DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held at 7.30 pm on 30 June 2011

Present:

Councillor Peter Dean (Chairman)
Councillor Charles Joel (Vice-Chairman)
Councillors Douglas Auld, Eric Bosshard, Katy Boughey, Lydia Buttinger, John Canvin, Simon Fawthrop, Peter Fookes, John Ince, Russell Jackson, Kate Lymer, Mrs Anne Manning, Russell Mellor, Alexa Michael, Richard Scoates and Pauline Tunnicliffe

Also Present:

Councillor Graham Arthur

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS

There were no apologies for absence.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 19 APRIL 2011

RESOLVED that the Minutes of the meeting held on 19 April 2011 be confirmed and signed as a true record.

4 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

5 PLANNING REPORTS

The Committee considered the Chief Planner's report on the following planning application:

1. PLAISTOW AND SUNDRIDGE	(10/02308/FULL1) Four/five storey building comprising 20 two bedroom, 41 three bedroom and 6 four bedroom dwellings and including basement car parking, garage block for 5 cars and single storey building comprising health spa for residents' use with tennis court on roof at **Sundridge Park Management Centre Ltd, Plaistow Lane, Bromley.**

Oral representations in objection to the application were made at the meeting by Mr Paul Norris on behalf of the Sundridge Park Golf Course. Mr Norris sought clarification on conditions 26 and 27 (page 27 of the report) which, he believed, were effectively Grampian-style conditions as enforcement depended upon the developer reaching agreement with the Golf Club.

Mr Norris submitted that the reference to 'access' in condition 27 must have been be a reference to the access road leading from Plaistow Lane to the development site. No part of the access road was owned by the developers. Highway Officers had objected in the past to the absence of lighting along the access road and accordingly there was a need for the condition to be clarified in this respect to make it enforceable.

Mr Norris also submitted that Condition 27 should be amended to require details of lighting to be submitted and approved prior to the commencement of the development, not prior to first occupation.

With regard to Condition 26, Mr Norris assumed that reference to the Construction Management Plan referred to the Construction Traffic Management Plan dated July 2010 prepared by the Denis Wilson Partnership and submitted by the developer in support of the present application. The Plan contained 17 paragraphs under the heading ‘Control of Construction Traffic within the Sundridge Park Estate’. The Plan described how the traffic flow along the estate road was to be tightly controlled. Mr Norris submitted that the developer had no right to control the traffic using the estate road; it simply had the right to pass and repass along the road. The Plan needed to be submitted and approved prior to the commencement of the development, and not prior to first occupation.

Mr Norris requested that a further condition in relation to the use of the Leisure Centre be incorporated restricting its use solely to residents.

Following his presentation and in response to Members' questions, it was confirmed that Sundridge Park Golf Club had previously granted a licence to the Management Centre for the use of the land. The existence of previously established parking bays made it almost impossible for two cars to pass each other.

The Chief Planner explained that a grampian style condition required the completion of one action before the implementation of another.

Oral representations in support of the application were made at the meeting by Ms Mary Power on behalf of the applicant along the following lines:-

- The revised residential scheme incorporated the highest design quality and detail which was not significantly different from the previous design.

- The previous permitted scheme was no longer viable. One option could have been to appoint a new architect to substantially redesign the scheme to reduce costs and seek to present a case for a nil affordable housing contribution. Millgate thought neither would be acceptable to the Council given the exceptional circumstances of the Sundridge Park site – Grade I and II listed buildings, listed Repton landscape terraces, historic park and MOL.

- Although the revised scheme represented an increase in floorspace to the rear courtyard building, this was not visible from the lawns in front of the pavilions, the adjacent listed building, or in long distant views from outside the site's tree-lined boundary and MOL.

- Part of the floorspace was for an underground residents health spa and the increase in units followed a change to the mix from large houses to smaller apartments to reflect current housing market requirements.

- A financial viability assessment had been undertaken which demonstrated that the revised scheme generated a lower developer profit than currently required by funders in difficult market conditions. Despite the reduced viability, Millgate increased its contribution for the delivery of off-site affordable housing.

- The Council appointed an independent consultant to interrogate the assumptions costs and values to ensure that the maximum contribution had been sought. Millgate accepted that it had to write down the price paid for the land in 2007 and accept a reduced profit margin of 15% which included the affordable housing contribution. This demonstrated that Millgate was accepting significant risks to move the project forward to implementation.

- The assessments showed that a higher level of contribution could not be afforded. Ministerial statements urged local planning authorities to negotiate viable S106 contributions in order that schemes could afford to be implemented and deliver jobs and homes to help kick-start the economy.

