

DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held at 7.00 pm on 25 January 2018

Present:

Councillor Peter Dean (Chairman)
Councillor Richard Scoates (Vice-Chairman)
Councillors Douglas Auld, Kevin Brooks, Nicky Dykes,
Simon Fawthrop, Samaris Huntington-Thresher, Charles Joel,
David Livett, Kate Lymer, Russell Mellor, Alexa Michael,
Neil Reddin FCCA, Catherine Rideout, Michael Rutherford,
Michael Turner and Angela Wilkins

Also Present:

Councillors Nicholas Bennett J.P., Peter Fortune, Ellie Harmer,
Ian F. Payne, Colin Smith and Diane Smith

45 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillors Vanessa Allen, Eric Bosshard, Katy Boughey and Lydia Buttinger; Councillors Angela Wilkins, Catherine Rideout, Michael Rutherford and Samaris Huntington-Thresher attended as their respective substitutes.

46 DECLARATIONS OF INTEREST

No declarations of interest were received.

47 CONFIRMATION OF THE MINUTES OF THE MEETINGS HELD ON 16 NOVEMBER AND 13 DECEMBER 2017

RESOLVED that the Minutes of the meetings held on 16 November and 13 December 2017 be confirmed and signed as a correct record.

48 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

Oral questions were received from Bromley residents, Rhian Kanat, Nancy Lenthorn and Andrew Ruck. A copy of these, together with the Chairman's response, is attached as Appendix A.

**49 PLANNING APPLICATION 17/02468/FULL1 - ST HUGHES
PLAYING FIELDS, BICKLEY ROAD, BICKLEY, BROMLEY**

Report DRR00000

Prior to the issue of a decision on the current planning application for St Hughes Playing Fields (17/02468/FULL1), Members were given the opportunity to consider new material planning considerations which had arisen since permission was granted for the application on 4 October 2017.

It was reported that contrary to that stated in the published agenda as Item 10, there was no Part 2 (Exempt) report for this Item.

The Chief Executive highlighted the Council's unique position in regard to the application. He fully recognised the concern that bringing this item back had raised both for the public and the Council. Given some of the questions, he considered that bringing it back to the meeting this evening, the timescales and the details required, meant the process (timewise) had been unavoidable and this was the earliest it could be submitted to Committee. The report itself was not published until Friday 19 January because the Council had been highly engaged with Counsel seeking legal advice about the Council's current position. He also recognised the issues this raised in totality for everyone but from his perspective as Chief Executive, in order to protect the Authority in the future, this needed to be reconsidered.

The reasons this had come back to Committee were set out in the report, particularly at paragraphs 3.3-3.8, and paragraph 5 on page 9 stated that Members having taken a decision on 4 October and given the material considerations raised by the Planning Inspector, there was no alternative but to bring the matter back to Members to see if these material considerations raised by the Planning Inspector's report would have a material impact on the decision that the Committee made on 4 October. That decision was made in good faith and Members did not have to re-run the whole of that planning debate. The reason the item was being considered this evening and the responsibility on Members, was to see if any items raised by the Planning Inspector would have a material impact on consideration of the decision made at that time. These were material considerations and the officers had put them into context in the report.

Officers had brought forward the report and the Planning Development Control Officer had circulated a planning update. It was clear from the update that whilst officers had recommended that Members could ratify the decision made on 4 October, obviously other decisions were open to Members in their normal decision-making.

Counsel had confirmed that although a Judicial Review had been lodged, it had no bearing on Members' current consideration.

At this point, the Chairman moved that Members consider this as an urgent report as it contained new planning considerations arising since the resolution

to grant planning permission for application 17/02468/FULL1 and offered Members an opportunity to take them into account prior to the issue of a decision. It was necessary to consider the report before the next meeting of the Development Control Committee as a statutory time limit for determination of the planning application had passed and it was important that any delay in issuing the decision was kept to a minimum.

Members agreed that this report be considered as an urgent matter for the reasons given above.

Representations in objection to the application were received from Mrs Lesley-Anne Avis on behalf of Bickley Residents' Group and Simon Ellis, Traffic Consultant, Odyssey.

Mrs Avis stated that the Planning Inspector had refused the applicant's appeal on the basis of serious highways safety concerns. It was now back before Members to consider (taking account of that decision) whether or not to grant or refuse planning permission. She suggested that because the second application had the same access arrangements and was materially the same as the first application, the Inspector's reasons for rejecting that proposal applied equally to the current proposal. It would therefore be unsafe and unreasonable for Members to do anything but follow the Inspector's decision and refuse the application.

Members had also been requested to consider alterations to layout and the addition of a condition for a 'no right turn' onto Bickley Road. Residents did not consider this would overcome the Inspector's reasons for dismissing the appeal. In any event, such a condition would have a serious material effect on the application such that Members may not consider that proposal without first consulting with members of the public for their views and without requesting further evidence from the Council's own traffic consultants as to the potential effect of the 'no right turn'.

Residents also considered that the proposed conditions failed to secure key undertakings and key assurances given by the applicant in its submissions. This was another reason for refusing the application.

Mr Ellis stated that the applicant's latest estimate was that 43% of the development traffic would turn right onto Bickley Road when exiting the site. Most of those vehicles would be returning home in a westerly direction along Widmore Road. The applicant's latest forecast was that when the school was fully operational in 2028, the a.m peak queue length in Bickley Road would be 67 vehicles and would result in a tailback well beyond the Bickley Road exit point and accordingly give rise to the same unacceptable traffic and road safety issues caused by vehicles exiting from the site to which the Inspector had referred.

