



# Appeal Decision

Inquiry held on 16-19 March 2010

Site visit made on 18 March 2010

by **Terry G Phillimore MA MCD MRTPI**

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

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**Decision date:  
15 April 2010**

## **Appeal Ref: APP/G5180/A/09/2114194**

### **Former Dylon International Ltd, Worsley Bridge Road, London SE26 5HD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Relta Limited against the decision of the Council of the London Borough of Bromley.
- The application Ref DC/09/01664/FULL1, dated 15 June 2009, was refused by notice dated 15 September 2009.
- The development proposed is demolition of existing buildings and redevelopment of the site by the erection of a basement and part five, part six, part seven and part eight storey development for use as B1 office accommodation (6,884m<sup>2</sup>), A1 retail (449m<sup>2</sup>), A3 café/restaurant (135m<sup>2</sup>), D1 crèche (437m<sup>2</sup>) and 149 residential units (32 one bedroom, 78 two bedroom, 39 three bedroom) with ancillary associated parking and private landscaped open space.

## **Decision**

1. I allow the appeal, and grant planning permission for demolition of existing buildings and redevelopment of the site by the erection of a basement and part five, part six, part seven and part eight storey development for use as B1 office accommodation (6,884m<sup>2</sup>), A1 retail (449m<sup>2</sup>), A3 café/restaurant (135m<sup>2</sup>), D1 crèche (437m<sup>2</sup>) and 149 residential units (32 one bedroom, 78 two bedroom, 39 three bedroom) with ancillary associated parking and private landscaped open space at Former Dylon International Ltd, Worsley Bridge Road, London SE26 5HD in accordance with the terms of the application, Ref DC/09/01664/FULL1, dated 15 June 2009, and the plans submitted with it, subject to the conditions set out in the attached schedule.

## **Procedural matters**

2. At the inquiry a unilateral undertaking pursuant to section 106 of the Act was submitted by the appellant. This contains planning obligations relating to affordable housing provision and traffic orders, which I deal with below.

## **Main issues**

3. The main issues are:
  - a) the effect the proposal would have on the character and appearance of the area including having regard to loss of the existing locally listed building, the height, scale and design of the development, views from Metropolitan Open Land, and the impact on trees;

- b) whether the proposal comprises an acceptable mix of uses taking into account the business area designation of the site, local and national office location policies, the scope for alternative uses of the site coming forward, and the likely employment effects.

## **Reasons**

### ***a) Character and appearance***

#### *Existing building*

4. The site accommodates vacant office, workshop and storage buildings totalling 6,230m<sup>2</sup>. The frontage of the site at the junction of Worsley Bridge Road with Station Approach comprises a triangular grassed area. Facing onto this is a 2 and 3 storey red brick-faced office building, to the rear of which is the main production and storage shed-type structure.
5. The frontage building dates from the 1930s. It was designed as a corporate landmark building in modern style with a flat roof, mainly horizontal metal glazed windows and central tower element. Due to its design features and the relative rarity of its type in the Borough it has been placed on the Council's local list of buildings of interest. The appellant has criticised the method of listing and argued that the particular qualities of the building are limited. However, the proposed replacement of the building is subject to the requirements of policy BE10 of the Bromley Unitary Development Plan 2006. These are a demonstration that all reasonable options for the retention of the building have been considered, and that the proposed new building is of an exceptionally high standard of design.
6. I deal with the marketing of the site with its existing buildings under the second issue, where I find that this has been carried out as a genuine exercise with no takers being found. The Council confirms that only the brick office structure in its view warrants retention under the policy. This is not freestanding, but in effect is an office frontage to which the rear industrial sheds are attached. I understand that potential redevelopment schemes which provided for adaptation of the office element for other uses have been put before the Council by the appellant. These proposals included building on part of the designated Metropolitan Open Land to the rear of the site. These options were opposed by the Council, and there appears to be no likelihood of such a scheme extending onto the MOL being acceptable.
7. There is no alternative evidence to that of the appellant which contends that, without the inclusion of the MOL, no viable scheme for the site that includes retention of the office frontage has been identified. I also accept the appellant's arguments in architectural terms that the retention of the structure would impose a severe constraint on development of the site, including with respect to the need to retain the frontage open space. In this regard the Council did not in evidence claim any wider townscape function for the open space beyond that of providing a setting for the existing building.
8. I consider that the first element of the policy is met. The further requirement of the policy relates to the merits of the replacement building, and I assess this next.