- The grant of permission for the revised scheme would unlock the uncertainty of the future of the site, deliver new homes, affordable housing, new construction jobs and investment in the Borough contributing to local social and community benefits. Millgate was committed to the implementation of the development as quickly as possible to deliver those benefits promptly.

- The revised scheme met the very special circumstances demanded by the Council's Metropolitan Open Land policies in the following ways:

- a very high quality design by Robert Adam retaining all of the key features of the proposed development already permitted by the Council;

- An affordable housing contribution of £2,021,000;

- An excellent landscape scheme that would restore the listed Repton Terraces and reintegrate the site into the wider Historic Park and Gardens as was intended by Nash himself;

- A scheme that addressed the special historic and architectural character of the adjacent Grade I Mansion House and Grade II listed Coach House. All of those factors were a unique circumstance relevant to Sundridge Park alone.

Following her representations and in response to Members' questions, Ms Power confirmed that use of the spa by residents only could be controlled by planning enforcement in conjunction with the management company.

Members were informed that in 2005 and 2007, the provision of affordable housing had been considered but deemed unfeasible.

A profit of 25% had been expected from the 2007 development which had decreased to 15% with the current scheme.

With regard to the demolition of the Butten building, Ms Power explained that subject to the discharge of a previous condition, demolition had taken place but due to the economic downturn, construction had ceased.

It was noted that the first sentence of the second paragraph on page 17 of the report referred to '69 residential flats'. This was amended to read '67 residential flats'.

It was reported that the Environment Agency had no objections to the scheme but had suggested that if permission was granted, a condition relating to a sustainable drainage system should be attached.

Thames Water had no objections to the scheme.

Referring to condition 27, the Chief Planner suggested that the words 'before construction' be replaced with ‘prior to commencement'.

Councillor Mrs Manning was pleased to note that the design was almost the same as the previous scheme and moved that permission be granted with the addition of a further condition restricting the use of the spa to residents only.

Councillor Jackson concurred with Councillor Mellor's views that the increased footprint due to the addition of further units would have a greater impact on Metropolitan Open Land and moved that the application be refused for that reason. Councillor Buttinger seconded the motion.

Councillor Fawthrop supported refusal on the grounds of poorly designed parking facilities.

Councillor Joel seconded the motion for permission adding that he was pleased to note that the design had incorporated conservation area/green space consideration.

Councillor Ince would have considered the proposal to be excessive if it had covered a larger footprint than the previous Butten building. He stated that the site was lower than the surrounding areas and the impact on Metropolitan Open Land was no greater than the previous planning permission. He supported approval of the application.

Councillor Boughey commented that this was a viable scheme which had minimal visible impact on Metropolitan Open land. The Chairman concurred with this view and reminded Members that the previous application had been approved under very special circumstances which had not changed.

The Chairman reminded Members that they should be conscious of the previous approval and he supported the motion for planning permission.

Councillor Bosshard was concerned that part of the access road was a bottle neck for traffic and suggested the implementation of a condition. The Chief Planner explained that such an action could not be carried out as it was a private matter between the developer and the land owner.

A vote to refuse the application fell at 7-9.

Following a vote for permission (9-7), it was **RESOLVED that PERMISSION BE GRANTED SUBJECT TO THE PRIOR COMPLETION OF A SECTION 106 LEGAL AGREEMENT as recommended, subject to the conditions set out in the report of the Chief Planner with the amendment of condition 27 to read:-**

'27 Details of lighting to the car park and access certifying compliance with BS 5489=1:2003 shall be submitted to and approved in writing by or on behalf of the Local Planning authority prior to commencement and shall be permanently maintained as such thereafter.'

A further 2 conditions were also added as set out below:-

33 Details of the proposed slab levels of the building(s) and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

REASON: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

34 The Health Spa hereby permitted shall be used by residents of the approved flats and by no other persons without the written permission of the Local Planning Authority.

REASON: In order to comply with policies BE1 and T3 of the Unitary Development Plan and to protect the amenities of residents in respect of noise and activity and additional parking demand.

6 DRAFT REPLACEMENT LONDON PLAN EIP PANEL REPORT SUMMARY

The Planning Inspectorate had examined The Draft Replacement London Plan (DRLP) 2009 and concluded that the DRLP provided a sound basis for the planning of Greater London over the next 20 years. The Council had responded to the original revised London Plan consultation and had submitted written statements for the Examination in Public. Members considered those recommendations together with the subsequent responses/recommendations made by the EiP Panel to the Mayor of London.

