

PLANS SUB-COMMITTEE NO. 3

Minutes of the meeting held at 7.00 pm on 22 February 2024

Present:

Councillor Jonathan Andrews (Chairman)
Councillor Tony Owen (Vice-Chairman)
Councillors Dr Sunil Gupta FRCP FRCPATH, Christine Harris,
Alisa Igoe, Julie Ireland, Alexa Michael, Shaun Slator and
Mark Smith

Also Present:

Councillors Mark Brock and Pauline Tunnicliffe

25 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

There were no apologies for absence received.

26 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

27 CONFIRMATION OF MINUTES OF MEETING HELD ON 21ST DECEMBER 2023

The Minutes of the meeting held on 21st December 2023 were confirmed and signed as a correct record.

28 PLANNING APPLICATIONS

28.1 ORPINGTON

(22/04947/ELUD) - 243 Court Road, Orpington, BR6 9BY

The Committee heard a presentation from Planning in which they were informed this was a retrospective application for a Lawful Development Certificate for a change of use of a C3(a) dwellinghouse to a C3(b) dwellinghouse.

This application had previously been considered at the Plans 3 Sub-Committee meetings held on 26

October and 21 December 2023. On both occasions the application was deferred in order for the Applicant to provide further details and documentary evidence deemed necessary in order for Members to further consider the application.

Members heard that the Applicant had now provided further information, as detailed on page 10 of the Report, and circulated to Members as a separate, confidential document as it contained sensitive and personal information. This enabled Members to look through the details provided prior to the meeting.

Since the Report/Agenda was published two further documents had been provided, also circulated to Members. E-mails from a local resident in objection to the application had also been received and circulated to Members.

Planning Officers felt that based on the documentary evidence provided and all the information available, their recommendation remained for the Lawful Development Certificate to be granted.

The Council's Legal Representative at the meeting informed Members that when considering applications for a Certificate of Lawfulness, the focus should be on the lawfulness (in the existing use). The change of use between the sub-categories within C3 use (C3(a) to C3(b)) does not comprise a material change of use of the building. The Town and Planning Act 1990(as amended) allows any person who may wish to apply to the Local Planning Authority to ascertain whether any existing use of the building or land is lawful. The relevant Act allows for retrospective applications to be considered.

The onus is on the Applicant to provide relevant clear and true supporting evidence. Members would need to consider the lawfulness of the application. The burden of proof is on a balance of probabilities (not beyond reasonable doubt as in a criminal standard) to decide whether the application is lawful. Members were reminded of the cost implications in the event of an appeal. Concerns which do not relate to planning should be directed to relevant departments and organisations.

An oral representation in objection to the application was then received from a local resident, representing

the views of neighbours and local residents. Full details of the concerns raised were included in e-mails circulated to Members prior to the meeting, and also detailed on pages 13-14 of the Report.

The speaker on behalf of the residents informed Members of the view that more work/investigation could have been undertaken by the Planning Team in advance of the application being put in front of the Committee. Concerns were also raised regarding the suitability of the Applicant as a business owner, the failure to provide adequate information/documentation as requested and of the care provided to residents at the property. There were also concerns raised regarding conflicts of interest with Bromley Council services, data breaches at the property and general anti-social behaviour by residents at the property.

An oral representation in support of the application was then given by the Applicant, who is also the Landlord of the property. The Committee heard the Applicant's view that she was still seeking a Certificate of Lawful Development and that there had been a lot of other issues and concerns raised that were unrelated to the application. Members were asked to focus on the lawfulness of the application.

In response to Members' questions, the Applicant confirmed that the property can only have a maximum of three residents, due to the size of the property/rooms. The units are quite small and homely and there are no plans to extend. There is only one resident currently at the property. Some residents have to return to hospital for various reasons and then have a phased return to the property. The Applicant also confirmed that she owns other businesses.

A Committee Member raised the question of the documentation provided and in particular the creation date of the documents. In response, the Applicant stated that her Administration Staff had sent her the information and she had sent it into the Planning Team. Responding to a question regarding the request for copies of original signed documentation, the Applicant informed Members that it was sometimes hard to obtain signatures from residents due to their various mental health issues, and that documents may not be signed at the correct times. A further query was raised by a Member in regard to being unable to match details previously provided by

the Agent to the information recently received.