*Height, scale and design of the proposal*

9. The west side of Worsley Bridge Road to the north and immediately adjacent to the south-east of the site also comprises 2 and 3 storey industrial and warehousing accommodation, with some units in non-business uses. Commercial accommodation continues further to the west beyond Lower Sydenham station and the railway line. On the east side of Worsley Bridge Road is some 1990s residential development with a mix of 2 storey detached, semi-detached and terraced properties around a cul de sac and 3 storey flat blocks. There are 2 storey semi-detached type flats further to the north. Immediately to the south of the site and to the south-east on both sides of Worsley Bridge Road are extensive areas of playing fields which are covered by Metropolitan Open Land designation. The context of the site therefore combines relatively low rise commercial and residential buildings and a significant degree of spaciousness provided by swathes of recreational land.
10. The proposal is for a U-shape of buildings positioned towards the edges of the site around a landscaped central courtyard area. Blocks along Station Approach and Worsley Bridge Road would rise to 5 storeys, with the top floor set back. These would comprise offices above ground floor retail, café and crèche, with a widened pavement area on Station Approach. Towards the south the height of the residential development would increase in steps to 8 storeys, with two end blocks separated by the courtyard. Outward elevations of the development would be stock bricks, with inset windows and metal balustrades with timber rails to recessed balconies. Vertical sub-division would be provided by full height metal channels. The inward elevations would be clad in steel and translucent glass, with projecting timber clad balconies.
11. The proposal would thus be a substantial change in the form of buildings on the site. It would also introduce a scale of development and a verticality that are in contrast with the main features of the surroundings. Policy BE1 requires that new development should complement the scale, form, layout and materials of adjacent buildings and areas. The Council acknowledges that this does not represent a requirement to emulate the existing situation, and accepted that the particular setting has some capacity to absorb change. The key issue is whether the extent and nature of the particular change in this case would be appropriate and contribute to its context.
12. The Council ascribes a 'suburban' character to the locality, based on its combined low rise and open form. The appellant prefers to describe it as 'urban'. These terms have no fixed definitions, but the characteristics of each type identified in the London Plan are of assistance. This defines a suburban setting as areas with predominantly lower density development such as detached and semi-detached houses, predominantly residential, with small building footprints and typically buildings of 2 to 3 storeys. While the heights of existing buildings in the area conform to this, the strong presence of industrial/warehousing uses in large blocks and the mix of residential types do not. The area does not have some of the denser forms of residential development and proximity of a district centre or arterial routes that are features of urban areas, but the mix of uses is an urban characteristic.
13. In my view the existing built form in the area is not of a distinctive character or quality such as to significantly constrain the nature of new development on the

site. I give substantial weight to the well-qualified judgment of the appellant's expert urban design evidence in terms of the potential of the site and location for a considerable increase in intensity of development in line with London Plan objectives. This has regard to the proximity of the site to a train station, and argues the benefits of improving townscape legibility by way of a well-defined street frontage and of introducing street level activity. These factors in my opinion offset the loss of the existing open frontage.

14. The scheme is designed by Ian Ritchie, an acclaimed architect of international standing. Consistent with this, the proposal shows skilled design with carefully considered details and overall coherence in the layout and elevational treatments. Interest would be created by the varied roofline. Overall I consider that the development would not give rise to an overbearing relationship with other built elements of the local context and street scene.

#### *Metropolitan Open Land*

15. Policy G2 requires among other things that the openness and visual amenity of the MOL should not be injured by proposals conspicuous from the MOL which might be visually detrimental by reason of scale, siting, materials or design. Policy G6 includes that development on land abutting MOL will not be permitted if it is detrimental to the visual amenity or character of the designated area.
16. The playing field immediately to the south of the site is a wedge between the railway line and industrial buildings of a much wider area of sports grounds covered by the MOL designation. The submitted image from a position in this field indicates that there would be a substantial change in view resulting from replacement of the low rise buildings on the site by the angled 8 storey end blocks divided by the central courtyard space. My judgment on the acceptability of this is largely based on the more dynamic perception gained at the site visit, in which the relatively secluded nature of this part of MOL and the low quality edge provided by the existing commercial buildings were strongly apparent. The new buildings would be a dominant feature seen from this area, but having regard to their careful composition and in the context of the sweep of trees and other buildings they would not in my opinion be visually detrimental or detract from openness. Located to the north of the MOL, they would not give rise to any overshadowing. In more distant views from other parts of MOL the proposal would be easily absorbed into the wider townscape. I find that the MOL policies are complied with.

