

## **DEVELOPMENT CONTROL COMMITTEE**

Minutes of the meeting held at 7.30 pm on 29 October 2015

### **Present:**

Councillor Peter Dean (Chairman)  
Councillor Nicky Dykes (Vice-Chairman)  
Councillors Vanessa Allen, Graham Arthur, Kathy Bance MBE,  
Eric Bosshard, Katy Boughey, Lydia Buttinger, Ellie Harmer,  
David Livett, Alexa Michael, Neil Reddin FCCA and Michael Turner

### **Also Present:**

Councillors Peter Fortune

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

Apologies were received from Councillor Charles Joel; Councillor Neil Reddin acted as substitute.

Apologies were also received from Councillors Auld, Fawthrop and Scoates.

### **30 DECLARATIONS OF INTEREST**

Councillor Allen declared a personal interest in Item 5 - Harris Academy Beckenham, as she was acquainted with both the supporter and objector to the application.

### **31 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 8 SEPTEMBER 2015**

**RESOLVED** that the Minutes of the meeting held on 8 September 2015 be confirmed and signed as a correct record.

### **32 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

No questions were received.

### **33 (15/00909/FULL1) - HARRIS ACADEMY BECKENHAM, MANOR WAY, BECKENHAM BR3 3SJ**

Members considered events following a resolution by the Committee on 13 July 2015 to grant permission for the following planning application report:-

Item No.	Ward	Description of Application
5 (page 15)	Kelsey and Eden Park	Demolition of all buildings on site (except the basketball block) and erection of replacement buildings to accommodate a 3 storey 6FE Academy (8,112 sqm GIA) for 1,150 pupils and a 2 storey primary Academy (2,012 sqm GIA) for 420 pupils together with temporary classroom accommodation for a period of two years, provision of 97 car parking spaces, 170 cycle parking spaces, associated circulation and servicing space, multi-use games areas and landscaping.

On 24<sup>th</sup> July, a Pre-Action Judicial Review Letter was received from Kelsey Estate Protection Association (KEPA) which set out a proposed claim for Judicial Review of the Council's resolution to approve planning permission. As a result, the issuing of a decision had been held back, to take account of legal advice and allow time for further contact and mediation.

Members were therefore requested to consider KEPA's challenges which were referred to and addressed in the report.

Oral representations in objection to the application were received from Mr Mike Mielniczek who considered the Committee had been misled by information given in relation to traffic and parking pressure. The Lambeth Methodology guidance advised traffic surveys should be undertaken within a distance of 200 metres for residential developments and 500 metres for commercial developments. The Authority argued that as the school was not residential, the guidance allowed flexibility to treat it as a commercial development so, in this regard, the 500 metre survey limit was reasonable. However, KEPA considered that as the planning department had established a precedent by applying the 200 metre limit to primary schools it had, therefore, taken on the status as a development plan statutory limit and must be applied. Moreover, the original report to Committee confirmed the use of 200 metres, as read to the Committee by Mr Meilniczek.

Mr Mielniczek claimed the Committee had been consistently misled on this matter; the affect being to dilute detriment to the conservation area; this was material, evidenced, planning fact.

Turning to educational need, Mr Mielniczek stated that the original report outlined the requirement to establish the educational need position in 2017/18 because that was when the current permission for temporary school places expired. It was agreed by all that the temporary provision more than adequately covered requirement, as evidenced by the information contained in Document K of the current report. Outturn statistics should also be considered as opposed to projections.

Document K recorded a projected surplus of 21 places in 2017/18 within planning area 2 which was where the application site was located. However, it did not record equivalent statistics for planning area 1 which showed a surplus of 68 school places. In total there were 89 surplus school places so even when the 60 temporary school places expired, a surplus of 29 would still remain.

The Home to School Travel and Transport Guidance set a statutory walking distance of 2 miles for children under the age of 8 and 3 miles for those aged 8 and over and each way public transport journeys of 45 minutes. Based on this, the guidance concluded PA1 schools would be outside of this consideration. Mr Mielniczek argued that as all primary schools in planning area 1 were within 2 miles walking distance or 45 minutes via public transport, Bromley's own policy standard for planning areas 1 and 2 provision should be aggregated.

