



Appeal Decisions

Hearing Held on 4 April 2019

Site visit made on 4 April 2019

by Mr K L Williams, BA, MA, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 September 2019

Appeal A: APP/G5180/W/18/3193635

The Chinese Garage, Wickham Road, Beckenham, BR3 6RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Masters of Beckenham Limited against the Council of the London Borough of Bromley.
- The application, ref: 17/03273/RECON, is dated 13 July 2017.
- The application sought planning permission for the change of use of the existing car showrooms and associated workshops (sui generis) to two retail units (Class A1) and conversion of first floor to 2 two bedroom flats (Class C3) together with associated car parking, landscaping, external alterations and related internal works to Listed Building without complying with conditions attached to planning permission DC/16/02988/FULL1, dated 5 December 2016.
- The conditions in dispute are nos. 21, 22 and 23. These conditions and the reasons for their imposition are set out in the body of this decision.

Summary of Decision: The appeal succeeds. Planning permission is granted in the terms set out in the Formal Decision.

Appeal B: APP/G5180/C/18/3215173

Land at the Chinese Garage, Wickham Road/Stone Park Avenue, Beckenham, BR3 6RH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Masters of Beckenham Limited against an enforcement notice issued by the Council of the London Borough of Bromley.
- The enforcement notice, ref:18/00668/LISTED, was issued on 1 October 2018.
- The breach of planning control as alleged in the notice is the erection of a metal hoarding approximately 2 metres in height along the perimeter boundary of the Land (following the green line on the plan attached to the notice) which falls within the curtilage of a listed building.
- The requirements of the notice are to remove the metal hoarding and leave it in a clean and tidy condition.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be determined.

Summary of Decision: The appeal fails. The enforcement notice is corrected, varied and upheld.

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 16 May 2019.

Preliminary Matter

1. The Hearing was closed in writing on 18 April 2019.

Background

2. The appeal site is outside Bromley and Beckenham town centres. It is known as the Chinese Garage and is at the apex of South Eden Park Road and Stone Park Avenue. There are two retail units in the development approved under planning permission DC/16/02988/FULL1 for the site. Drawing 3997/102 shows the approved site layout. Unit 1 is the southern unit and would have a gross floorspace of 383m². Unit 2 is the northern unit and would comprise 594m². The 3 disputed conditions in Appeal A are nos. 21, 22 and 23. Condition no.21 requires that: *"The premises shall only be open for customer business between the hours of 09:00 and 20:00 on Monday to Friday, 09:00 to 19:00 on Saturday and 10:00 to 17:00 on Sundays and Bank Holidays."* The reason given for the condition is in order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with policy BE1 of the Unitary Development Plan. The appellants propose to replace this condition with a condition requiring that: *"The premises shall only be open for customer business between the hours of 07:00 and 23:00."*
3. Condition no.22 requires that: *"No movement of service vehicles or servicing of the commercial units shall take place at either premises except between the hours of 09:00 and 17:00 Monday to Friday"* The reason given for the condition is to avoid any disruption of the free flow of traffic at roads approaching the Chinese Roundabout in the morning and evening peak hours and in the interest of pedestrian and vehicular safety in order to comply with Policy T18 of the Unitary Development Plan and Policy 6.12 of the London Plan The appellants propose to replace this condition with a condition requiring that: *"No movement of service vehicles or servicing of the commercial units shall take place at either premises except between the hours of 08:00 and 20:00 aside from the delivery of newspapers."*
4. Condition no.23 requires that: *"Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the premises shall be used for retail use (Use Class A1) for (i) pets, pet food, and all pet related products, and ancillary pet care, treatment and grooming services, (ii) beers, wine, spirits and sundry goods and for no other purpose (including any other purpose in Use Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order)."* The reason given for the condition is to enable the Council to reconsider the situation in the event of a change of user in the interest of highway safety and in the amenities of the area and to comply with Policies S7, T18 and EMP5 of the Unitary Development Plan, Policies 4.1, 4.7 and 6.12 of the London Plan and the National Planning Policy Framework.

5. The appellants propose to replace this condition with a condition requiring that: *"Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), Unit 2 of the premises shall be used for retail use (Use Class A1) for convenience goods with 10% of the floorspace for comparison goods. Unit 1 of the premises shall be used for the retail sale of beers, wine and spirits and sundry goods and for no other purpose (including any other purpose in Use Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order)."* This would enable Unit 2 to be occupied by a Tesco Express convenience store.