#### *Trees*

17. There are a number of existing trees along the edge of the green space on the site frontage. Most of these are agreed to be of low value, but two young mature maples are protected by a Tree Preservation Order and agreed to be of good quality.
18. One maple is proposed to be removed. The loss of this tree in isolation would be harmful to amenity. However, the proposal includes tree planting both along the rear edge of the site adjacent to the railway line and along the new street frontage. As part of a comprehensive scheme of development for the site, I consider that the overall effect in terms of landscaping of the setting would be beneficial. With respect to the maple to be retained, concern about

the long term effect of the development by way of root damage and proximity could adequately be dealt with by way of a condition on tree works details.

19. In its context I consider that the proposal pays sufficient regard to trees as required under policy NE7.

*Conclusion on the first issue*

20. In my opinion the standard of the proposal is such as to meet the requirement of policy BE10, and this policy is complied with. As a further consideration it is unchallenged that the appellant intends the imminent demolition of the existing buildings, with no statutory means to control this and a clear commercial justification based on the need to pay empty property rates. There is agreement that once demolition is carried out there would be no residual requirement from policy BE10. In all the circumstances there is therefore no ground to resist the redevelopment proposal on the basis of policy BE10.
21. Policy BE17 deals with high buildings, which are those that exceed the general height of their surroundings. In this case I consider that the policy requirement on quality is again met, and the proposal would also achieve integration with the setting and surroundings as well as a mixed use development in an accessible location. This policy is therefore also satisfied. With respect to policy H7 on housing density and design, no specific objection has been raised on density grounds, and other requirements on design and layout are complied with.
22. PPS1 suggests that opportunities be taken to improve the character and functioning of an area. I accept the appellant's contention that this objective would be achieved in this case, and that the scheme would set a benchmark for future development rather than the harmful precedent feared by the Council. There are no matters arising from the newly issued PPS5 which would lead to a different view. On this issue I conclude that the proposal would enhance the character and appearance of the area.

**b) Mix of uses**

*Business area and office location policies*

23. The site lies within the designated Lower Sydenham business area. Under policy EMP4, only Class B uses will be permitted in such areas. The proposal for a development that includes extensive residential floorspace on the site is therefore contrary to this.
24. The appellant's evidence is that redevelopment of the site for employment use would not currently be viable without a residential component to facilitate this. The Council accepts this position. It provides a strong consideration in support of a mix of uses on the site that includes residential accommodation, with the Council regarding the housing gain and especially the provision of affordable housing as a substantial benefit of the scheme.
25. While the Council would prefer a continuation of use of the site for industrial purposes, there is no preclusion in principle against office use in business areas among the list of uses permitted by policy EMP4. Large new offices, however, are subject to the provisions of policy EMP1. Under this policy such office developments, defined as more than 2000m<sup>2</sup>, are to be located on defined

