

## **DEVELOPMENT CONTROL COMMITTEE**

Minutes of the meeting held at 7.30 pm on 12 September 2013

### **Present:**

Councillor Peter Dean (Chairman)  
Councillor Alexa Michael (Vice-Chairman)  
Councillors Graham Arthur, Douglas Auld, Nicholas Bennett J.P.,  
Eric Bosshard, Katy Boughey, Lydia Buttinger, Simon Fawthrop,  
Peter Fookes, John Ince, Russell Jackson, Charles Joel,  
Mrs Anne Manning, Tom Papworth and Richard Scoates

### **Also Present:**

Councillors David Hastings

### **12 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

An apology for absence was received from Councillor Nicky Dykes. An apology for absence was also received from Councillor Russell Mellor and Councillor Nicholas Bennett JP attended as substitute.

### **13 DECLARATIONS OF INTEREST**

Councillor Mrs Manning declared a personal interest in Item 9 as her son was a Planning Director at G L Hearn.

Prior to this meeting, an Urgency Committee was convened to consider a dispensation request from Councillor Jackson to permit him to address Members on the planning application relating to Item 5.2 - 49 Shortlands Road in which he had a prejudicial interest as the owner of a neighbouring property. An unconditional dispensation was granted and Councillor Jackson spoke as a member of the public but did not take part in the discussion or vote. The speaker in support of the application had no objection to this.

As Councillor Buttinger also had a prejudicial interest in Item 5.2, the Urgency Committee resolved that she could remain in the meeting but should refrain from taking part in the discussion or vote.

Cllr Nicholas Bennett declared a personal interest in Item 5.1 as he was a member of the Bromley Conservative Club who were tenants of the building. Cllr Bennett said that the Club had sold the building some three years ago and remained there on a peppercorn rent for up to 5 years. The Club would have no financial benefit in any development or otherwise. The Chairman asked whether the applicant or the objectors had any objection to Cllr Bennett remaining and taking part in the proceedings. Both parties indicated that they had no objection.

**14 CONFIRMATION OF THE MINUTES OF THE MEETING HELD  
ON 20 JUNE 2013**

**RESOLVED that the Minutes of the meeting held on 20 June 2012 be confirmed and signed as a true record.**

**15 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE  
MEETING**

The following oral question was received from Mr Tony Banfield on behalf of The Friends of Bromley Town Parks and Gardens and Bromley Civic Society:-

“In the absence of a mention in tonight’s report, are Members clear that in respect of the Italian Garden, the Town Green Inspector found that three out of the four statutory criteria were fulfilled and that the question mark over the 20 year use up to the time of the application has in real terms been well overtaken by the present date. Would Members therefore consider registering the Garden or deferring the matter for a more informative report before reaching a decision?”

The Chairman responded as follows:-

“The Inspector, in his preliminary remarks at the Inquiry, made it clear to all parties that it would be very hard for the Council to reject the recommendations of the Inspector when his report was submitted. He considered all of the evidence. It is a core requirement that the 20 year use at the time of the application is established. He found that this was not the case, as explained in the very detailed report. Indeed, a few days before the Inquiry commenced, you considered whether you should withdraw the application as you had become aware of evidence which suggested that the 20 years use could not be proved.

Whilst the Inspector found that the application fell at this hurdle, he did, for completeness give his conclusions in relation to the other criteria which fell to be considered in the event that the 20 year use had been satisfied. It is not as clear as you assert, that the application would clearly have succeeded if the 20 years had been satisfied. In paragraph 211 of the report, the Inspector states that “*Should the fate of this application have depended on it, I would have advised that future representations have been sought on the as of right issue in relation to the Italian Garden*”. He goes on to say that “*Happily nothing turns on any of this in the instant matter as the application must fail in any event for the reasons explained above*”.

The application falls to be determined in respect of information at the date of the application. If Members were minded to overturn the recommendation in the report, they would require to have a sustainable reason to do so.”