Appeal A

Main Issues

6. The Council does not resist the proposed changes to conditions nos.21 and 22. On that basis the main issue in Appeal A is in respect of condition no.23. That issue is whether the condition is reasonable and necessary having regard to the replacement condition proposed by the appellants and to:
- i) The Sequential Test for main town centre uses;
 - ii) The effect on highway safety and on the free flow of traffic.

The Sequential Test

7. The Bromley Local Plan (LP) was adopted in January 2019. LP policy 91 requires main town centre uses to be located within the designated town centres or, if no in-centre sites are available, sites on the edge of centres. Only if suitable sites are not available in town centres or in edge of centre locations should out of centre sites be considered. Proposals for new main town centre uses outside of existing centres are required to meet the Sequential Test set out in the National Planning Policy Framework, 2018 (The Framework).
8. Framework paragraph 86 sets out that test. It says that main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. Amongst other things, Framework paragraph 87 says that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
9. In *Aldergate Properties Ltd v Mansfield District Council* [2016] EWHC 1690 (Admin) Mr Justice Ouseley said that the Framework "cannot therefore be interpreted as requiring "suitability" and "availability" simply to be judged from the retailer's or developer's perspective, with a degree of flexibility from the retailer and responsiveness from the authority". The terms "suitable and available" should apply to the broad type of development proposed with regard to approximate size, type and range of goods, generally excluding the identity and personal or corporate attitudes of an individual retailer. Mr Justice Singh's judgment in *The Queen (oao the Midcounties Co-operative Limited) v Forest of Dean District Council v Aldi Stores Limited* [2017] EWHC 2056 (Admin) is consistent with that approach. *Warners Retail (Moreton) Ltd v Cotswold DC and Others* [2016] EWCA Civ 606 is a Court of Appeal judgement. Lord Justice

Lindblom found that in applying the sequential test "What bounds could reasonably be set on an applicant's preference and intentions as to "format and scale" would always and necessarily depend on the facts and circumstances."

10. The appellants contend that they have approached the Sequential Test with an appropriate degree of flexibility and without regard to the identity of the retailer or the presence of competitors restricting their consideration of alternative sites. They observe that there are various types of convenience stores. In this case the proposed convenience store would provide for top-up shopping for both for walk-in and drive-in customers. They identify two formats for top-up convenience stores. Those in town centres are close to main transport hubs. They attract pass-by trade and do not require on-site car parking. A suburban top-up store on the other hand attracts walk-in customers living locally and car users, primarily those already on the highway network. This type of store is said to require a trading space of at least 278m², or 300m² if on 2 floors, plus at least 100m² of back of house space.
11. The Council's evidence shows that there is a range of formats for convenience stores in the area, both within and outside shopping centres. They include Tesco Express stores and similar outlets operated by other retailers. Examples given include town centre stores and those with retail floorspace of 277 m², 205 m² and 176 m². Some do not have on-site car parking. The top-up shopping role of the proposed convenience store would involve the purchase of a small number of non-bulky items. It should not preclude the use of nearby off-site parking. There is a large volume of parking available in various locations within Bromley Town Centre.
12. The specifications identified by the appellants in respect of size and parking provision are relevant considerations. Nevertheless, it seems to me that consideration of potential sites for a town centre or edge of centre top-up convenience should be approached with a greater degree of flexibility than they suggest. The identification of one category as being "suburban stores" would inhibit serious consideration of town centre or edge of centre sites and run contrary to the approach of the Sequential Test. Nor should reliance on off-site parking necessarily render a site unsuitable for a top up convenience store.
13. The Council's updated assessment gives details of 4 sites in Bromley town centre it considered to be sequentially preferable, suitable and available. It later conceded that one of them, 196-198 High Street, is unlikely to be available and can be discounted. Nos.208-214 High Street comprises two units, The site is being marketed as part of an extensive retail development. The Council considers that the development is likely to proceed if an anchor tenant is secured. Nevertheless, the timing of any redevelopment is uncertain and it may not occur. On that basis I do not consider this site to be available.
14. No.98 High Street is available for rent. It has 3 floors. A measured survey gives a retail area of 205 m² on the ground floor. There is 114 m² of retail area and 62m² of storage at first floor level. The second floor has 20m² of storage and some ancillary floorspace. When compared with the examples illustrated in Council's Appendix 3 this unit has a very narrow frontage to the street. In addition, its ground floor layout is very narrow, with the main staircase in the middle of the store. As a result of these factors, when combined with the limited ground floor area, this unit is unlikely to be suitable for the type of development proposed.