The 'no right turn' proposal would make use of the on-site access road unattractive to those vehicles arriving from the West because on exit they would be routed eastwards. The few who may still use the on-site access

road would be tempted to perform a u-turn or three point turn on the busy Bickley Road as soon as they exited the site. If not, they would be delayed at the signal junction on Bickley Road, then at the junction of Pines Road with Chislehurst Road and then at the mini-roundabout junction at the end of Chislehurst Road as they attempt to travel westwards. The applicant's own traffic modelling analysis showed that all those junctions were already operating over capacity at peak times and they would become even more congested as a result of future traffic growth and the development traffic. With the additional diverted development traffic movements, the position would become worse still.

In practice, most of the development traffic arriving from the west would be unlikely to use the on-site access road. Instead, drivers would find it much quicker to drop off and pick up children in Chislehurst Road and Bickley Road and in roads west of the site which were already heavily parked.

It was beyond doubt that this was a new material planning consideration. Members had previously considered the second application in October 2017 where the potential for drop off and pick up on surrounding roads was presented based on unrestricted exit from the site in both directions and a no right turn proposal would result in a development scheme where the likelihood of drop-off and pick-up on surrounding roads would be significantly greater. In conclusion, the current proposal did not overcome the Inspector's reasons for dismissing the appeal. The proposal would still have a serious and unacceptable cumulative impact in terms of highway safety which conflicted with paragraph 32 of the NPPF and should be refused.

Councillor Dykes referred to Mr Ellis' assumptions about what people were likely or not likely to do i.e. make three point turns etc; these were not known facts. She asked if his assumptions took into consideration that it was known from the school's admission that many people lived within walking distance.

Mr Ellis said his assumptions were based on traffic levels on arrivals and departures submitted by the applicant.

Representations in support of the application were received from Mr Matthew Blythin, DHA Planning and Mr Ben Greene, Executive Head, Bullers Wood Trust.

Mr Blythin acknowledged that Members were now asked to consider if there was any sound reason to overturn the previous resolution to grant permission. Officers had considered the appeal decision diligently and sought external Counsel advice. The conclusion reached was that the resolution could be ratified and permission could be granted. He was very disappointed with the appeal decision not least because he believed it was fundamentally flawed. It submitted a host of material information, had no regard to the proposed opening hours, included a host of factual errors and was based upon observed traffic on a wholly unrepresentative day. These shortcomings had resulted in Judicial Review proceedings being launched on the basis of clear Counsel advice that the Inspector's decision was legally unsound.

Members were requested to consider what weight they could reasonably give to the appeal decision.

The Inspector identified one primary issue which was the potential problems facing right turning traffic onto Bickley Road. This was previously raised by Members and was already being developed by proposed conditions in the form of a 'no right turn' exit. This had been further refined with officers who confirmed it offered a suitable and enforceable solution to overcome the Inspector's concern. An independent road safety audit had raised no outstanding safety issues.

Members had previously expressed a preference for access and egress from Bickley Road only. The Inspector's decision was based on minimising highway conflicts on Bickley Road and a two-way access would exacerbate those concerns; by comparison, the proposed no right turn avoided them. Members had been informed that this was a fundamental change to the scheme however, it was not. Officers had confirmed, it brought forward a detailed design to be followed via condition and it would not give rise to an unacceptable volume in drop-off. The current proposal provided an unprecedented number in drop-off and significantly more than the original scheme.

Mr Greene referred to the boys school commitment to an earlier start and finish time to that of the girls school ensuring movement would be staggered between 40-50 minutes earlier at both ends of the day. This was part of the solution and in terms of school management, was one of many strands. The commitment to sustainable travel was embodied in the Home School Agreement. Drop-off outside the site would be actively discouraged. Staff would have before and after school duties, managing gates and monitoring local roads. Parents dropping off and collecting students outside the site would be challenged and members of the Leadership Team would follow this up directly with parents. The aim was to develop resilience and confidence in students and the key element was independent travel which would be woven through transition, curriculum programmes and a range of sustainable travel projects. This was carried out at the girls school which had outstanding status under the Stars Scheme demonstrating that travel by car has decreased year by year.

Offer day was one month away and there were 490 applications for 180 places, 260 of which were in the immediate vicinity of BR1, BR2 and BR7. 176 applicants lived within 1½ miles and 98 lived within a mile. So 176 of the applicants would live within a 22 minute walk to school. The site was approximately 200 metres from Bickley Station and ½ mile from Chislehurst Station. Moreover, the school was very close to five bus routes. Policy C7 in the Bromley UDP stated that applications for schools would be permitted provided they were located to maximise access other than by car.

This would be a local school for local boys close to a range of public transport options with site design doing all that was possible to mitigate concerns and a

Trust-wide commitment to sustainable transport and proactive management to build this ethos.

If Members were to reverse the decision, the 176 boys previously mentioned would need to travel further and would more likely be driven to school. Mr Greene was not aware of any other local school which opened at different times. Should the previous decision be reversed, the problem of finding school places in Bromley would not be resolved and would force more local boys onto roads travelling long distances to school which, in turn, would worsen congestion.

Ratifying the decision made on 4 October 2017 would offer life-changing prospects to generations of young people granting permission for an outstanding school providing the same fantastic opportunities to boys as was currently offered to girls.

Councillor Dykes asked whether the applicant's concern was raised with Council officers about the day chosen for the Inspector's site visit. It was confirmed that subsequent to the appeal decision being received this had been raised with officers.

Councillor Wilkins' understood that the current application's traffic flow figures were based on the best data to hand and asked if this had changed as it was now known where students would come from. Mr Blythin confirmed that offers had been refined and the figures had improved in terms of how many students were likely to walk to school. The highways a.m. peak did not readily coincide with the school peak which as the girls school showed in terms of the likely arrival time of pupils relative to the start of school would be significantly earlier than a.m. peak on the highways. The vast majority of pupils would travel by public transport or walk.