In a supplementary statement Mr Banfield requested that Members consider the officer's report which suggested there was an option to decline the recommendations of Mr Paul Wilmshurst. The Chairman responded that Members would fully consider the matter during discussion of Item 7 and would come to a decision at that time.

## 16 PLANNING REPORTS

Members considered the following planning application:-

Item No.	Ward	Description of Application
16.1 (page 9)	Bromley Town	(13/01202/FULL1) - 25 Elmfield Road, Bromley: Demolition of existing building at 25-27 Elmfield Road and erection of 16 storey mixed use building to comprise 2 commercial/retail units at ground level (Class A1/A2/A3/B1) and office accommodation (Class B1) at the first floor level with 82 residential units on upper floors (32 one bedroom, 46 two bedroom and 4 three bedroom flats). Associated part basement/part surface car parking (including 2 on-street car club spaces in Palace View), cycle and refuse stores and landscaping.

Oral representations from Mr Will Edmonds, agent in support of the application made the following comments:-

- The residential led mixed use scheme was the result of over two years engagement and extensive consultation with Councillors, officers and the local community, including three exhibitions. The feedback received resulted in very significant changes to the scheme.
- The grounds for refusal set out in the report were misleading for the following reasons:-
  - The development was wholly compliant with policy that simply required no net loss of office space in new developments. This development would double office space on site.
  - As required by officers, the scheme incorporated 14 affordable housing units - the maximum viable number. A commuted sum of circa £1.2 million would prove more beneficial to the Borough as a whole and could be renegotiated if necessary.
  - In terms of height, as a matter of principle officers accepted that a tall building in this location would not be contrary to policy. By definition

therefore, it must be accepted that new development can give rise to noticeable change in the townscape and skyline.

The scheme would not harm heritage assets, amenity or open space and the building would not be visible from the High Street. It would only have a material impact from three locations. From Kentish Way and Masons Hill, the proposed building would be of a scale expected in a town centre location.

Views to the town centre from the Palace Estate already encaptured the Kentish Way flyover and existing buildings in Elmfield Road which were of a scale taller than the prevailing heights found in residential areas. Against the existing townscape, any harm would, at its worst, be minimal and should be assessed against the significant planning benefits that would arise from the scheme.

- There was no technical justification to refuse the scheme on the grounds of overdevelopment and loss of amenity. If the scheme was considered acceptable in townscape terms, it was incumbent on new developments to make effective use of previously developed land, particularly in highly accessible locations such as this.
- The scheme had undergone design changes including reorientation of balconies and narrowing of windows specifically to address local residents' concerns in regard to overlooking.

Approving the scheme would not in any way set a precedent. The circumstances of the application were unique and could not be replicated on other sites within the Business Improvement Area.

In response to Member questions, Mr Edmonds confirmed that negotiations with several housing providers had taken place for the provision of shared ownership units. With regard to the provision of just 52 car parking spaces for 82 dwellings, Mr Edmonds commented that the location could not be more accessible as there was excellent public transport facilities in the area and options to establish a car club were being investigated. Councillor Fawthrop suggested that the issues concerning parking needed to be addressed.

Mr Edmonds stated that only a maximum of 14 affordable housing units could be provided due to viability reasons and confirmation from officers was currently awaited on this. When the original application was submitted, a commuted sum had been offered towards providing units elsewhere within the Borough.

Oral representations in objection to the application were received from Mr John Harvey, Chairman of the Palace Estate Residents Association. Mr Harvey made the following points:-