15. Unit 1, St Mark's Square is one of the units in a recently completed mixed use development on the fringe of Bromley Town Centre. The development includes a cinema and flats. The planning permission also provides for restaurants or cafés, a retail unit and a drinking establishment. Unit 1 comprises 315 m² gross floorspace. There is conflicting evidence on its availability. The most recently dated of several submitted emails is from Savills and says that the unit "remains on the market for underlet or assignment". The size of the unit would not preclude a top-up convenience store. However, it would be sited within a leisure focussed development, where most visits are likely to be for attending the cinema or visiting restaurants. None of the examples shown in Appendix 6 of the Council's evidence are similarly sited. In that position there is unlikely to be sufficient passing trade during the day as a whole for Unit 1 to be considered suitable for a top-up convenience store.
16. I conclude on this issue that there are no sequentially preferable sites for the type of development proposed which are suitable and available. The proposal would not conflict with LP policy 91.

Highway safety and the free flow of traffic

17. Framework paragraph 109 says 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 impacts on the road network would be severe. Policy 32 of the Bromley Local Plan (LP), 2019 requires that road safety is not significantly adversely affected by development. Policy 31 deals with relieving congestion and provides criteria for development likely to be a significant generator of traffic.
18. The access, parking and servicing arrangements would remain unchanged from those approved in 2016. Drawing 3797/102 shows the access off South Eden Park Road. There would be 23 parking spaces for customers of the 2 retail units. At each arm of the adjacent roundabout there is tactile paving and a central refuge for pedestrians. There are no crossing points controlled by traffic lights or zebra crossings.
19. The appellants have assessed the effect on traffic movements to and from Unit 2 if the condition was changed as they suggest. For each of the hours assessed, the associated vehicle movements would be significantly higher than those associated with the pet related outlet which condition no.23 requires. However, the siting and top-up shopping function of the proposed store would result in a proportion of trips being by vehicles already on the network. These pass-by trips would form part of a longer journey. Based on experience with similar stores elsewhere the appellants assume a range of 20-30% of pass-by trips, varying at different times of the week. An estimated additional flow of 31 vehicles to and 33 vehicles from the site is anticipated on weekdays between 08:00 and 09:00. It is assumed that a proportion of these, perhaps 30-40%, would arrive and depart on South Eden Park Road without needing to use the roundabout. On that basis it is expected that the effect on traffic using the roundabout would be an increase of 19-22 vehicles in each direction in the morning peak period. The appellants contend that this would be insignificant, amounting to one additional vehicle every 3 minutes in either direction. There would be a lesser effect in the evening peak and at other times of the day.
20. The Council's concerns focus on the effect on vehicle queuing, particularly on South Eden Park Road and Stone Park Avenue, on the adequacy of on-site

parking and on highway safety. It takes into account the traffic effects of development on 2 nearby sites, for which planning permission has been granted. There is permission for 105 dwellings on land at the junction of South Eden Park Road and Bucknall Way. There is outline planning permission on land off South Eden Park Road about 400 metres from the site. It includes up to 179 dwellings, with non-residential institution use, assembly and leisure uses.