Councillor Turner asked why the applicant did not withdraw its appeal when approval was given in October 2017. Members were informed that the two applications were materially different schemes. The second application was validated and as the current report confirmed, Members were now given the opportunity to continue with the decision as before. The applicant did not have planning permission at that time but if they had been able to proceed they could have progressed with the scheme.

Councillor Fawthrop stated that the school wished to play a good role and work with the community but from day one there had been a lot of concerns from the local community in terms of traffic and access. He asked what the applicant had done to work with the community to resolve those issues. He was informed that the decision that the school operated earlier start times was taken very early in the process as a means of resolving the concerns raised together with the Travel Plan and the parent 'Walk To School' Charter. A series of consultation events had also been held and the applicant had been very conscious of the concerns raised by local residents. The addition of further drop-off places on the school site was also included in the second

application. The applicant wanted to continue to work with the local community to try and resolve any issues raised after the school had opened.

Councillor Brooks referred to the innovative idea of establishing earlier start times for the school and asked if there was a safe area for pupils who travelled to school with siblings who may start earlier. Members were informed the school would run a Breakfast Club to accommodate those children who may start at a later time to their sibling.

The Planning Development Control Officer reported that the Chief Executive had addressed Members regarding the full range of decision options available which were to ratify the previous decision to approve or they could defer or refuse the application. Any decision would require clear reasons to be agreed by the Committee prior to a vote being taken. He suggested any Member who put forward a motion should provide clear reasons for doing so. A Judicial Review had been lodged by Bullers Wood School against the Inspector's appeal decision. Members were advised there was no legal reason to defer consideration of the application based on the lodging of the Judicial Review. Details of a 'no right turn' option, including a road safety audit of the design, had been submitted by the applicant. Notwithstanding the potential impact of such a proposal as set out in the Committee report, the Council's Highway Engineer considered the design to be technically acceptable. Should Members consider it a requirement to overcome the Inspector's concerns about the Bickley Road egress, a specific condition requiring a no right turn arrangement was recommended rather than the more general wording currently in draft condition 16. He also advised that any resolution resulting in determination of the application should be referred to the Mayor of London and the Secretary of State so they could also consider the new material planning considerations prior to the issue of a decision. Any permission granted would be subject to conditions and a S106 Legal Agreement. A summary of late representations had been circulated to Members consisting of approximately 50 representations in support and 20 in objection.

Committee Member and Ward Member Councillor Lymer considered this distressing and stressful situation lay squarely at the feet of the ESFA and their agent, Kier. Having obtained permission, why did they not withdraw their appeal on the first application? Members were verbally led to believe they would and if they had, this situation would not have arisen. Despite Council officers repeatedly chasing them, they failed to respond to messages concerning the S106 payments. If they had responded before the Inspector's report was received, the permission would now be signed off. In summary, mismanagement by the ESFA and Kier caused the situation in which the Committee now found itself.

The Inspector's objections focused on highways safety. A 'no right turn' had been proposed by the applicant to tackle the Inspector's concerns about the previous proposal for cars to turn right onto Bickley Road. The Inspector's second main concern was the unattractiveness of the route to the school due to potential queueing to the site which would lead parents to pick up and drop

off on local roads, resulting in a severe lack of safety. A 'no right turn' out of the site would not resolve this problem but would, in fact, exacerbate the problem further. The Council's Highways Engineer reported the proposed 'no right turn' could have two more dangerous consequences. Drivers would either try to turn right anyway or to avoid a 1.2 - 1.5k journey in heavy traffic just to be able to turn back around into the direction they wished to go they would more likely drop their children in one of the surrounding roads which the Inspector clearly stated was severely unsafe. Therefore, the Inspector's safety concerns resulting from the consequences of parents being less likely to enter the site had become an even greater concern. The Inspector said that other drivers may also not want to use the through route due to the potential for delay and this too would lead to pupils being dropped off and picked up in the surrounding road network.

On Bickley Road, frequent vehicle stops and vehicles parking up and waiting would be incompatible with the strategic nature of the road and its peak queueing. Bickley Road was one of the main arteries travelling across South London and was one of the main roads on which commuters travelled to Bromley for work. The Inspector had stated the limited width of Chislehurst Road, the absence of any footway on one side and peak queueing would carry an unacceptable risk of pedestrian or vehicle conflict when vehicles stopped to drop off or pick up. This would lead to an unacceptable risk to the lives of children. The Inspector went on to say the proposal would have a severe and unacceptable impact on highways safety on both Bickley Road and Chislehurst Road.

On the day of the inspection, emergency roadworks were taking place. The planning report stated that a link between them and the traffic which was heavier that day could not be proven however, Councillor Lymer accepted it was reasonable to assume that traffic was heavier due to the roadworks. Roadworks occurred frequently and perhaps increased traffic even demonstrated what would happen to the road network if the school opened. Either way, with or without roadworks, junctions were overloaded and already over capacity. This was confirmed in the applicant's traffic report which forecast that when the school was fully operational, the morning peak queue length on Bickley Road would be 67 vehicles. In their usual manner DHA, the applicant's agent, sent Members a last minute report at 6 pm on 25 January 2018. The last minute nature of this injection was designed to deliberately prevent any meaningful response from residents and Members.

Members acknowledged the undisputed need for school paces in the Borough and the strong desire of parents for this school to exist. Since the start of this process Members had suggested the Widmore Centre as a viable alternative. This option had been reiterated to the Secretary of State for Education, Bickley's MP, the ESFA and Bullers Wood countless times but had been continually ignored.

Councillor Lymer moved not to ratify the previous decision on the grounds that the applicant had not resolved the severe safety concerns laid out in the Inspector's report. The Committee should not be willing to gamble with

children and road users' lives and should not be willing to cross fingers and hope that nothing catastrophic happened, especially when there was an alternative, more suitable site on the table.