Whilst a further 60 places would be provided by the Langley Primary School, the planning report discounted this on the grounds that a planning application had not yet been received. However, Chapter 6 of the Local Plan Consultation background papers specifically allocated the Langley School site for the Langley Primary School. These documents were material policy statements and it was wrong to entirely exclude them in making a projection of supply of places in two years' time, particularly when doing so directly affected the integrity of a conservation area.

Oral representations in support of the application were received from Mr Mike Ibbott, the planning consultant to Kier Construction who were contracted to the Education Funding Agency to build the replacement secondary and new primary school.

Mr Ibbott stated he was disappointed that this matter was returned to Committee as he considered the matters of educational need and transport impacts had been adequately and appropriately considered at the previous meeting. The resulting delay meant that permanent primary accommodation would not be available until September 2016 which in turn, led to a second year of temporary accommodation for the pupils and teachers at significant cost to the public purse.

The primary school was now open and operating from temporary accommodation granted on appeal in January 2015. KEPA had implied that the pupils would be dispersed elsewhere when the temporary permission expired in July 2017 - this was a completely untenable view.

Turning to the summary issues paper submitted at the previous meeting, Mr Ibbott referred to Policy 3.13D of the London Plan which stated that proposals for new schools including free schools, should be given positive consideration and should be only be refused where there are demonstrable negative local impacts which substantially outweigh the desirability of establishing a new school and which cannot be addressed through the appropriate use of planning conditions or obligations.

With regard to educational need, it was clear from LBB's own Primary School Development Plan that provision of reception school places (a statutory duty) was reliant upon the 60 places at Harris Primary Beckenham. No accommodation as yet, had been secured for Langley Primary School. It was clear that Planning Area 2 required both schools.

KEPA's interpretation of the Lambeth Methodology guidance was incorrect.

The School Travel Plan contained a condition which provided an opportunity to make sure on-street drop-off and pick-up was appropriately managed as well as encouraging alternatives.

With regard to planning balance, there was strong policy support for new buildings for the school that had already been established on the site. Whilst there would be some intensification, the effect could be effectively mitigated and managed by conditions and a S106 contribution to highway maintenance.

In response to a Member question, Mr Ibbott reported that the delay in proceeding with the development had already cost £½ m.

Councillor Peter Fortune, Portfolio Holder for Education, addressed the Committee and believed the facts of the case had been adequately considered and discussed at the previous meeting. He recognised the difficulty Members faced in balancing the views of residents against the vital need for education provision in the Borough. Whilst the application met both educational need and the Council's responsibility towards the Borough's children, it did not override the rights of residents whom the Portfolio Holder thanked for bringing the concerns forward.

Councillor Fortune believed a balanced and considered view of the application including education, parking and conservation area matters, had been accorded by Members and he supported their decision to grant permission. The submitted documents effectively rebutted the views put forward by residents and if all facts relating to the application had not changed in any way since the initial consideration then that decision should remain the same.

The Chief Planner reported the following:-

- an application from Stewart Fleming School to expand to 3FE had been granted permission in mid-August 2015; and
- further letters in objection to and in support of the application had been received.

The Chairman issued the following statement:-

“The development is in my ward and this does not put me in an enviable position. Inevitably, if this goes ahead, it will have an impact on local residents living in close proximity to the site. However, I have to balance this

with my responsibility to the wider community including nearby Kelsey and Eden Park residents who have or will have, a need in the future for school places.

The principle of development was established at a previous Development Control meeting when both the secondary school and the primary school applications were received.

The secondary school effectively has a green light and is going ahead however, local residents have challenged certain aspects of the application for the primary school and it is in the interest of public transparency that we are here tonight.

Certain aspects of the application have already been determined to our satisfaction – notably the intensity of the development and the potential disruption through noise created by additional pupils.

The areas we are reconsidering tonight are the need for educational places, the basis on which the traffic stress survey was compiled and the subsequent impact on the street scene.

Whilst I understand this application is emotive, I intend to look at this on pure planning grounds and the likely considerations of an appeal inspection in the event that a refusal resulted in an appeal.