21. The Council's January 2019 traffic surveys are said to show that the roundabout is running at capacity, with significant queues on all arms. Queues of over 30 vehicles were recorded on Stone Park Avenue. Queues on South Eden Park Road exceeded 25 vehicles at times. The Council also assessed the effect of traffic from the two sites with planning permission on the ratio of flow to capacity (RFC) of each road. In that scenario the RFC figures for morning and evening peak on South Eden Park Road are assessed as 0.98 and 0.67 respectively. For Stone Park Avenue these figures would be 1.16 and 1.11. The effect with the addition of a Tesco Express convenience store is also assessed. This gives RFC figures for South Eden Park Road of 1.01 and 0.68 for the morning and evening peaks respectively. The equivalent figures for Stone Park Avenue are 1.18 and 1.13. Assuming an average customer length of stay, or dwell-time, of 20-25 minutes the Council assesses customer parking provision to be inadequate, with the risk of vehicles queueing on the highway. It is said that this would lead to on-street parking with related risks to road users and pedestrians.
22. The Council's Table 2 LBB ARCADY depicts a scenario with the 2 developments with planning permission and a Tesco Express convenience store. It shows that the RFC for Wickham Road, Hayes Lane and Wickham Way would remain well below 1.00 in the morning and evening peaks. For South Eden Park Road the RFC would marginally exceed 1.00 in the morning peak. For Stone Park Avenue, the RFC would exceed 1.00 to a somewhat greater extent in the morning and evening peaks. However, a comparison of the Council's Table 1 and Table 2 suggests that the contribution of the Tesco convenience store to any increases in RFC would be marginal. Moreover, it is unlikely that top-up shopping trips would be initiated at times when approaches to the roundabout are likely to be congested.
23. With regard to parking provision and dwell-time, the appellants submit survey results from another site which contains a Tesco Express, 3 other units and 19 parking spaces. The total floorspace at that site is broadly comparable to Unit 2. The survey showed average durations of stay at that site of about 8 minutes on Friday, 11 minutes on Saturday and 7 minutes on Sunday. On that basis the Council's dwell-time assumption appears unrealistic. A substantially lower dwell-time would allow a faster turnover of use of the parking spaces. The balance of evidence is that the parking provision would be adequate.
24. If this appeal succeeds a condition could ensure that Unit 1 was used almost entirely for convenience goods shopping. On that basis its use mainly for top-up shopping and the appellants' assessment of additional traffic movements and the likely extent of pass-by trips are credible. There is only limited provision for pedestrians to cross the roads near the roundabout. The appellants' assumption of 30-40% of vehicle visits not needing to negotiate the roundabout appears speculative and may be optimistic. Nevertheless, the extent to which there would be additional traffic using the roundabout would not be sufficient to result in a significant adverse effect on road safety.

25. The term “significant generator of travel” is not defined in LP policy 31, nor is a similar term used in Framework paragraph 111 defined. In this case retail use of Unit 2 is already permitted, the floorspace involved is quite modest, the predicted traffic movements are not large and some trips would be by vehicles already on the network. The proposal would not result in a significant generation of traffic so that LP policy 31 is not relevant in this appeal. It is consistent with Framework paragraph 109 to take into account residual cumulative impacts. Nevertheless, while the convenience store in combination with the 2 permitted developments would contribute to increased traffic queues in peak hours, it would do so only to a small degree. There would not be a severe impact on the road network. The proposed top-up convenience store would be acceptable with regard to highway safety and the free flow of traffic.

Other matters

26. A number of local residents object to the proposed extended opening and servicing hours. A house on Stone Park Avenue and another on South Eden Park road have boundaries which adjoin the site. If this appeal succeeds a further condition could be applied requiring the erection of a screen within the site to reduce noise. Condition no.12 of the 2016 planning permission already requires the submission of a lighting scheme. The appellants say that there would be an opportunity to use smaller delivery vehicles if servicing hours are extended. They suggest that a Service Management Plan could be provided giving details of servicing arrangements. The site is in an urban area with a mix of uses, including commercial uses, and with 5 roads approaching the roundabout. Subject to the imposition of a further condition requiring a screen and a Service Management Plan the effects on residential amenity of the proposed extended hours would be acceptable.
27. Having regard to the limited extent of additional traffic generation there would not be harm to air quality in the area. A further concern of local residents is the potential effect of a convenience goods shop in Unit 2 on local shops, including units in the parade of shops and other outlets on Wickham Road. It provides shopping and other services which are valued by the local community. It is not part of the Council’s case that there would be direct harm by retail impact. The gross floorspace of the Tesco Express would be well below 2500m², the level at which Framework paragraph 89 requires submission of an impact assessment. The appellants say that the opening of Tesco Express outlets elsewhere has not harmed local shops, although substantive evidence of that is not submitted. Their evidence does suggest that the anticipated turnover of the Tesco Express would be modest compared with those of nearby shopping centres. The proposal would provide a further convenience shop within walking distance of residential areas and nearby bus stops. I conclude that there would not be harm to retail provision in the area.

Overall Conclusions on Appeal A

28. Having regard to the above and to all other matters raised Appeal A should succeed. Conditions nos. 21, 22 and 23 of planning permission DC/16/02988/FULL1 are not reasonable or necessary. Planning permission should be granted for the original development subject to the conditions set out in the Formal Decision, including the conditions suggested by the appellants.

