
- 5.4. The officer recognises that the Council consider this location to be appropriate for a '*higher density infill development*' and also that the provision of a greater number of housing units on the land as opposed to a single dwelling is '*acceptable in principle*'.
- 5.5. The report confirms that the proposed development would sit comfortably within the recognised density range for a site within a suburban setting. The proposed development is therefore '*considered a suitable level of development for the site*'.
- 5.6. In relation to the proposed design, the officer recognises that the predominant character in the locality is characterised as different periods of design, style and layout. The proposed terraced houses '*in terms of mass and scale with pitched roofs and a terraced townhouse style form, as well as maintaining front and rear building alignments, ridge heights and soft/hard landscape front garden areas*' are recognised



as striking *‘a balance between the existing building line and the local building pattern’*.

- 5.7. The planning officer also acknowledges that the terraced buildings provide unit widths to each dwelling that are comparative to that found locally, and the scheme maintains a distance of approximately 25.0m to the properties opposite between front elevations. The development is recognised as responding to the topography of the site appropriately.
- 5.8. Overall in respect of the design, the planning officer confirms that that *‘in terms of its mass and scale is considered acceptable to the context of the street scene representing an infill development in keeping with its related surroundings’*.
- 5.9. The officer agrees that the scheme provides adequate separation distances from each end terrace unit to the adjacent property in the context of the prevailing pattern of development, and the scheme *‘maintains the established and individual qualities of the area given the predominance of similar style properties in the immediate locality of Coniston Road.’*
- 5.10. In relation to the proposed materials (traditional brick with tiled roofs) the officer states that it is *‘considered that the impact on the character and context of the locality is positive as the building adds a suitable contemporary infill building’*.
- 5.11. The officer’s report then goes on to consider the standard of residential accommodation being provided and confirms that *‘the floor space size provision for all of the units is compliant with the required standards and is considered acceptable’*. It is also confirmed that the shape and room sizes within the proposed units are *‘considered satisfactory’* as none would have a particularly convoluted shape which would limit their specific use.

- 5.12. In relation to amenity space provision the report confirms that Plots 1 to 4 have sufficient outside amenity areas to provide useable spaces for the purposes of family dwelling houses. It is also confirmed that whilst Plot 5 has a triangular form to the rear, the addition of the wide space area alongside the property is such that ‘*a suitable quantum and quality [of amenity area] is provided*’.
- 5.13. Comments from the Council’s highways team are also referenced; it should be stressed that no objections are raised in principle to the number of spaces being provided having regard to the Council’s adopted policies. Concern has been raised, however, over the proposed layout of car parking and the potential for this to ‘*obstruct the public right of passage*’ which gives rise to concerns that the scheme is unacceptable from a highways perspective. Again, this issue is covered later in this statement.
- 5.14. It is confirmed, however, that a suitable amount of cycle parking is provided as part of the scheme, and suitable refuse storage areas adjacent to the front curtilage boundary has also been shown, which is considered acceptable.
- 5.15. The report then goes on to consider the effect of the proposal on nearby residential amenities. The report confirms that ‘*the outlook from windows from the proposed properties is considered to maintain a suitable level of privacy at the intended distances to existing neighbouring property*’. The report also confirms that whilst the outlook from properties opposite the site may change, it is ‘*not considered that there will be a loss of natural light or outlook altered to any significant extent that would warrant withholding planning permission on this basis*’.
- 5.16. The report confirms, therefore, that ‘*it is considered that the building will not be detrimental to neighbouring residential amenity*’.
- 5.17. The report then references the comments from the Council’s Tree Officer. Reference is made to a blanket Tree Preservation Order (TPO) which covers the site and concern

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is raised in relation to two trees – an Oak tree and a Whitebeam – situated along the front boundary. These trees fall within category B within the attached tree survey and the tree officer considers that there is conflict with policy NE7 in relation to the loss of these trees; accordingly, this has formed the basis of the Council’s second reason for refusal. This statement deals with this issue in detail in the next section.

6. **PLANNING ISSUES AND GROUNDS OF APPEAL**

6.1. The planning officer's delegated report and the very specific reasons for refusal identify that there are some significant areas of common ground with the Council.

6.2. The report and the decision notice confirm the following:

- The site can accommodate a terrace of five dwellings as proposed;
- The scheme would not give rise to any harm to the character of the area;
- The development would sit comfortably within the context of the existing street scene;
- The scheme will deliver a high quality housing development in accordance with all the minimum space requirements of the London Plan and the Mayor's Housing SPD;
- The development would be at an appropriate density given the context of the site;
- The design of the proposal is attractive and appropriate to the site's location;
- There would be no harm caused to the residential amenities of neighbouring properties;
- There is no objection to the development from the Council's Environmental Health Officer;
- There are no drainage objections;
- The design of the proposal is attractive and appropriate to the site's location;
- The scheme will deliver appropriate levels of cycle parking and refuse storage areas.