Councillor Rideout stated this was not a suitable location for a school because of the limited access, road safety and congestion. She had supported refusal of the first application. Chislehurst Road had only one narrow pavement in that part of the road and the only entrance was on the opposite side forcing children to cross a very dangerous road. The road was also one of the routes to Bullers Wood Girls School where not only did parents drive their children to school but was also used by novice drivers as some of the 6th form girls and boys drove to school, thereby increasing the danger. This was a serious road safety issue which had never been dealt with adequately.

The exit to the school was next door to a garage where, most days, there was a very large transporter parked during the morning rush hour. Even the introduction of a 'no right turn' in Bickley Road would not solve the problem but would cause another at Bickley Point because Bickley Park School was at that junction.

Councillor Dykes asked if the planning department had been advised when the Inspector intended to visit the site and was informed that it would be normal process but officers would need to confirm with the Appeals Team who dealt with the matter. Councillor Dykes then asked if the date was not suitable i.e. because of emergency works etc. could the Inspector have been asked to visit on a different day. It was reported that if officers had any idea there would be particular unusual situations, they would have advised the Inspector of this. It could be deemed that on this occasion, officers were not aware of any emergency works in the area.

There was no difference between the current and previous applications. The perceived problem with right turning vehicles onto Bickley Road had been addressed by the applicant. Furthermore, there were no safety concerns with the design. The only remaining concern related to drop-off however, this consideration had been debated extensively before. It was also not a basis on which a decision should be changed. The evidence received about drop-off was based on a prediction which could not be relied upon and recent school data showed that students attending the school would have a 22 minute walk to the site; so that was the information which should be considered. It was important to note the Inspector was not concerned about the generation of the volume of traffic.

Councillor Dykes also questioned the credibility of the Inspector's report as it offered no reason or new considerations for not ratifying Members' decision. It was ridiculous that the Inspector's site visit happened on a day when there were quite significant roadworks in the area. The assertion that it gave him an idea of what traffic might be like was a falsehood because these were emergency Thames Water works, an emergency diesel spill and emergency gas works. The Council would never have agreed all those roadworks given

the extreme high impact on traffic. The Inspector therefore visited on a day that was extremely atypical.

The Inspector report did not acknowledge the school's early start and finish times which was a significant element of the scheme.

This Committee had made a decision to approve an amended scheme - one which was different to that considered by the Inspector. Not ratifying the decision would completely undermine the Committee especially as no reason was given by the Inspector. The only material consideration was that the Committee refused the Shaw Academy application only further exacerbating the need for school places.

Councillor Dykes moved that the decision made by the Committee in October 2017 be ratified on the basis that not doing so would undermine both the Local Authority and the credibility of this Committee which should be able to have confidence in its decisions. Not doing so would undermine democracy and undermine Members' role in the community and the decisions made. To backtrack on the democratic process would be shameful.

Councillor Reddin supported Councillor Dykes and emphasised that should the application be refused, the intended pupils would likely travel further to school thereby creating even more traffic. In terms of highways, events had overtaken the Inspector's report. A great deal of work had been undertaken with highways as per the condition added in October 2017. In particular, the issue of the 'no right turn' onto Bickley Road had been dealt with and the Council's Highways officers were satisfied. Members now knew the catchment area was likely to be less than 1.5 miles.

The Inspector's report was deeply flawed; he did not acknowledge his visit took place on a day when traffic was significantly impacted by emergency roadworks. He had also given the status of one of the major roads incorrectly. The school had an overarching duty of care and safety towards pupils. The idea that a school would deliberately put its pupils lives at risk was inconceivable.

Another material consideration was the refusal of the Shaw Academy application for 1 Westmoreland Road and the additional pressure that would put on the need for school places.

Councillor Reddin seconded Councillor Dykes' motion to ratify the Committee's previous decision to approve the application.

Councillor Michael referred to paragraph 3.8 on page 4 of the report which stated clearly "The Inspector's decision is considered to be a new material planning consideration which ought to be properly considered by the Local Planning Authority.". The Education Funding Agency and their contractor Kier had not been helpful. The two planning applications were essentially, the same. The second application did have a few 'tweaks' but was basically the same as the application dismissed by the Inspector on the grounds of traffic

and road safety. Much greater queueing would occur at the junction of Bickley Road and there were concerns regarding the safety and suitability of the Bickley Road egress from the site, the severe and cumulative impact of the increase in pick-up and drop-off of children on the surrounding roads and also conflict with the London Cycle Network designation for Chislehurst Road. The fact there were emergency works taking place on the day of the Inspector's site visit was telling. Emergency works by their very nature were unpredictable. Ward Members said there were alternative sites for this school so why put a new school at a site where it was clear there would be problems. The school was trying to resolve issues with the 'no right turn' onto Bickley Road but this was likely to make matters worse.

For the reasons mentioned above, Councillor Michael seconded the motion not to ratify the decision made on 4 October 2017.

Councillor Joel emphasised the Council's need to provide more schools due to growth in the Borough. Bromley had been charged with providing 641 dwellings each year and it had been suggested in the Draft Local Plan that this should be raised to 1,424 dwellings per annum. There was a huge demand for housing across the whole of London which would result in even more traffic in one form or another.

The comprehensive report before Members contained a considerable amount of repeated information. It was noted that under procedural background (item 3.5) that the Council had sought legal advice prior to the publication of the report.

The first application was refused by the Committee on 25 January 2017 and the decision notice issued on 31 January 2017 following which the applicant's agents lodged an appeal to the Planning Inspectorate. Having taken into consideration the points addressed on the previous refusal, a second application was submitted to the Council and subsequently approved by the Committee. At that meeting, Councillor Joel suggested that the egress of vehicles from the site onto Bickley Road should have a 'no right turn'. This was accepted by the applicant's agent and supported by the Committee and made a condition within the consents of approval.