Appeal B: The Enforcement Appeal

The Enforcement Notice

29. There is a minor error at paragraph 5 of the enforcement notice, which should refer to leaving the site in a clean and tidy condition. This can be corrected without injustice as set out in the formal decision.

Ground (a) and the Deemed Planning Application

30. The deemed planning application is for the erection of the metal hoarding as alleged in the enforcement notice. The appellants seek a temporary permission for 6 months. The main issue is the effect of the hoarding on the setting of the Chinese Garage as a listed building, on that of the Park Langley Conservation Area and on the character and appearance of the area.
31. The Chinese Garage is a Grade II listed building. It dates from 1928 and was a petrol filling station, motor garage and showroom. The building is significant for its distinctive architectural form and as a survivor from the early days of motoring. A canopy extended over the petrol pumps and the roof structure resembles a pagoda. The listing description also refers to two distinctive tall lanterns and five smaller lanterns in a small garden in front of the building. A large attached workshop building is of a functional appearance. The siting of the Chinese Garage adjacent to a roundabout serving five roads contributes positively to its significance. Part of the Park Langley Conservation Area on Hayes Lane is close to the site. The Conservation Area's is residential in character and its significance includes its spacious layout. The Chinese Garage and the Conservation Area are designated heritage assets. Having regard to proximity and inter-visibility the hoarding is within the settings of these heritage assets.
32. The hoarding is a utilitarian structure comprising linked fencing sections. They are predominantly solid panels. It extends around much of the perimeter of the site. It appears that since the notice was served, part of the hoarding facing Stone Park Avenue has been replaced with fencing panels of an open character. The hoarding is an unsightly and incongruous feature. It appears to have been installed with no thought to the setting of the listed building. Having regard to the temporary period for which permission is sought there would be moderate harm to that setting. The Conservation Area covers an extensive area and only a small part of it is near the appeal site. There would be modest harm to its setting. There would also be moderate harm to the character and appearance of the wider area around the appeal site. It is characterised by a mix of suburban housing and other uses, including car sales and a parade of shops.
33. The hoarding conflicts with policies 38 and 42 of the Bromley Local Plan, 2019. They protect the settings of listed buildings and Conservation Areas respectively. The effect on the significance of the designated heritage assets would amount to the "less than substantial harm", to which paragraph 196 of the National Planning Policy Framework alludes. It is therefore appropriate to consider any public benefits arising from the development. The appellants cite the 2016 planning permission and the need to make the site secure pending changes to it. While the protection and security of a listed building is in the public interest it has not been shown that this could not be achieved in a considered and more sympathetic manner. This matter does not outweigh the identified harm. The appellants also cite Schedule 2, Part 4, Class A of the Town and Country Planning (General Permitted Development) (England) Order, 2015. It permits the provision on land of buildings, moveable structures,

works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land. There are no ongoing operations on this site. Nor is there any certainty as to when any operations will be carried out. I therefore give this matter little weight.

Appeal B: Ground G

34. The 6 month period for compliance sought by the appellants would be akin to the temporary planning permission sought under ground (a). Removal of the hoarding could be achieved quickly. Nevertheless, an extended period is necessary to allow time for a more appropriate design of fencing to be considered and installed, should it still be required. Such a design might also address the effect of solid fencing on sight lines for drivers, a concern raised during the Hearing. The compliance period will be extended to 3 months.

Overall Conclusions on Appeal B

35. Having regard to the above and to all other matters raised Appeal B should not succeed. Planning permission should not be granted. The notice should be corrected, varied and upheld.

Formal Decisions

Appeal A: APP/G5180/W/18/3193635

36. The appeal is allowed and planning permission is granted for the change of use of the existing car showrooms and associated workshops (sui generis) to two retail units (Class A1) and conversion of first floor to 2 two bedroom flats (Class C3) together with associated car parking, landscaping, external alterations and related internal works to a listed building at The Chinese Garage, Wickham Road, Beckenham, BR3 6RH in accordance with the application 17/03273/RECON, dated 13 July 2017, without compliance with condition nos. 21, 22 and 23 previously imposed on planning permission DC/16/02988/FULL1, dated 5 December 2016, subject to the conditions set out in the Schedule attached to this decision.

Appeal B: APP/G5180/C/18/3215173

37. It is directed that the notice be corrected at paragraph 5 by the replacement of the word "it" with "the site". It is further directed that the notice be varied at paragraph 6 by the replacement of the words "one month" with "3 months".
38. The appeal is dismissed. The enforcement notice is upheld subject to the above correction and variation.