- proposals sites or within Bromley or other identified town centres; outside these, office developments above this size will be permitted only on sites that are highly accessible by public transport and by other modes of transport.
26. No objection has been raised by the Council with respect to the non-public transport accessibility of the site. The appellant contends that, for office development, the site also qualifies as 'highly accessible' by public transport on the basis of the location adjacent to Lower Sydenham railway station and the proximity of bus routes. It is argued that the calculated PTAL rating of 2 (low accessibility) on its own is misleading in that this is a London-wide index which ignores catchment areas and is not use specific.
  27. The station provides a frequent train service from Hayes towards Lewisham and central London with good potential for connections to a wide range of destinations. It would be very convenient for office workers to use and no doubt be a major factor in attracting an office occupier to the site. The appellant also demonstrates a relatively large catchment of potential employees within walking and cycling distances. However, bus services are less convenient; the stop for one service is some 100m away but others are at least 450m away. Policy T1 requires B1 developments of over 4000m<sup>2</sup> to be on sites with a PTAL rating of 3 or above. While the PTAL index is only a guide, having regard to the combined number and distance of public transport services I regard the accessibility of this site for office development as good rather than high, and consider that there is some conflict with the UDP in this respect.
  28. There is agreement that the UDP employment policies are up-to-date for the purposes of PPS4, and I have no reason to take a different view on this. Since I have found the office element not to be fully in accord with the development plan, there is a need under PPS4 to consider the office proposal against sequential and impact test requirements.
  29. The appellant's evidence addresses the potential of alternative sites in the Borough for the type of large floorplate modern office development proposed. This concludes that there are no town centre or edge-of-centre sites that are currently available, suitable and viable for the development, including by way of mixed use development or refurbishment of existing properties. Viability constraints in particular mean that there is little prospect of new office stock being developed in the Borough in the foreseeable future. This evidence is unchallenged and reinforced by the findings of both the Council's recent GVA Grimley employment report for the Borough and the Greater London Authority's London Office Policy Review 2009, and the Council has not suggested that any other site is sequentially preferable. With respect to impact, there is no evidence that there would be any negative effects from office development of this site on town centres or in other respects identified in PPS4.
  30. The Grimley study is relied on by both parties and is more locally focussed than general London Plan statements on office demand. The study finds that the lack of a quality office offer has been identified consistently as a significant constraint to economic development in the Borough. Under its preferred scenario a shortfall of around 120,000m<sup>2</sup> of office floorspace is calculated for the period 2006-21, split between in-centre and out-of-centre. Addressing the

shortfall of large flexible office floorplates even with planned investments in town centres is identified as a long term priority for the Borough. While in the same scenario the report also identifies an under-supply of other business space (B1c, B2) of around 28,000m<sup>2</sup>, it suggests that this could be subsumed within an oversupply of warehousing/distribution space.

31. The Mayor's Supplementary Planning Guidance on Industrial Capacity of 2008 categorises Bromley as a Borough where there should be only a restricted transfer of industrial land to other uses, and it has relatively low amounts of such land. However, little weight can be given at present to a possible future designation of the business area as a locally significant industrial site. This possibility does not provide a basis to override the existing absence of policy protection specifically for industrial use of the site.

*Scope for alternatives and employment considerations*

32. The site has been marketed, and there are no criticisms as to the adequacy or robustness of this process. No takers have been forthcoming, and it is undisputed that the nature and condition of the premises make them unattractive to potential occupiers. The appellant has produced viability assessments which show convincingly that redevelopment of the site for new industrial accommodation would not be viable in foreseeable market conditions. The Council suggests the possibility of lower cost sub-division for multi-business occupation as has occurred with a neighbouring site. However, the market exposure would not have excluded such potential schemes and the appellant points to the particular physical constraints of the appeal premises that would inhibit sub-division of this type. Within this context I find the Council's evidence on turnover of premises within the business area and on the demand for space for small businesses to be of limited relevance to this site. The appellant's evidence on the availability of industrial buildings in Bromley and adjacent Lewisham indicates that there is not at present a demonstrable shortage of industrial land.
33. The proposal would provide for a similar quantum of business floorspace as that replaced, and the potential employment density would be higher. There would therefore be no loss of employment. Given the appellant's evidence on the shortage of new offices in accessible locations I find no reason to anticipate that the offices would not be occupied, notwithstanding the extent of vacant offices and unimplemented permissions elsewhere. There is no evidence to show that the proposal would have an adverse impact on business activities in the remainder of the business area.

*Conclusion on the second issue*

34. Drawing all of the above together, I consider that there are strong factors favouring the proposed mix of uses such as to outweigh the degree of conflict with the development plan.

**Other matters**

35. The Council is content with the submitted planning obligation relating to the provision of 51 residential units within the development as affordable housing. Having regard to local and national policies on affordable housing I am satisfied that this is necessary to make the development acceptable in planning terms,

is directly related to the development, and is fairly and reasonably related in scale and kind to the development. It can be given significant weight in favour of the proposal.