Members' attention was drawn to paragraph 3 on page 110 of the report which stated "or concludes that the proposal has been amended following the previous reasons for refusal and that all relevant material considerations have been addressed."

Having previously supported approval to the second application, Councillor Joel could see no reason to change his previous decision.

He went on to advise that the possibility of vehicles turning right from the egress point was subject to design; it did not have to be a 90 degree angle turn but could be designed in a way that it forced cars into the desired flow of traffic. Unfortunately, the safety of children was a nationwide problem. The Council had a very competent Highways Safety Team and any problems or

incidents arising after the school was up and running would be inspected and dealt with in due course.

Councillor Rutherford knew the site very well and having travelled down Bickley Road at the school's proposed closing time, there was no significant traffic, despite the horrendous rainfall. Consideration should be given to the huge benefit that came from school places and thought should also be given to an appropriate alternative site for the school. The current site had two bus stops nearby and was within walking distance of two train stations. Given Bickley Road's status, it was not particularly busy. Although not perfect, this site was certainly the best option. Councillor Rutherford respected the concerns of local residents and all the hard work and campaigning the Ward Councillors for Bickley had undertaken. Whilst the Widmore Centre could have been an appropriate site at one point, planning permission had now been given to La Fontaine Academy to occupy that site.

Councillor Rutherford supported the proposal to ratify the Committee's previous decision. Should the decision not be ratified, then 176 school places would be taken away from pupils on the basis of the Planning Inspector's report which he considered to be questionable.

Councillor Mellor referred to paragraph 3 on page 108 of the report which stated his objections to the application considered on 4 October 2017. Having read the report and taken into account the comments raised by other Members regarding the material considerations raised by the Inspector, his objections remained the same. Councillor Mellor therefore did not support the recommendation to ratify the Committee's decision made on 4 October.

Councillor Brooks considered insufficient emphasis had been placed on the availability of local transport in the area. In other large planning applications Members always considered the local area and PTAL statistics. Councillor Brooks did not believe there would be a significant increase in vehicles as a result of the school being located at the site. If the application was refused, there would be an increase due to pupils having to travel further to school. Having a school at this site would be of great benefit to local children and the community. It was not a good day (roadworks wise) when the Inspector made his site visit so perhaps some of his judgements could be seen as flawed. The 'no right turn' proposal was acceptable. Councillor Brooks therefore supported the recommendation to ratify the previous decision.

Councillor Fawthrop thanked the public and Members who contacted him and was particularly impressed with the quality of the written responses from children. In terms of the application, Councillor Fawthrop had always questioned the access onto Chislehurst Road. The Minutes of the meeting held on 4 October (page 112), reflected his suggestion that an in/out access on Bickley Road would resolve 90% of the issues raised by the Planning Inspector. Bickley Road may or may not be busy however, it would be easier to have an in/out access there. Page 143 of the Inspector's report stated "on Chislehurst Road the absence of a footway would carry an unacceptable risk of pedestrian or vehicle conflict"; this was a material planning consideration.

Councillor Fawthrop could not, therefore, ratify the previous decision based on that consideration. A Governor at Bullers Wood had informed him that an in/out access would be welcomed on Bickley Road, so he could not understand why this had not been carried out.

In regard to Public Transport Accessibility Levels (PTALs), Transport for London assumed that people who live next to a train station would travel by train; similarly those living by bus stops would use the bus. PTALs were flawed because they were not based on where people wished to travel to and it was the destination point that was important. In this case, the destination was St Hughes Playing Field which was an issue. Councillor Fawthrop did not support the recommendation to ratify the previous decision but would vote in favour of a deferral to look again at the Bickley Road in/out access.

Councillor Wilkins stated that had the final Legal Agreements been signed before the appeal decision was known, this whole matter would have been completed. The Section 106 Agreements were awaiting signature and Members should bear this in mind. Given the school was due to open less than a year after permission was granted, she was surprised the process was not expedited and the documents signed. The Inspector arrived for his site visit on a day when due to unforeseen circumstances there was significant traffic build-up. This abnormality should also be taken into account. The matter currently before Members was the traffic concerns raised by the Inspector, in particular, the issue of vehicles turning right onto Bickley Road. Comments in regard to the risk to pedestrians on Chislehurst Road was mentioned by the Inspector in the context of much higher traffic figures from the school and also made on a day when there was an extreme level of traffic congestion. The establishment of a 'no right turn' would resolve the issues raised and the applicant was agreeable to this. The Inspector was also concerned that parents would drop children off in the surrounding side roads however, Members had already been assured that many children would not arrive by car. Of those that would, most were secondary school pupils who would not wish to be dropped off by the school gates so parents would make use of the side roads to avoid congestion. This school was needed more now than in October when the Westmoreland site proposal was still possible. Councillor Wilkins supported ratification of the previous decision and urged Members to act in the interests of the local community.

Councillor Livett stated the Council had been portrayed as careless to the well-being and ambition of local children and had instead, focused on the welfare of wealthy residents. The school was considered to be flexible and accommodating unlike the Council and its officers. He had nothing but admiration for the organisation of the applicant's campaign. Many of the supporting e-mails received made detailed and reasoned cases for the school and disputed the objections thereto. He appreciated the effort that was expended into producing correspondence. Councillor Livett found the current issue very difficult to decide. He recognised the benefit that a school on the site would bring to local children and he wanted to see a school built there however, he was not swayed by the wider traffic issues because the increase in pupil numbers led to more schools being needed which, in turn, generated

more traffic. The emotional pull of an application to build a new school was strong and the need was great. Whilst he did not find issue with the wider traffic implications, he had great concern about the immediate arrangements. When considering the first application, he made the point that he considered the entrance on Chislehurst Road was in the wrong place and suggested insufficient work had been carried out to provide both the entrance and egress onto Bickley Road. Such access arrangements had also been raised by Council officers during pre-planning meetings. Yet, notwithstanding the impression given to the public, the response from the applicant had been sparse. The disadvantages suggested by the applicant which were few, did not appear insurmountable. It was Councillor Livett's view that the applicant had not given adequate consideration to access arrangements and the current revisions to the proposed egress highlighted that point. He urged the developers to do more work on the Bickley Road access to address the Inspector's concerns set out in 3.181 and 3.183 on page 5 of the report. As much as he would like to see a school built at the site, he could not support the current design which he considered to be flawed.