K Williams

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of 5 December 2016 as set out in planning permission DC/16/02988/FULL1.
- 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under planning permission DC/16/02988/FULL1.
- 3) Details of the materials to be used for the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The works shall be carried out in accordance with the approved details.
- 4) Details of the windows (including rooflights and dormers where appropriate) including their materials, method of opening and drawings showing sections through mullions, transoms and glazing bars and sills, arches, lintels and reveals (including dimension of any recess) shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The windows shall be installed in accordance with the approved details.
- 5) Before any part of the development hereby permitted is first occupied boundary enclosures of a height and type to be approved in writing by the Local Planning Authority shall be erected in such positions along the boundaries of the site as shall be approved and shall be permanently retained thereafter.
- 6) Details of a scheme of landscaping, which shall include the materials of paved areas and other hard surfaces, shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development hereby permitted. The approved scheme shall be implemented in the first planting season following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
- 7) No part of the development hereby permitted shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being submitted to and approved in writing by the Local Planning Authority.
 - a) The contaminated land assessment shall include a desk study to be submitted to the Local Planning Authority for approval in writing. The desk study shall detail the history of the site's uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved in writing by the Local Planning Authority prior to investigations commencing on site.

- b) The site investigation, including relevant soil, soil gas, surface water and groundwater sampling shall be submitted to and approved in writing by the Local Planning Authority.
 - c) A site investigation report shall be prepared detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors, a proposed remediation strategy and a quality assurance scheme regarding implementation of remedial works, and no remediation works shall commence on site prior to approval of these matters in writing by the Authority. The works shall be of such a nature so as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment.
 - d) The approved remediation works shall be carried out in full on site in accordance with the approved quality assurance scheme to demonstrate compliance with the proposed methodology and best practise guidance. If during any works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme submitted to the Authority for approval in writing by it or on its behalf.
 - e) Upon completion of the works, a closure report shall be submitted to and approved in writing by the Authority. The closure report shall include details of the remediation works carried out, (including details of waste materials removed from the site), the quality assurance certificates and details of post-remediation sampling.
 - f) The contaminated land assessment, site investigation (including report), remediation works and closure report shall all be carried out by contractors approved in writing by the Local Planning Authority.
- 8) The development permitted by this planning permission shall not commence until a surface water drainage scheme for the site and an assessment of the hydrological and hydro geological context of the development has been submitted to, and approved by, the Local Planning Authority. The surface water drainage strategy should seek to implement a SUDS hierarchy that achieves reductions in surface water run-off rates in line with the findings of the submitted Foul Sewage & Surface Water Drainage Assessment report carried out by Wormald Burrows Partnership Ltd with Ref No. E3564-DRAIN-Rev1-0516 dated May 2016 to limit the discharge rate to 2l/s.
- 9) Prior to the commencement of the development hereby permitted a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include measures of how construction traffic can access the site safely and how potential traffic conflicts can be minimised; the route construction traffic shall follow for arriving at and leaving the site and the hours of operation but shall not be limited to these. The Construction Management Plan shall be implemented in accordance with the agreed timescale and details.
- 10) No wall, fence or hedge on the street facing boundaries or on the first 2.5m of the flank boundaries shall exceed 1m in height, and these means of enclosure shall be permanently retained as such.

- 11) Before the access hereby permitted is first used by vehicles, it shall be provided with 3.3m x 2.4m x 3.3m visibility splays and there shall be no obstruction to visibility in excess of 1m in height within these splays except for trees selected by the Local Planning Authority, and which shall be permanently retained thereafter.
- 12) Details of a scheme to light the access drive and car parking areas hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted is commenced. The approved scheme shall be self-certified to accord with BS 5489 - 1:2003 and be implemented before the development is first occupied and the lighting shall be permanently retained thereafter.
- 13) The arrangements for storage of refuse (which shall include provision for the storage and collection of recyclable materials) and the means of enclosure shown on the approved drawings shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
- 14) Before any part of the development hereby permitted is first occupied, bicycle parking (including covered storage facilities where appropriate) shall be provided at the site at 2 spaces for each residential unit in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and the bicycle parking/storage facilities shall be permanently retained thereafter.
- 15) The existing access shall be stopped up at the back edge of the highway before any part of the development hereby permitted is first occupied in accordance with details of an enclosure to be submitted to and approved in writing by the Local Planning Authority. The approved enclosure shall be permanently retained as such.
- 16) While the development hereby permitted is being carried out a suitable hardstanding shall be provided with wash-down facilities for cleaning the wheels of vehicles and any accidental accumulation of mud on the highway caused by such vehicles shall be removed without delay and in no circumstances be left behind at the end of the working day.
- 17) Surface water from private land shall not discharge on to the highway. Details of the drainage system for surface water drainage to prevent the discharge of surface water from private land on to the highway shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of works. Before any part of the development hereby permitted is first occupied, the drainage system shall be completed in accordance with the approved details and shall be retained permanently thereafter.
- 18) 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 (England) 2015 (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.