36. A further agreed obligation to ensure funding of any traffic orders to control public parking on adjoining highways in the vicinity of the access and egress points also meets these tests and carries weight in safeguarding highways conditions. There is no technical evidence that leads me to disagree with the Council's acceptance of the scheme in terms of highways impact.
37. I consider that the relationship of the development to neighbouring properties is such that it would not have a material adverse impact on living conditions in terms of outlook, light and privacy. There is no evidence to indicate that there would be an unacceptable impact on local infrastructure.

### **Conditions**

38. I have considered the agreed suggested conditions in the light of the discussion of these at the inquiry and the advice in Circular 11/95. Where appropriate I have made amendments to the wording of the conditions to reflect this advice.
39. I have referred to the landscaping and tree protection aspects of the proposal and requirements on these are necessary to secure the details, including of boundary treatment. To ensure that the appearance of the development is satisfactory, details of materials and windows should be approved. Drainage details should be controlled so that this is dealt with appropriately, including with respect to sustainability.
40. Requirements on various matters of on-site provision relating to access, parking and pedestrians are needed to protect highways conditions and the environment. A Travel Plan requirement is needed to ensure delivery of the draft version that has been prepared in the interests of sustainable transport. The scale of the development and potential impact of construction on the locality warrant submission for approval of a construction method statement.
41. Provision for refuse and recycling are necessary to safeguard amenity. Conditions on accessibility and crime prevention are required in order to ensure that the development achieves appropriate standards. Similarly, local decentralised energy targets should be achieved. In view of the previous and proposed uses of the site, appropriate provision is needed to deal with contamination. Indicated slab levels should be adhered to in order to ensure that the development is built as proposed. It is necessary that the development is carried out in accordance with the approved plans otherwise than as set out in this decision and conditions for the avoidance of doubt and in the interests of proper planning.

### **Conclusion**

42. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be allowed.

*T G Phillimore*

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

#### *Trees and landscaping*

- 2) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include details of the materials of paved areas and other hard surfaces. The approved details of landscaping shall be carried out in the first planting season following the first occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the 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, unless the local planning authority gives written approval to any variation.
- 3) The boundary enclosures indicated on the approved drawings shall be completed in accordance with these details before the buildings are first occupied and thereafter permanently retained.
- 4) No demolition, site clearance or building works shall be undertaken, and no equipment, plant, machinery or materials for the purposes of development shall be taken onto the site, until an arboricultural method statement detailing the measures to be undertaken to construct the development and protect the Maple tree on the Station Approach frontage is submitted to and approved in writing by the local planning authority. The statement shall include details of:
  - type and siting of protective fencing and maintenance of protective fencing for the duration of the project
  - type and siting of scaffolding
  - method and timing of site clearance and building works
  - depth, extent and means of excavation of foundations and of method of construction of new foundations
  - location of underground services avoiding locating them within the protected zone
  - method to be used for removal of existing hard surfaces within the protected zone
  - nature and installation of any new surfacing within the protected zone
  - methods proposed for watering of the tree during the course of the project.

The method statement shall be implemented according to the details contained therein until completion of building works and all plant, machinery or materials for the purposes of the development have been removed from the site.

*Detailed controls*

- 5) Samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be submitted to and approved in writing by the local planning authority before any works involving use of the specified materials are commenced. Development shall be carried out in accordance with the approved details.
- 6) Details of the windows including their materials, method of opening and drawings showing sections through mullions, transoms and glazing bars and sills, arches, lintels and reveals (including dimensions of any recess) shall be submitted to and approved in writing by the local planning authority before the development is commenced. The windows shall be installed in accordance with the approved details.

*Drainage*

- 7) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

*Highways and construction*

- 8) Before first occupation of the buildings hereby permitted the basement and surface parking spaces and access thereto shall be completed in accordance with the approved drawings and thereafter shall be kept available for such use for the users and occupiers of the development.
- 9) The Station Approach access to the development hereby permitted shall be used for ingress only and the Worsley Bridge Road access for egress only. Details of suitable signs to indicate this shall be submitted to and approved in writing by the local planning authority and the approved signs shall be displayed before the buildings are first occupied and shall be permanently retained thereafter.
- 10) Before any part of the development hereby permitted is first occupied the bicycle parking spaces shown on the approved plans shall be provided and fitted with stands in accordance with details which shall have been submitted

to and approved in writing by the local planning authority, and the facilities shall be permanently retained thereafter.