Councillor Auld referred to the lack of meaningful dialogue entered into by the applicants with local Councillors. He was unaware how long the application had been discussed before the first application was submitted. If any meaningful discussion had taken place before that and heed had been taken of the knowledge and suggestions put forward by local Councillors, the decision would have been made perhaps in favour of the school last year. The appeal Inspector's decision to dismiss the appeal was one of the strongest material considerations Councillor Auld had faced in his years of dealing with planning matters. Over the years, Members had been advised that Inspector appeal decisions were material considerations and were virtually binding on the Council. If the application was refused this evening, a fresh appeal may be launched but it was doubtful another Inspector would come to a different decision. Whilst he was not against the building of new schools or the expansion of existing schools, Councillor Auld did not consider this was an appropriate site for this particular scheme. The safety of young people was of paramount consideration and in this regard, Councillor Auld did not support ratification of the previous decision.

Councillor Turner emphasised the need for a school in this area, in particular, the need for a single sexed boys school. The nearest boys school was Ravens Wood or Langley Boys both of which were over-subscribed. Not many secondary school boys would want to be dropped off at school by their parents. The area was better served than most having bus stops and two railway stations nearby. Most secondary schools were located on main roads which would always give rise to traffic issues. In regard to the emergency works, these could not be predicted. Councillor Turner supported the recommendation to ratify the previous decision.

In summing up, the Chairman noted the first motion received was from Councillor Dykes who moved that the previous decision be ratified; this was seconded by Councillor Reddin.

Councillor Lymer put forward a motion not to ratify the previous decision made on 4 October 2017; this was seconded by Councillor Michael.

Before the vote in favour of ratification was taken, a summary of the reasons for this was reported by the Legal Representative as follows:-

'The majority of the Development Control Committee decided that the application ought to be granted having debated the material planning considerations presented to them subject to suitable conditions and obligations. Members agreed with the analysis in the officers' report apart from the consideration of the highways issues that gave rise to the recommendation for refusal in respect of road and pedestrian safety and impact on the highway network. The clear need for school places as supported in Government planning policy combined with the allocation of the site for a school in the draft Bromley Local Plan and the lack of other policy objections were considered to be matters which argued strongly in favour of the proposal and which outweighed any potential harm in particular, as Government advice was that given the strong policy support for improving state education the Secretary of State would be minded to consider such a refusal or imposition of conditions to be unreasonable conduct unless it is supported by clear and cogent evidence. More specifically, the majority of the Committee felt that there was not the clear and cogent evidence required to refuse the application. Members also noted that Transport for London was happy with the application proposals in highways terms. Members did not agree that the transport impact would be severe as set out in the National Planning Policy Framework and felt that the highways objections raised in the report could be successfully mitigated against in the detailed design and using planning conditions and in the Section 106 Agreement. After the resolution to grant planning permission, an Inspector's decision concerning an appeal against refusal of planning permission for an earlier proposal had been published. Given the similarities in both applications, Members agreed that the Inspector's findings and judgements raised a new concern as to highways safety concerning the arrangements for egress from the site onto Bickley Road. The applicant proposed a 'no right turn' ban from the egress onto Bickley Road as a way forward to address this concern. Members agreed that such an arrangement would resolve the safety concern and that details of this could be submitted pursuant to a condition requiring approval of the details of the access road including the junction with Bickley Road and how these would be managed.'

Councillor Dykes agreed with the above statement but suggested including a stronger statement in regard to what she considered to be a 'flawed' report from the Inspector and that it brought forward no material considerations. The vote in favour of ratifying the previous decision fell at 7-9. Councillor Mellor's vote against ratification was noted.

Following a vote of 9-7, it was RESOLVED that having regard to the new material considerations, Members do not ratify the decision made by them at the Development Control Committee meeting on 4 October 2017. The Chief Planner's representative then suggested a reason for refusal

of the application which would be as set out in the previous agenda set out on page 94 of the report, which was accepted.

The votes against not ratifying made by Councillors Brooks, Dykes, Joel, Reddin, Rutherford, Turner and Wilkins were noted.

**50 MAYORAL COMMUNITY INFRASTRUCTURE LEVY (MCIL2)
 DRAFT CHARGING SCHEDULE CONSULTATION**

Report DRR18/001

The Mayoral Community Infrastructure Levy (MCIL2) Draft Charging Schedule (DSC) public consultation towards Crossrail was due to end on 4 February 2018. The report considered by Members contained background detail and outlined points and concerns from the London Borough of Bromley's perspective, which enabled the suggested formal response attached as Appendix 1 to the report.

It was suggested that the Council object to the proposed Charging Schedule due to:-

- the adverse impact on provision of local infrastructure such as education and health;
- the limited benefit to Bromley residents of Crossrail 2; and
- the impact on other transport projects.

Councillor Fawthrop referred to LBB v GLC 1981 (Fares Fair) which was overturned because benefits would not accrue into Bromley from a policy that was yet again top down centralisation and perhaps reference should be made to this in the Council's response.

RESOLVED that the approach to object to the Charging Schedule and the suggested response be endorsed.