- 19) The flat roof area of the ground floor commercial units shall not be used as a balcony or sitting out area for the upper level residential flats and there shall be no access to the roof area.
- 20) Before any work is commenced on the access/highway works a Stage 1 and where appropriate a Stage 2 Road Safety Audit (these may be combined with the prior agreement of the local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented strictly in accordance with the approved details to the satisfaction of the Local Planning Authority before any part of the development hereby permitted is first occupied. A Stage 3 Audit shall be submitted to and approved in writing by the local Planning Authority following satisfactory completion of the works and before they are opened to road users. The road safety auditor will also request for a member of LBB traffic team to be present on site at the time of audit.
- 21) The premises shall only be open for customer business between the hours of 07:00 and 23:00 hours.
- 22) No movement of service vehicles or servicing of the commercial units shall take place at either premises except between the hours of 08:00 and 20:00 aside from the delivery of newspapers. Before Unit 2 is brought into operation details of a Servicing Management Plan for that unit shall be submitted to and approved in writing by the Local Planning Authority. The servicing of Unit 2 shall thereafter be operated in accordance with the approved Servicing Management Plan.
- 23) Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), Unit 2 of the premises shall be used for retail use (Use Class A1) for convenience goods with 10% of the floorspace for comparison goods. Unit 1 of the premises shall be used for the retail sale of beers, wine, spirits and sundry goods and for no other purpose (including any other purpose in Use Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).
- 24) Details of a screen to protect the adjoining residents beyond the western boundary of the site from noise and disturbance shall be submitted to and agreed in writing by the Local Planning Authority. The screen shall be erected in accordance with the approved details before any part of the development hereby permitted is first occupied and shall thereafter be retained.

APPEARANCES

FOR THE APPELLANT:

Ms C Colquhon	of Counsel.
Mr Roe	Tesco.
Mr Hanks	Transport Planning Associates
Mr Lowes	Rapleys LLP.
Mr Crutchley	Heritage witness.

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Bord BA(Hons), PG Dip MRTPI	Principal Planner, London Borough Bromley.
Mr N Rastani BEng (Civil) PG Dip (Transport), MCIHT	Highways Development Manager, London Borough Bromley
Mr N Ahad BSc (Civil), MSc (Construction Management), MCIHT, GICE	Highway Development Engineer.

INTERESTED PERSONS:

Mr Macfarlane	Local resident
Mr A Duncan	Local resident
Ms Eddowes	Local resident
Ms Stamper	Local resident
Ms Shotton	Local resident
Ms Green	Local resident
Mr Oakley	Local resident
Mr Possamoll	Local businessman
Mr Calder	Local resident

DOCUMENTS SUBMITTED DURING THE HEARING

1. Council's Sequential Assessment – 26 March 2019.
2. Set of Photographs of the site.
3. Email of 26 March 2019 concerning Unit 1, St Mark's Square, Bromley.
4. Emails of 21 March and 26 March 2018.
5. Draft Statement of Common Ground.
6. Council's suggested condition.
7. Marketing details for St Mark's Square.
8. Map of Bromley Town Centre.
9. Council's list of appearances.
10. Copy of drawing 3797/102.
11. Council's email to the Planning Inspectorate, 10 April 2019.
12. Rapleys letter to the Planning Inspectorate, 10 April 2019.
13. Council's letter to the Planning Inspectorate, 15 April 2019.
14. Rapleys email to the Planning Inspectorate, 17 April 2019.
15. Rapleys letter to the Planning Inspectorate, 17 April 2019.
16. CV of Matthew Rose.
17. Appellants' Summary Closing.