- 11) The buildings shall not be occupied until the improvements to the pedestrian environment within the site on Station Approach have been completed in accordance with details that shall be submitted to and approved in writing by the local planning authority.
- 12) The buildings shall not be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include measures to promote and encourage the use of alternative modes of transport to the car. It shall also include a timetable for the implementation of the proposed measures and details of the mechanisms for implementation and for annual monitoring and updating. The Travel Plan shall be implemented in accordance with the agreed timescale and details.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the means of access to the site for construction vehicles and vehicles of site operatives and visitors
  - ii) the parking and turning on-site of construction vehicles and vehicles of site operatives and visitors
  - iii) loading and unloading of plant and materials
  - iv) storage of plant and materials used in constructing the development
  - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - vi) measures to be taken to prevent mud from vehicles leaving the site during construction works being deposited on the public highway
  - vii) measures to control the emission of dust and dirt during construction
  - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
  - ix) hours of construction works.

#### *Development standards*

- 14) Details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The approved arrangements shall be completed before any part of the development hereby permitted is first occupied and shall be permanently retained thereafter.
- 15) Details of provision of at least 10% of dwellings to be capable of occupation by wheelchair users (including related car parking spaces) and construction of all dwellings to Lifetime Homes standard in accordance with the criteria set out in Supplementary Planning Guidance to the London Plan 'Accessible London: achieving an inclusive environment' April 2004 (or any subsequent version) shall be submitted to and approved in writing by the local

planning authority prior to the commencement of development. The dwellings shall be constructed in accordance with the approved details.

- 16) No development shall take place until details of measures to minimise the risk of crime in accordance with the principles of Secured by Design have been submitted to and approved in writing by the local planning authority. The approved measures shall be implemented before the development is occupied and thereafter permanently retained.
- 17) At least 20% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007)). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

#### *Contamination*

- 18) Unless otherwise agreed in writing by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 19 to 22 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until condition 22 has been complied with in relation to that contamination.
- 19) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:
- (i) a survey of the extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters; ecological systems; archaeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

- 20) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 21) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.
- 22) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 19, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 20, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with condition 21.

*Adherence to plans*

- 23) The development hereby permitted shall be carried out in accordance with the slab levels shown on the approved drawings.
- 24) The development hereby permitted shall be carried out in accordance with the following approved plans except for variations approved pursuant to the terms of other conditions: P01A/101-103, 201-211, 301-303, 401-403.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Patrick Darby of Counsel	Instructed by Director of Legal Services, London Borough of Bromley
He called:	
Simon Greenwood BSocEcon(Hons) MA MRTPI	Major Developments Team, London Borough of Bromley
Peter Martin DipTP MA MRTPI	Head of Planning Strategy and Heritage, London Borough of Bromley
Coral Gibson BSc(Hons) DipTP MRTPI	Principal Tree Officer, London Borough of Bromley

### FOR THE APPELLANT:

Russell Harris QC	Instructed by West & Partners
He called:	
Ian Ritchie CBE RA RIBA RIAI FRSA DipArch(dist) PCL HonDLitt HonFRIAS HonFAIA	Director, Ian Ritchie Architects Ltd
Professor Robert Tavernor BA DipArch PhD RIBA	Professor Robert Tavernor Consultancy
John Stephenson FRICS MCIARB	Senior Director, Grant Mills Wood
Keith Hanmore AMICE FCIHT FCITL FIHIE	Consultant to Denis Wilson Business Group
Christopher Francis	West & Partners

### DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Core documents 21-45
- 2 Section 106 unilateral undertaking dated 16 March 2010
- 3 Appellant's opening submissions
- 4 Tree protection plan
- 5 Emails re: employment supply evidence
- 6 Emails re: railway bridge signage
- 7 Mayor of London's Supplementary Planning Guidance on Housing November 2005

- 8 Letter of 17 March 2010 re: proposed building demolition
- 9 Mr Ritchie's note and photographs re: local character
- 10 Agreed substitute tree condition
- 11 Council's closing submissions
- 12 Appellant's closing submissions