**51 BROMLEY'S RESPONSE TO THE DRAFT LONDON PLAN
 CONSULTATION**

Report DRR18/002

The New Draft London Plan was released for public consultation in early December 2017. When adopted, the new Plan would replace the current London Plan (2016) and, as part of Bromley's Development Plan, would be used in decision making on planning applications along with the UDP/Local Plan and Bromley Town Centre Area Action Plan.

Members were requested to consider the key aspects of the Consultation Draft, together with officers' comments (attached as Appendix 1). Bromley's

response, based on these comments, would be prepared for Executive approval on 7 February and submitted before the deadline of Friday 2 March.

The Chairman highlighted key elements of the document namely the suggested increase in housing supply, removal of the minimum parking standards, the increase in affordable housing (by possibly 50% in some cases) and the potential removal of the Docklands Light Railway potential for Bromley.

Councillor Michael noted the Mayor's proposal to remove all mention of building on garden land and considered that as a Borough, this was something which should be guarded against. As far as she was aware, this was still a part of the National Planning Policy and as such suggested the Council request that reference to building on garden land be reinstated. The Chief Planner confirmed that garden land was excluded from the definition of previously developed land as a national matter. Were this eventually to become a London Plan policy, in most cases more weight would be given to the London Plan than the one at national level. This had been acknowledged as a problem in the report currently before Members.

Policy SD7 (paragraph 5, page 44 of the report), referred to Petts Wood and West Wickham being given "medium" potential for residential growth. Councillor Fawthrop queried how this had been determined within the draft London Plan as there was in fact, no potential at all for residential growth in the Petts Wood Area of Special Residential Character. Even on the Petts Wood west side there was little or no scope for growth. The Council's response should therefore be robust in pointing out that Petts Wood was an Area of Special Residential Character which was not suitable for residential development. Officers agreed to draft some wording and consult with Councillor Fawthrop on this matter.

In regard to Town Centres and Residential Use (page 43), Councillor Brooks emphasised the need for caution as the majority of the Borough's town centres operated as Business Improvement Districts (BIDs) and it was essential to ensure development did not abut onto retail areas and reduce footfall as this would result in the provision of smaller shops and in turn lead to less money being put into BIDs which would be seriously detrimental to the Borough's high streets. In this regard, a more robust policy was required.

Councillor Joel raised concerns with the proposed new housing provision target of 1,424 dwellings per annum. Whilst the erection of high rise blocks were being encouraged, he questioned where the majority of the required units could be accommodated. He also queried the definition of affordable housing.

Councillor Fawthrop agreed with the comment on page 49 of the report which supported a design-led approach to development sites. However, he suggested it be strengthened in terms of the context and character of designs. He was also disappointed with the response to Policy D9 - Basement Development (page 51). The Chief Planner and officers were fully aware of

negative issues arising from basements and the recommended comments should therefore be amended to say the Council was aware of negative issues and would initiate local restrictions in the near future.

Page 60 of the report alluded to a policy target for off-site or cash-in-lieu contributions of 50% affordable housing which was not viable and would undermine the policy and prevent homes being built. This should be robustly set out in the Council's comment.

Councillor Brooks emphasised the need to retain a good percentage of affordable housing within Bromley. He noted that whilst housing officers worked extremely hard to provide affordable homes, they were not always located within the Borough.

Councillor Joel alluded to the change of use from offices to residential units however, the Council needed to provide mixed developments which would ensure continued employment in areas. The conversion of large offices to small units for people in start-up businesses would be an option to consider.

Referring to the new policy on gypsy and traveller accommodation (page 69), Councillor Michael requested that the comment include the point that many people in this community were now living in settled accommodation and had been for many years. For those who did not, there was currently no shortage of pitches in the Borough.

Councillor Fawthrop suggested the comment in relation to Burial Space (page 74), include the Council's resistance to the development of mausoleums in the Borough as these were a waste of land.

Councillor Huntington-Thresher reiterated the concern regarding the lack of protection for garden land. She also made reference to infill development within the curtilage of a house (page 56, clause d) and (clause e) where the presumption meant approving small housing developments unless it would give rise to an unacceptable level of harm to residential privacy. The comments on page 57 to combat this was not strong enough as it suggested the benefits of additional housing would always outweigh the benefits of amenity space. As it stood, it could easily be argued that additional housing could be established in areas with a large amount of amenity space. She suggested a specific clause for garden land be included in the Plan. Councillor Rideout reported that gardens were reclassified 15 years ago as greenfield sites and were no longer known as brownfield sites which gave the Council the required protection from garden-grabbing; this was confirmed by the Chief Planner.

In relation to housing and density, Councillor Mellor highlighted certain cases where developments had yet to be built some three years after planning permission was granted. The applicant would then reapply for permission and again no building would materialise which resulted in the land being laid fallow for six years. Councillor Mellor suggested that the Chairman, through the

Leader, make representations to the Government and Members of Parliament requesting that developments be carried out within a much shorter timescale.

Councillor Joel queried the definition of 'the heat island effect' which was stated in the comment relating to Policy GG3 on page 39 of the report. The Planning Officer advised that the heat island effect was something which commonly happened around densely developed areas and agreed to provide Councillor Joel with further information.

The Chief Planner confirmed that in the majority of cases, the adopted London Plan policies could be given more weight than the National Planning Policy.

Councillor Dean confirmed the London Plan would start to influence the Council's decisions once it had been consulted upon, ratified and formalised towards the end of 2019.

Referring back to Policy SD7 (page 44), Councillor Fawthrop suggested the comment should state that the policy of 'one size fits all' top-down centralisation actually could not apply in conservation areas and areas of residential character.

The Chief Planner highlighted the very significant increase in the annual housing target, equating to annual development in the order of the Trinity Village (Blue Circle) development.

Councillor Brooks reported that as the Borough's wards were progressively built upon, it may become necessary to review ward boundaries.