1. The substantial public response to the proposals showed an overwhelming opposition by residents to the plans.

2. The proposed development was adjacent to one side of the Palace Estate which comprised solely of low rise two storey houses with gardens and in particular, was next to and would tower above and overlook Rafford Way and Palace View.
3. Information from experts in the Planning Department and elsewhere provided many technical and regulatory reasons why the proposal did not comply with agreed plans for the area.
4. Residents' principal objection was that, at sixteen storeys high, the building would be far too dominant in its location which would be immediately adjacent to the low rise houses on the Palace Estate and would cause a major infringement of privacy for those residents.
5. The situation would be particularly aggravated by the residential nature of the proposals because unlike office properties, residents of the block would be at home at the same time as residents of adjacent houses and properties would be fully overlooked from the flats and in particular, from the balconies.
6. There were many areas within the Borough where flats were predominant and satisfactorily grouped together however, the heights of those developments were kept within reasonable bounds and were not in locations where low rise properties were seriously affected.
7. There were precedents for other developments where firm guidelines had indicated that the height of the buildings should be "tapered" so as not to affect the amenity of adjacent low rise properties.

In conclusion, Mr Harvey commented that although Palace Estate residents accepted the site would be developed, it should be on the basis that it was as an appropriate, acceptable and desirable improvement to the current outdated buildings. The proposed development would be far too high and dominant for the location and too close to the low rise houses.

Oral representations from Ward Member Councillor David Hastings were received. Also speaking on behalf of fellow Ward Members, Councillor Hastings objected to the application for the following reasons:-

- The proposal would be an overdevelopment of the site which would undermine quality of life for the following reasons:-
  - The development contradicted the vision of the Town Centre Business Area and Bromley Town Centre's Area Action Plan (BTCAAP). The character of the area should be retained.

- The site was in an ideal position for premium office space and the proposal would have an impact on the ability to provide employment opportunities in the area.
- The height and bulk of the development would be overdominant resulting in harm to the appearance and character of the area.
- There would be a detrimental impact on residential properties in the vicinity.
- The number of affordable housing units offered did not accord with Bromley's housing targets.
- There was a distinct lack of parking provision.

Councillor Hastings concluded by saying that the proposal would result in a negative impact on the surrounding area and on business office space. There was demand for Grade A space and the BTCAAP stated the need to work towards the provision of a thriving and vibrant town centre.

Councillor Buttinger was fully supportive of development on the site where a mix of low level and high rise buildings would be appropriate. However, this proposal was of poor design and would result in an overdevelopment of the site. Insufficient consideration had been given to the impact on local residents and the applicant should reconsider the design of the building and provide adequate car parking facilities.

Councillor Michael stated that any development at the site would need to be appropriate for Bromley Town Centre. This proposal was excessive in height, of poor design and out of keeping with the surrounding area. There were issues concerning the lack of affordable housing and car parking space and the development may be more acceptable if the height of the building was reduced by three or four storeys. Councillor Michael moved that the application be refused for the reasons set out in the report.

Councillor Ince agreed with the comments made by other Councillors and stated that if the building were to be reduced by several storeys, then the number of affordable housing units offered (which fell below Bromley's target of 35%), may become acceptable. Councillor Ince seconded the motion for refusal.

The Chief Planner reported that, taking account of the updates received since the writing of the report, including the advice of the Council's advisor on affordable housing viability, there were no changes to the recommendation. He also confirmed that the site was located within the Town Centre Area Action Plan.

The Chairman agreed that this was a developable site, a key part of Bromley Town Centre and should be considered as if it was an Area Action Plan

application. Issues relating to affordable housing could be resolved through negotiation. In the present economic climate, office space was difficult to rent out. Every building must contribute to the visual character of the area by virtue of its architectural design and should be impressive. The reasons for refusing this application were justified however, the first reason for refusal should be amended to include more emphasis on the architectural design of the building.

Councillor Bennett believed that granting the application as it stood would set a precedent on height within the area along Kentish Way.

Councillor Fawthrop stated that the issues around provision of office space should be examined as demand had changed over time e.g. many people now worked from home.

Councillor Joel supported and encouraged mixed developments. People living in the proposed units would probably understand there was little car parking provision and would use public transport. The applicant could look to reduce the height of the building and the provision of shared affordable housing should be looked into as during oral representations it was noted that the applicant was waiting for guidance from officers which showed a willingness to progress. The Council should give developers an opportunity to help make Bromley a better place to live.