6.3. In light of the foregoing, therefore, the two main issues for consideration in this appeal are (1) whether the scheme provides an adequate layout and amount of car parking to ensure no harmful effect on the conditions of highway safety; and (2) whether the loss

of the two trees to the front of the site results in any demonstrable ‘harm’ which is not outweighed by the benefits of the proposal.

***Issue 1 – car parking layout and conditions of highway safety***

- 6.4. The application to the Council was supported by a detailed highways assessment carried out by Motion highways/transport consultants. This confirmed that sufficient levels of car parking were being provided for each dwelling which is in line with regional and local policy.
- 6.5. The Council’s highways engineers have raised concerns over the proposed parking layout, specifically the use of land within the appellant’s ownership along Elstree Hill for the provision of five car parking spaces (the second of the two spaces to serve each house). Accordingly, Motion have reviewed the highway engineer’s comments and provided an addendum report which is contained for the Inspector’s reference at **APPENDIX 1.**
- 6.6. The Council raised concern over the ‘*public right of passage*’ and suggest that, notwithstanding that the appellant owns the land along Elstree Hill, this cannot be used for the parking of vehicles without causing an obstruction. The additional note from Motion identifies a number of relevant points in respect of what defines a ‘*public right of passage*’ based on the composition of the existing road layout.
- 6.7. Firstly, the land in question is within the applicant’s ownership. It is clearly, therefore, within the ‘red line’ which identifies the application site. It is recognised that the carriageway has become a public right of way over time, and therefore continued access must be maintained. As the addendum report from Motion clearly identifies, it is clear that the existing ‘highway’ constitutes the unmade gravel surface

that is up to 10m in width which is more than sufficient to accommodate all traffic movements.

- 6.8. The Inspector's attention is drawn to the detailed analysis contained in APPENDIX 1 but it is clear that observations of other carriageway widths in the surrounding area demonstrates that the potential revised arrangement can be accommodated comfortably, still providing an effective carriageway width in excess of surrounding roads. The use of the land within the appellant's ownership along the Elstree Hill frontage for car parking as proposed does not create any highway safety concerns, therefore. To that end there is no conflict with saved UDP policy T3 or T18 which are referenced in the decision notice.
- 6.9. The proposed parking on the applicant's land would be on land for which there is no evidence to show that it is currently being used by cars or foot traffic. As such that land is not used as highway and therefore cannot be deemed to be part of the highway. It logically follows that parking on land which is not part of the highway cannot restrict the flow on the highway. In addition Elstree Hill is unmade and more uncomfortable to traverse and so carries less traffic than other local made up roads. Given the nature of the surface, from a safety viewpoint, vehicle speeds are lower.
- 6.10. The evidence demonstrates that the proposal will accommodate all parking demand either on site or within the proposed spaces adjacent to Elstree Hill. The proposed parking layout does not, therefore, impact on the free flow of traffic and is therefore not contrary to the requirements of the Council's policies.
- 6.11. It is also relevant to note that, irrespective of the fact that the evidence shows that additional parking can safely be accommodated on Elstree Hill, the potential addition of one additional vehicle on-street based on current car ownership levels does not result in a highway safety concern within the surrounding area.

- 6.12. It is also recognised that the newly adopted Local Plan was in draft form at the time of the submission of the application. Accordingly, reference to ‘draft’ Local Plan policy compliance in the Motion addendum should now be considered against the policies which have been adopted. However, the policy considerations are largely unchanged as Policy 32 relates to road safety in the same way as UDP policy T18.
- 6.13. Local Plan Policy 30 relates to car parking and indicates that residential developments located in a location with a PTAL rating of 2-6a should provide between 1-1.5 spaces for 3 + bedroom properties and developments in locations with a PTAL rating of 0-2 should provide a minimum of 1.5 spaces for 3 + bedroom properties. Therefore, Policy 30 requires a minimum of 1.5 spaces per dwelling which relates to 7.5 spaces for the 5 properties proposed.
- 6.14. The proposal includes two car parking spaces per dwelling which is in fact in excess of the requirement of the adopted standard.
- 6.15. However, even if the Elstree Hill car parking spaces are discounted (leaving a shortfall of 2.5 parking spaces based on the requirements of Policy 30) the evidence clearly indicates that on-street parking already takes place on all roads surrounding the site, including Elstree Hill and Coniston Road. The highway network is shown within the evidence provided to be of a sufficient width to accommodate the free flow of traffic and on-street parking, and there is therefore no evidence to show that on-street parking is a highway safety issue, even if the proposed parking spaces on Elstree Hill are discounted from the scheme.
- 6.16. Overall, in light of the evidence provided and the additional assessment carried out at APPENDIX 1, it is our firm view that there is no conflict with policies T3 or T18 of the Saved Unitary Development Plan (now superseded) or with Policy 30 and Policy 32 of the newly adopted Local Plan.

- 6.17. On that basis, we are of the firm view that there can be no reasonable resistance to this proposal from any car parking or highway safety perspective.