RESOLVED that the key aspects of the New Draft London Plan be noted and with the incorporation of DCC Members' comments, be recommended to the Executive to form the basis of Bromley's formal response.

52 DELEGATED ENFORCEMENT ACTION - JULY 2017 TO SEPTEMBER 2017 AND OCTOBER 2017 TO DECEMBER 2017

Report DRR 18/003

Members were provided with an update on enforcement action authorised under delegated authority for breaches of planning control.

RESOLVED that the report be noted.

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

Not applicable.

**54 PLANNING APPLICATION 17/02468/FULL1 - ST HUGHES
PLAYING FIELDS, BICKLEY ROAD, BICKLEY, BROMLEY**

As indicated in the public section of the meeting, there were no part 2 items.

The meeting ended at 9.25 pm

Chairman

A

ORAL QUESTIONS RELATING TO ITEM 5 (PLANNING APPLICATION 17/02468/FULL1 – ST HUGHES PLAYING FIELDS, BICKLEY), RECEIVED FROM BROMLEY RESIDENT, ANDREW RUCK

Question 1

Why has it taken the Council until mid-January 2018 to decide that the application and the October approval needs to be ratified by the DCC when the Planning Inspectorate's report was issued on 11 December 2017?

Chairman's Response

The Council has taken legal advice and carefully considered in detail the appeal decision. Taking into account the Christmas break, the process from appeal decision issue to reporting to committee is not considered to have taken an undue period of time.

Question 2

Have Council Officers visited the site to see for themselves the total disparity between the traffic observed by the Planning Inspector on 15 November 2017 on what was clearly an extremely abnormal day in the afternoon peak and what is typically witnessed on the Widmore Road mini roundabout almost every other day of the year?

Chairman's Response

The comments regarding the traffic conditions on the day of the Inspector's site visit have been considered by the Council and comment is made on this point in the committee report.

Supplementary Question

Have Council officers visited the site to see for themselves whether the traffic was at odds with the Planning Inspector's report?

Chairman's Response

They are aware of the normal traffic conditions on this site and yes, I confirm they have been there.

Question 3

With Bullers Wood School For Boys' school place offer day scheduled for 22 February 2018, if the Committee agrees to ratify their October decision and follow the Officer's recommendation, will the Council give an undertaking to ensure that the subsequent reconsultation with the GLA and Secretary of

State is done extremely expeditiously and in a proactive manner, rather than just allowing these other authorities to take their usual time to deliberate?
Time is of the essence.

Chairman's Response

Yes, the Council is seeking to resolve this matter as quickly as possible and will act to minimise any delay to the issue of a decision following the committee meeting.

ORAL QUESTIONS RELATING TO ITEM 5 (PLANNING APPLICATION 17/02468/FULL1 – ST HUGHES PLAYING FIELDS, BICKLEY), RECEIVED FROM BROMLEY RESIDENT, NANCY LENGTHORN

Question 1

If Bullers Wood does not open in September 2018, will the Council breach its statutory duty to provide adequate school places?

Chairman's Response

The Council has contingency plans for ensuring it meets its statutory duty and will review these should a decision delay the school opening. The Council has been working with Bullers Wood to check that applicants have also submitted an on time secondary school application through the co-ordinated admissions process, in other words through an application to Bromley or another home Local Authority. We have proactively identified a small number of families who have only applied to Bullers Wood and are supporting them to make an application through Bromley or their home Local Authority if this is not Bromley.

Question 2

If Bullers Wood does not open in September 2018 (and yet its capacity is included in your plans for the provision of education in the borough), how will you accommodate the 180 local boys who would have attended the school?

Chairman's Response

The Council has contingency plans for ensuring it meets its statutory duty and will review these should a decision delay the school opening. The Council has been working with Bullers Wood to check that applicants have also submitted an on time secondary school application through the co-ordinated admissions process, in other words through an application to Bromley or another home Local Authority. We have proactively identified a small number of families who have only applied to Bullers Wood and are supporting them to make an application through Bromley or their home Local Authority if this is not Bromley.

Question 3

Can this Council clarify how a member of the public should proceed, if a FOI request has not been delivered on, has received no adequate feedback either way and has taken far in excess of the length of time set by the Government for a response?

Chairman's Response

The Council always endeavours to answer Freedom of Information requests within the statutory 20 working day limit. The Council does have an appeal

scheme for where requestors are not satisfied with the response they receive from the Council, although where the deadline has expired and no reply has been made the next stage is usually to ensure that a reply is made or an explanation given as to why the information cannot be provided. Where requestors are still not satisfied with the Council's response they can ask the Information Commissioner's Office to investigate.

DEVELOPMENT CONTROL COMMITTEE MEETING – 25 JANUARY 2018

ORAL QUESTIONS RELATING TO ITEM 5 (PLANNING APPLICATION 17/02468/FULL1 – ST HUGHES PLAYING FIELDS, BICKLEY), RECEIVED FROM BROMLEY RESIDENT, RHIAN KANAT

Question 1

As far as the Council is aware, have there been any applications made for judicial review of any of the decisions relating to the planning application for a school on the St Hughes playing fields site and if so by whom?

Chairman's Response

An application for judicial review has been lodged against the appeal decision by Bullers Wood School dated 22 January 2018 and papers served on the Council as defendant.

Question 2

Please could the Committee explain why this meeting was rescheduled from 18 January to 25 January?

Chairman's Response

The Committee meeting was rescheduled to 25 January to allow time for Officers to take advice and prepare the committee report for Item 5.

Supplementary Question

Was the impact of the uncertainty of the decision (bearing in mind timeframes) on the applicants to the school considered in that decision to defer by one week?

Chairman's Response

I am not able to answer this question as I am not the person who made that decision to postpone the meeting.

At this point, the Chief Executive confirmed that the impact on applicants to the school was considered.