Councillor Arthur liked the idea of mixed development and commented on the need to accept that it must be viable and market-led. There was a good deal about the application to commend and he suggested that negotiations should continue.

Councillors Auld and Boughey had attended a presentation given by the applicant and had concluded that whilst some issues needed to be addressed, overall they were satisfied that the proposal was acceptable.

**Following a vote of 10-5 Members RESOLVED that the application be REFUSED for the reasons set out in the report with condition 1 amended to read:-**

**'1 The proposed development would, by reason of its height, scale, siting and design which would not be of the outstanding architectural quality required by the development plan, appear as an unduly prominent and overbearing addition to the town centre skyline, out of character with the scale, form and proportion of adjacent development, giving rise to an unacceptable degree of harm to the character and appearance of the area including the adjacent Palace Estate, contrary to Policies BE1 and BE17 of the Unitary Development Plan, Policy BTC19 of the Bromley Town Centre Area Action Plan and London Plan Policy 7.7.'**

Members considered the following planning application:-

Item No.	Ward	Description of Application
16.2 (page 33)	Shortlands	(13/01598/FULL1) - 49 Shortlands Road, Shortlands, Bromley: Single storey side/rear extension and conversion of lower ground floor flat to provide 1 two bedroom and 1 one bedroom flats.

This application was previously considered by Members of the Plans 1 Sub-Committee on 8 August 2013. As a decision could not be reached, Members resolved that the application be deferred and submitted for consideration by Members of the Development Control Committee.

As stated in the declarations previously given, Councillor Jackson was granted unconditional dispensation to speak as a member of the public. As the owner of No. 51 on the first floor of the building, Councillor Jackson made the following representations in objection to the application:-

- There was an existing extant permission to convert the building into four flats and by the intensification of side and rear extensions, this application sought to increase the number of flats to five.
- The addition of a fifth flat would push the scale of the building a bit too far resulting in limited parking at the front and outside.
- As the site was located within Shortlands Conservation Area, unique and special standards needed to be upheld. The current proposal would be out of keeping with the character of the area.
- The application included the erection of a 1.8m fence which would change the spatial standards and amenity space of the communal back garden. If the application were to be granted, a condition should be included to retain the openness of the area.

In conclusion, Councillor Jackson requested that the application be refused on the grounds of impact on the Conservation Area and overintensification of the site.

Oral representations in support of the application were received from Mr Mehta, Agent for the applicant. Mr Mehta submitted the following comments:-

- The proposal was for the addition of a new residential flat at ground floor level including a low-level single storey side and rear extension. The ground floor would consist of 2 residential flats, comprising 1 and 2 bedrooms, with access to the large garden. Both flats would be dual aspect and generous in size with modest extensions.



- No objections were received from local residents. The initial application for a similar but larger proposal had been refused earlier in the year and no objections had been made at that time.
- Having taken on board Councillors' thoughts and comments during the previous Committee meeting, the design team had reviewed the proposal to try and enhance the scheme further. In particular, altering the design of the roof on the single-storey side extension. Having reviewed the proposal and the Council's policies on side extensions, it appeared that the proposal met with the requirements expected by the Council. Furthermore, the proposal was subordinate and subservient to the host property and it was considered to be of an acceptable standard.
- There would be provision for one car parking space per housing unit.
- With regard to tree works, there were no Tree Preservation Orders in existence.

In response to a Member question, Mr Mehta confirmed that a 3m wide path at the side of the building was available for people to access the rear of the property. Issues regarding ventilation to the existing flats had been investigated and considered to be acceptable.

The Chief Planner informed Members that should the application be granted, withdrawal of permitted development rights for the erection of a fence could be incorporated into the conditions. The inclusion of a slab level condition was also suggested.

Having recommended deferral at the previous Committee meeting because the side extension was set back and looked odd when viewed from the front, Councillor Mrs Manning now concluded that nothing further could be done to improve the side extension. Councillor Mrs Manning therefore moved that the application be granted as recommended with the addition of slab level and access conditions.