*Issue 2 – the loss of protected trees*

- 6.18. The application to the Council was accompanied by a full Arboricultural Survey and Planning Integration report prepared by Quaipe Woodlands. This concluded that there would not appear to be any sustainable arboricultural reasons for resisting the granting of planning consent.
- 6.19. In his consultation response to the planning application the Council’s Tree Officer stated 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’*. These trees were considered to be covered by the blanket TPO from the 1960s which covered the site, and the loss of these trees was considered to be contrary to policy NE7.
- 6.20. In light of the Council’s second reason for refusal the appellant’s have instructed Jim Quaipe of Quaipe Woodlands to consider the Council’s Tree Officer’s comments in detail; his further assessment is contained for the Inspector’s reference at **APPENDIX 2**.
- 6.21. The Inspector will note from the additional information provided that the ‘blanket’ or area TPO came into force in 1960. Therefore, at the time of the application, any tree not present at the time the TPO was made (i.e. any tree less than 58 years old) is not protected.



- 6.22. The appellant's arboriculturist, unconvinced that the Oak tree and Whitebeam appeared old enough to be part of the area TPO, took core samples of each tree. This showed that both trees are too young to be protected by the 1960 Order and, therefore, are not in fact trees which are protected from removal. On that basis, there appears to be a strong case to fell the trees, particularly given the limited potential of both specimens.
- 6.23. Further research identifies that the Whitebeam (but not the Oak) is in fact protected by a Tree Preservation Order placed upon it in 2010. The details of this are referenced in the addendum report at APPENDIX 2.
- 6.24. It is therefore the case that of the two trees on the frontage of the site, the Oak tree is too young to be protected by the 1960 area TPO, as is the Whitebeam, but the Whitebeam is protected by a separate TPO placed upon it in 2010. This is not referenced, however, by the Council's Tree Officer or planning officer in their delegated report; indeed, the only reference made to any Tree Preservation Order in the planning officer's report and the comments of the tree officer is the area order placed upon the site in 1960.
- 6.25. The evidence shows, therefore, that in fact only the Whitebeam (T28 on the Tree Schedule) has statutory protection. However, it is in a raised bed of limited size which will inhibit or restrict the future potential of this tree and potentially restrict its life span. The appellant's arboriculturist is of the view that the Whitebeam does not have reasonable long term potential and the overall benefits of the proposed development outweigh any 'harm' which would be caused by the removal of this category B tree.
- 6.26. There is scope to re-provide a higher quality specimen as part of the redevelopment proposals for the site. The appellant is happy to accept a planning condition which

requires the provision of an appropriate species/specimen of tree to be re-provided in place of the Whitebeam.

- 6.27. Overall, the only arboricultural issue is whether the retention of the Whitebeam should frustrate the otherwise acceptable development, (noting that no objection was raised to the removal of other trees on site, irrespective of the Area TPO in 1960) and no objection relating to the work to trees which are contained within the 2010 TPO. The Whitebeam is considered to be a Category B tree of ‘moderate quality’ but the evidence demonstrates why, in practical terms, it has limited potential.
- 6.28. It would seem therefore that in the overall planning balance, the removal of the protected Whitebeam to make way for a development which is of a high quality, sustainable and would deliver family housing in a sustainable residential location, would appear to be justified having regard for the Council’s overall objectives.
- 6.29. It is our view that the scope to plant an appropriate replacement tree of a species and a position that would mitigate the removal of the Whitebeam is a reasonable and sensible suggestion which overcomes the concerns raised by the Council’s tree officer.

## **7. CONCLUSIONS**

- 7.1. In summary, it is the appellant’s firm view that the proposal represents a sustainable development of a high quality of design and scale which sits comfortably within the context of the site. It is recognised by the Council that there will be no demonstrable harm to the visual amenities of the area, nor to the residential amenities of nearby properties.
- 7.2. Detailed evidence is provided at APPENDIX 1 in relation to the first issue and whether the proposed parking layout is adequate. For the reasons set out in the

addendum report, we are of the firm view that there is no material conflict with the objectives of policies T3 and T18 of the now defunct Unitary Development Plan, nor with the overall strategic objectives of Local Plan Policies 30 and 32.

- 7.3. In relation to trees and the second reason for refusal, it appears that neither of the two trees fronting the site (the Oak and the Whitebeam) are in fact protected by the 1960 area TPO. The Whitebeam is protected by a later Tree Preservation Order issued in 2010, however, for the reasons set out in APPENDIX 2, its removal and replacement with a suitable specimen should not preclude the delivery of a high quality, sustainable development.
- 7.4. In the overall planning balance, therefore, and weighing up the obvious and clear benefits arising from a redevelopment of the site, it is our firm view that there can be no reasonable objections or resistance to the redevelopment of the site as proposed on highways/car parking grounds, nor from an arboricultural perspective.
- 7.5. In all of the circumstances and in light of the material considerations in this case, it is respectfully requested that planning permission be granted and that this appeal is allowed subject to any necessary safeguarding conditions.

### **APPENDICES**

**APPENDIX 1**            Addendum Highways Report prepared by Motion Transport Consultants

**APPENDIX 2**            Arboricultural Appeal Statement prepared by Quaipe Woodlands.