First and foremost, the Education Department and KEPA (local residents), have provided projected figures of school places that will be required over the next few years. Both have indicated that there is an educational need in both Planning Areas 1 and 2, particularly if the provision for the proposed new Langley school is omitted. At this stage there is no planning application for the new Langley school and as such I do not feel it is appropriate to take this into consideration when debating current educational need.

I accept there is a degree of inconsistency in the approach taken in that in a previous application it was established that there was insufficient educational need in Planning Area 2 to justify a new school but the requirement in Planning Area 1 was sufficient to satisfy the need.

In this case it is recognised there is availability in Planning Area 1 and barely enough in Planning Area 2 however, we are not on this occasion taking an overall approach. Whether the approach is right or wrong, we are clearly directed to the fact that children should not have to travel more than 45 minutes to school. As a consequence, we have no alternative but to conclude that there is an educational need particularly in Planning Area 2.

With regard to the traffic stress survey, questions have been raised as to the basis on which this was concluded. There is a contention that the survey should have been conducted within 200 metres of the school where KEPA's conclusion was that there would be a 125% concentration of traffic at peak hours.

The stress survey was conducted within a 500 metre radius of the school which clearly showed a much more diluted result and one with which our own traffic engineers expressed satisfaction.

There are two factors that must be considered in making a determination on the stress survey. First, the survey was conducted on the Lambeth Methodology which is a widely used standard in assessing traffic stress levels. However, we must bear in mind that the Lambeth methodology in assessing traffic stress is not a required standard and planners have no actual requirement to employ it.

Secondly, we must consider whether a planning inspector would agree that the level of traffic concentration suggested within 200m of the school during an initial peak period would be sufficient to deprive an area of 400 primary school places where an educational need has clearly been established bearing in mind the concentration of traffic is considerably reduced when the area under consideration is extended to 500m again and bearing in mind that there is no requirement to employ this system in assessing traffic stress. I feel quite strongly that an inspector would not so act and as such neither should we.

In conclusion, I would say that this application is far from perfect and inevitably the living standards and quality of life for local residents will be impacted. However, on balance, I think the educational need has been established and despite the dissatisfaction with the basis on which the traffic survey was carried out and as a consequence, I feel I have no alternative but to move permission as recommended in the report although it is with a great deal of regret that more appropriate sites from new schools are not being identified.'

In seconding the motion for permission, Councillor Buttinger agreed that a clear educational need had been established and this would go some way to fulfilling the Authority's responsibility to children in the Borough.

**Having reviewed the Committee's resolution of 13 July 2015 and taking the report into account, Members RESOLVED that PERMISSION BE GRANTED subject to the same S106 Legal Agreement and the same condition as in the 13 July 2015 resolution.**

**34 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006, AND THE FREEDOM OF INFORMATION ACT 2000**

The Chairman moved that the Press and public be excluded during consideration of the item of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**35 HARRIS ACADEMY BECKENHAM, MANOR WAY,  
BECKENHAM BR3 3SJ**

Members considered confidential legal information relating to the planning application for Harris Academy, Beckenham.

**RESOLVED that the report be noted.**

**36 URGENT SUPPLEMENTARY AGENDA**

The Chairman moved and Members agreed, that the urgent item be considered.

**37 DC/15/00140/FULL3 - OLD TOWN HALL, 30 TWEEDY ROAD,  
BROMLEY BR1 3FE – SECTION 106 AGREEMENT**

**Report DRR 15/0100**

On 8 September 2015, the Development Control Committee granted permission for the development of the Old Town Hall for hotel use and the adjacent South Street Car Park site for residential use. Permission was subject to the signing of a S.106 Legal Agreement with numerous clauses including one to secure the conversion and delivery of the Old Town Hall prior to the first occupation of the residential units in the South Street Car Park.

Subsequently, Members were requested to note that the Council intended to proceed in line with the wording offered by the developer for the clause relating to the secure delivery of the Old Town Hall element of the overall scheme.

**RESOLVED that the report be noted.**

The meeting ended at 8.00 pm

Chairman