Although Councillor Michael was concerned that the side extension would imbalance the area, she was not convinced refusal of the application would stand at appeal. For this reason, Councillor Michael agreed that permission should be given as recommended with additional conditions.

Councillor Fawthrop moved refusal of the application on the grounds that the proposal was detrimental to the Conservation Area and overintensive.

Councillor Bennett believed the application would take away the character of the area and he therefore supported refusal.

**RESOLVED** that the application be granted as recommended subject to the conditions set out in the report with the addition of a further three conditions to read:-

**‘13. 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.**

**14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and re-enacting this Order) no walls or fences shall be erected within the rear garden of the property to be converted into flats without the prior approval in writing of the Local Planning Authority.**

**REASON: In order to comply with Policy H7 of the Unitary Development Plan and in the interest of visual amenities of the area.**

**15. The rear garden of the property shall not be subdivided into separate amenity areas for the flats.**

**REASON: In order to comply with Policy H7 of the Unitary Development Plan and in the interest of the visual amenities of the area.’**

**17            SALE OF LAND IN PLOTS OFF KEMNAL ROAD,  
                  CHISLEHURST - PROPOSED ARTICLE 4 DIRECTION**

**Report DRR 13/108**

Members considered a request to endorse the making of an Article 4 Direction to remove specific forms of permitted development in regard to plots of Green Belt land offered for sale via the internet. The land, situated within a Conservation Area just off Kemnal Road, Chislehurst, was regarded as a site of importance for nature conservation. In order to prevent the erosion of the amenity of the area and to protect the appearance and character of the countryside, it was deemed necessary to seek an Article 4 Direction.

Councillor Bosshard emphasised the need to preserve Green Belt land and moved that the Article 4 Direction should be approved. Councillor Boughey seconded the motion.

Concerns were raised in regard to the length of time it would take for the Direction to come into force (12 months). The option to issue the Direction with immediate effect was discussed. However, Members were informed that an Immediate Direction carried the risk that claims for substantial compensation would be sought against the Council. The Chief Planner advised that a Non-Immediate Direction was proposed in the report and recommended a Non-Immediate Direction as this minimised the risk of compensation being payable. In any event, should it prove necessary, an

Immediate Direction could be issued at a later date. The Chief Planner tabled a slightly revised plan of the area.

Councillor Fawthrop urged the Council to be proactive in its protection of the Green Belt and moved an amendment to the recommendation for the Article 4 Direction to be issued with immediate effect. This was seconded by Councillor Buttinger.

**Following a vote of 11-5, Members RESOLVED that the making of an Article 4 Direction be endorsed.**

**Following a further vote, Members RESOLVED that the Portfolio Holder for Renewal and Recreation be requested to authorise the making of the Article 4 Direction to be issued with immediate effect.**

**18 ITALIAN GARDENS AND GLADES TERRACE APPLICATION  
FOR REGISTRATION AS A TOWN OR VILLAGE GREEN.**

**Report RES 13150**

Members considered an application to register land comprising The Italian Garden and Glades Terrace, Kentish Way, Bromley as a Town Green. A Public Inquiry to consider the application and to hear objections, was held in May 2013 by Mr Paul Wilmshurst, a barrister with expertise in this area. In July 2013, the Council received Mr Wilmshurst's report containing his summary recommendations.

The Chairman reported that the Council had fulfilled its statutory obligations in holding a Public Inquiry. He agreed with the findings in Mr Wilmshurst's report and moved that the report be accepted and the application be declined. Councillor Auld seconded the motion.