Councillor Fawthrop was pleased to note that the EiP Panel had clarified the inclusion of Biggin Hill in the table of 'Strategic function(s) of greater than sub-regional importance' as "the reference to Biggin Hill does not trespass into aviation policy".

Referring to the section on Housing Supplementary Planning Guidance (SPG) EiP Draft - Table 3.2 Density Matrix (page 35 of the report), Councillor Fawthrop was disappointed to see that no change had been made to the density target of 35 units per ha and suggested that the Council continue to pursue its objection. In response, the Chief Planner commented that no further contribution could be made by the Council as the Inspector's report was currently with the Secretary of State pending his consideration. The Chief Planner did however, consider the EiP Panels' recommendation that the word 'maximising' be replaced with 'optimising' as a relatively positive response.

Councillor Michael was disappointed to note that Bromley Town Centre would not be designated an 'opportunity area' (paragraph 3.4, page 33 of the report).

Referring to 'presumptions against development on back gardens' (paragraph 3.7, page 34 of the report), Councillor Buttinger commented on the need for tighter control.

RESOLVED that the report be noted.

7 RELAXATION OF PLANNING RULES FOR CHANGE OF USE FROM COMMERCIAL TO RESIDENTIAL: RESPONSE TO GOVERNMENT CONSULTATION

Members considered the Council’s response to the Government’s consultation on proposals to relax the planning rules regarding change of use from commercial to residential in order to make housing supply more responsive to changes in demand.

The Chairman stated that final date for the consultation period had elapsed. His view was that relaxation of the planning rules could have a severe impact on the quality of buildings.

Councillor Mellor commented that permission had been granted in the past on the basis that entrepreneurs in small industry would promote the growth of industry as a whole. However, he was greatly concerned that permitted development was proposed for certain uses. If factories were converted to residential use, there would be a lack of infrastructure to ensure employment for residents in the surrounding area. Councillor Mellor was extremely concerned at the loss of Council control if the proposal was brought into Statute.

The Chief Planner stated that the Council's responses concurred with the views of Councillor Mellor. A copy of the responses would be circulated to all Members.

Councillor Ince stated that during the past year there had been an increase in the number of recommendations for change of use which had come before Members for consideration. He noted that some sites had not been marketed strenuously enough.

Councillor Michael was pleased to learn that the Council was taking a tough stance on the proposal as different types of property were located in different areas for a reason and some commercial buildings provided employment. If offices were converted into housing, it was likely that they would be of a poorer quality than expected.

On a positive note, Councillor Joel commented that office buildings had been converted in the past and should the proposal proceed, it could be a good way to provide affordable housing close to the town centre where employment opportunities existed.

RESOLVED that the report and the Council's response to the consultation be noted.

8 PROPOSALS FOR A MAYORAL COMMUNITY INFRASTRUCTURE LEVY: CONSULTATION ON DRAFT CHARGING SCHEDULE

Following consultation on the preliminary draft Community Infrastructure Levy (8 February 2011 - Minute 83), the Mayor of London’s Charging Schedule had been published for consultation with comments to be received by 8 July 2011. Members were requested to endorse the suggested responses and to formally request to be heard at the examination by an Inspector.

The Chief Planner informed Members that the Mayor had not made any changes in response to the Council's objections to the proposed charge for Bromley.

Councillor Mellor thought it unfortunate that Bromley had and would not benefit from Crossrail. He objected to the fact that at the time permission was granted, Crossrail had been fully funded but now London Authorities were being asked to provide a further £300m.

In response to a request by Councillor Mellor for clarification that the Mayor would make £50m available to authorities for funding other projects, the Chief Planner replied that currently the sole purpose of the CIL was to fund Crossrail.

The Chief Planner informed Members that a response to the second tranche of the consultation had not yet been compiled and he sought Members' approval to repeat the Council's previous objections. He also sought authorisation to formally submit a request to enable him to make oral objections in person at the examination by an Inspector.

Councillor Fawthrop proposed (and Members agreed), that the Council continue to make known its strong opposition to the format of the CIL.

Councillor Michael agreed with the proposal to continue to lobby the Mayor, stating that Bromley was being unfairly penalised as Crossrail would not come anywhere near the Borough. Councillor Michael stated that the Mayor should be called upon to look at the charges in proportion to boroughs which would benefit from Crossrail and those which would not.