Visiting Ward Member, Councillor Tunnicliffe, then gave an oral representation regarding the application in which she informed Members that instead of gaining clarity at this meeting there was still a lot of confusion surrounding this application. It was felt that full information had still not been provided, there were reservations still held regarding the care provided at the property, together with support for the local residents' concerns.

During discussions several Members expressed and shared the view that although documentation had been requested from the Applicant on more than one occasion and with plenty of time to provide it, the Applicant had still not provided clear and precise proof to confirm that the change of use of the property had already occurred at the time of the application.

In response to Members' concerns, Planning Officers expressed their view that they felt they did not have sufficient evidence to prove that the property was not in use as a C3(b) dwellinghouse at the time of the application. In response, Members again questioned whether the supporting proof provided was sufficiently precise to accept and approve the application.

Members having considered the Report, objections and representations **RESOLVED** that the **EXISTING USE/DEVELOPMENT IS NOT LAWFUL** for the following reason:

The Council considers that the information provided is not sufficiently precise, and therefore on the balance of probabilities it cannot be satisfied that the use was in operation under Class C3(b) – Dwellinghouses – of Schedule 1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) on the date of the submission of the application.

**28.2
KELSEY & EDEN PARK**

**(23/04018/ADV) - Bandstand, Croydon Road
Recreation Ground, Beckenham, BR3 3PR**

Members heard a presentation from Planning explaining that the application was for advertisement consent to display a plaque/panel on a stainless steel lectern. The plaque will accompany the restoration

works to the Croydon Road Recreation Ground Grade II listed Bandstand, the provision of which is a stipulation of the grant conditions of the Heritage of London Trust, one of the funders of the project.

Members felt there were no objections to the application and were in agreement with the recommendation to approve the application.

Members having considered the Report and presentation **RESOLVED** that **ADVERTISEMENT CONSENT BE GRANTED** subject to the conditions outlined in the Report.

**28.3
WEST WICKHAM**

(23/04247/FULL2) Car Park, High Street, West Wickham.

In a presentation given by Planning, Members heard that the application was for the change of use of 14 public car parking spaces/bays in a car park off West Wickham High Street to be used as space for a car wash, including a container for storage and a staff office. It came before the Committee as it is Council owned land.

A similar application had previously been refused (as per page 36 of the Report), and this current application seeks to address the concerns previously raised regarding noise and other environmental impacts, together with the impact of the loss of car parking spaces and on highways safety. As explained in detail within the Report, Planners did not feel that the details provided satisfactorily addressed the previous grounds for refusal, and therefore recommended refusal of the application.

An oral representation in objection to the application was received from a local resident. Members were informed of residents' concerns, supported by the fact that there had been over 200 objections received for this application, clearly showing the strength of opposition to the plans.

Concerns over the plans included the proximity of the car wash facility to neighbouring residents with the impact of noise etc. The loss of existing parking, including disabled bays, was considered unacceptable, and would discourage visitors to the high street, thereby impacting on the local economy.

The site's narrow entrance and exit, the increase in traffic flow and potential queuing were also put forward as concerns.

Visiting Ward Member, Councillor Brock, then gave an oral presentation in which he confirmed his support for the Officers' recommendation for refusal. Councillor Brock highlighted that residents' concerns had been fully covered and clearly explained within pages 38-40 of the Report, and that the Applicants had not provided adequate information to address the concerns re noise impact/disturbance, or the impact on the loss of parking spaces. Drainage concerns, the loss of some disabled parking bays, the narrow access/exit point and subsequent effect on traffic and pedestrians were all mentioned. Members noted that there had already been the loss of one car park in the high street, and this car park was used regularly and often very busy.

During discussions, Members confirmed that they agreed with the objections raised and that this was not a suitable location for a car wash facility.

Members having considered the Report, objections and representations **RESOLVED** that the **APPLICATION BE REFUSED**, subject to the refusal grounds outlined in the Report.

29

CONTRAVENTIONS AND OTHER ISSUES

NO REPORTS

30

TREE PRESERVATION ORDERS

NO REPORTS

The Meeting ended at 8.34 pm

Chairman