**Following a vote of 13-2, Members RESOLVED that:-**

- 1) The report prepared by Mr Paul Wilmshurst on the application to register the land comprising The Italian Garden and Glades Terrace, Kentish Way, Bromley as a Town or Village Green be accepted; and**
- 2) The application to register the land in whole or in part be declined for the reasons set out in Mr Paul Wilmshurst's report dated 31 July 2013.**

**19 PLANNING SERVICE IMPROVEMENTS AND PROGRESS WITH  
ACTION TO MINIMISE PLANNING APPEAL COSTS**

**Report DRR 13/015**

In January 2013, Members endorsed a revised Outline Planning Improvement Plan as a framework for improvement. Customer Service and Planning Enforcement were identified as priority areas. This report contained updates

on the progress achieved so far and Members considered proposals to support economic growth. An updated version of the Improvement Plan was also attached.

At the DCC meeting held in June 2013, it was agreed that a Panel Group be formed to assist with the preparation of an action plan to minimise future planning appeal costs awarded against the Council. Members received an update on the progress achieved so far; they were also requested to endorse informal Guidelines for Members sitting on Planning Committees.

The Chief Planner reported an improvement in customer service had been achieved and difficulties experienced in contacting officers had eased with the introduction of a new 'hunt' telephone system. To ensure the continuance of efficiency, it would be necessary to employ two additional members of staff.

Councillor Michael stated that one-third of people who responded to the customer satisfaction survey were dissatisfied with the ease of contacting the service however, once they had done so, 85% of people were satisfied with the service they received. Councillor Michael agreed that temporary staff should be employed to alleviate difficulties.

It was noted that whilst the processing of major applications had improved, the performance of minor applications had not achieved the 65% target.

Councillor Bosshard suggested that Penge and Anerley be included as an economic growth area. The Chairman confirmed that he too had recommended the inclusion of several other areas in the Borough.

Having noted that Bromley undertook far more enforcement action than Sevenoaks or Tandridge (Appendix 1, page 55), Councillor Michael stated it would be useful to compare the number of staff in each Council Enforcement Team to see if Bromley carried out more work with less staff. The Chief Planner reported that as an average, Bromley employed 4.5 members of staff compared to 5.5 members of staff elsewhere.

The Chairman advised that meetings of the Enforcement Member Working Party would take place every two months. At the previous meeting, several cases had been individually studied and an informal guidance setting out proposed methods of good practice for Members had been produced. Various concerns were raised with the content of the guidance and it was agreed that the document be withdrawn, reviewed and amended, to incorporate Member comments and suggestions.

**RESOLVED that:-**

- 1) the Planning Service improvements be noted;**
- 2) the next priorities set out in the report be endorsed; and**

- 3) **the informal Guidelines for Committee Members set out in Appendix 3 of the report, be withdrawn, reviewed and amended to incorporate Member comments and suggestions.**

## **20 LOCAL DEVELOPMENT SCHEME VERSION 5 2013-2015**

### **Report DRR 13/103**

Members considered an updated version of the Local Development Scheme (LDS), the project management document for the production of the Local Plan for the Borough. The latest version reflected the move to preparing a Local Plan rather than the Local Development Framework in line with the Government's Planning Reforms and National Planning Policy Framework (2012) and the changes in resources.

The Chairman commented that this was a very clear, straightforward, easy-to-follow document - one of the best reports he had read relating to the Local Plan.

Councillor Bosshard thought the timing for the production of the scheduled preparation time for the draft CIL charges appeared to be rather late and suggested bringing this forward by 3-6 months. He was informed that CIL regulations had changed and with further changes planned for the autumn, the timescale would be brought forward if possible. Councillor Arthur commented that considerable income could be obtained with the introduction of a CIL and suggested that a variable levy be imposed to enable individual control of residential, retail and business areas.

Members were advised that the South London Partnership had undertaken research with regard to the Mayoral CIL however, this was inconclusive on the impact of CIL within boroughs.

**RESOLVED that the revised Local Development Scheme for 2013/15 as the formal management document for the production of the Bromley Local Plan, be recommended to the Executive as acceptable.**

### **Any Other Business**

Councillor Mrs Manning attended an Urban Design London conference relating to housing standards and had brought back a copy of the London Housing SPG which she thought Members may find of interest.

The meeting ended at 9.35 pm

Chairman