It was proposed (and Members agreed), that a Freedom of Information request be submitted to obtain the statistical analysis used by the Mayor to set the proposed charges.

Provision would be made by the Mayor for the Council to retain 4% of contributions to assist with costs associated with collecting the charge and employing extra staff when necessary.

RESOLVED that:-

1. **the suggested responses in continued objection to the Mayor's stance on the proposed charging levy be endorsed;**

2. **the Chief Planner submit a request that he make oral objections in person at the examination by an Inspector; and**

3. **a Freedom of Information request be submitted to obtain the statistical analysis used to justify the Mayor's quoted benefits.**

9 DRAFT PLANNING POLICY STATEMENT "PLANNING FOR TRAVELLER SITES": RESPONSE TO GOVERNMENT CONSULTATION

Members considered the key features of the Government's Gypsy & Traveller Policy outlined in the Localism Bill as they relate to the draft Planning Policy

Statement. Members also considered the Council's suggested detailed response to the consultation questions set out in Appendix 1 of the report.

Councillor Scoates welcomed the proposal and referred to action carried out in a recent case within his Ward where the Planning Inspectorate had given weight to the PPS during the hearing. Councillor Scoates was hopeful that the policy would deter gypsies from coming to the area in future.

Councillor Ince also welcomed the proposal and commended Enforcement Officers for the great work and swift action taken by them when dealing with gypsies who had arrived overnight.

It was reported that the consultation period had been extended by a further four weeks (ending on 6 August) in order for an oral hearing to be implemented as part of the consultation process. The Chief Planner sought Members' authorisation to attend such a hearing.

The Chairman moved that authorisation be given for the Chief Planner to attend any hearing to convey the Council's views. Councillor Fawthrop seconded the motion.

RESOLVED that:-

1. **the report be noted;**

2. **the proposed responses set out in Appendix 1 of the report be endorsed; and**

3. **the Chief Planner be authorised to attend an oral hearing to convey the Council's views.**

10 LOCAL DEVELOPMENT FRAMEWORK: ENERGY REDUCTION AND RENEWABLE ENERGY

As requested by the Improvement and Efficiency Sub-Committee at its meeting held on 20 April 2011 (Minute 45), Members considered the inclusion of energy efficiency and renewable energy generation measures in future developments across the Borough as part of the Local Development Framework.

The Chief Planner confirmed that work had already been undertaken to promote the measures outlined in the report.

RESOLVED that the report and the work undertaken as part of the development of the Local Development Framework to promote the inclusion of energy efficiency and renewable energy generation measures in future developments across the Borough be noted.

11 SECTION 106 AGREEMENTS: UPDATE AND S106 PDS WORKING GROUP MONITORING

Members considered an information report on the present position of Section 106 Agreements together with an update on the progress made in implementing the S106 PDS Working Group's recommendations.

It was reported that after five years, a developer could apply for a S106 agreement to be lifted.

Councillor Mellor commented that S106 agreements had recently increased in profile. He stated that a firmer line should be taken in cases where planning permission had been granted subject to such an agreement but at a later date, the developer seeks a variation to it because the scheme was no longer viable.

The Chief Planner commented that the updating reports on S106 agreements were also submitted to the Executive and Resources Policy Development and Scrutiny Committee. Each report covered a period of 7 years and would, therefore, include information on S106 agreements which had or were due to expire.

RESOLVED that the report and the contents of Appendices 1-5 be noted.

12 UPDATE: PLANNING LEAFLETS AND INFORMATION FOR THE PUBLIC

At a Development Control Committee meeting heId on 13 January 2011 (Minute 70), Members agreed a 9-month strategy to review and replace current planning leaflets and fact sheets.

Following an update on 19 April 2011 (Min 107), Members considered a further information report on the progress achieved so far.

It was reported that 15 of the draft planning leaflets for on-line viewing had been prepared; the remainder would be completed and available to view by September 2011.

RESOLVED that progress be noted.

13 BIGGIN HILL HERITAGE CENTRE WORKING PARTY

Members considered the reappointment of the Biggin Hill Heritage Centre Working Party and its membership for 2011/12.

The Chairman moved that Councillors Mrs Anne Manning, Julian Benington and Richard Scoates be appointed as Members of the Biggin Hill Heritage Centre Working Party. Councillor Jackson seconded the motion.

RESOLVED that the Biggin Hill Heritage Centre Working Party be appointed for the 2011/12 Municipal Year and that the membership comprises Councillors Mrs Anne Manning, Julian Benington and Richard Scoates.

The Meeting ended at 9.10 pm

Chairman