

Decision Maker: DEVELOPMENT CONTROL COMMITTEE

Date: 14 October 2010

Decision Type: Non-Urgent Non-Executive Non-Key

Title: CRYSTAL PALACE PARK MASTERPLAN - UPDATE REGARDING THE SECRETARY OF STATE'S CONSIDERATION

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Chief Officer: Bob McQuillan, Chief Planner

Ward: Crystal Palace

1. Reason for report

The Secretary of State for Communities and Local Government (SoS) has stated that he is minded to grant planning permission for the Crystal Palace Park Masterplan, subject to revised conditions and a revised Section 106 Agreement. The report informs of the content of the letter and the next steps to be taken by the Council and the London Development Agency (LDA).

2. **RECOMMENDATION(S)**

Members note the report.

Corporate Policy

1. Policy Status: Existing policy. Planning policies in the Unitary Development Plan
 2. BBB Priority: Quality Environment.
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Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Planning Division Budget
 4. Total current budget for this head: £3.2M
 5. Source of funding: Existing Revenue Budgets
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Staff

1. Number of staff (current and additional): 98
 2. If from existing staff resources, number of staff hours: None
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Legal

1. Legal Requirement: Statutory requirement.
 2. Call-in: Call-in is not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough wide
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes.
2. Summary of Ward Councillors comments: Cllr Papworth has expressed his concerns about the effects of the College building on the residents whose properties which back onto Ledrington Road

3. COMMENTARY

3.1 On 09.12.08 the Development Control Committee considered reports on the following regarding the London Development Agency's Masterplan for Crystal Palace Park as follows –

- the Environmental Impact Assessment accompanying it
- the planning application
- an application for Conservation Area Consent (CAC) for demolition of various structures
- a Listed Building Consent (LBC) application for alterations to the National Sports Centre.

It resolved to grant permission / consents for the applications subject to a Section 106 Agreement and any direction by the Mayor of London and the Secretary of State.

3.2 The Mayor informed the Council on 17.12.08 that he was content to allow the Council to determine the application itself, but on 28.01.09 and 26.02.09 the SoS called in the applications for determination by him. An Inquiry took place over 5½ weeks between July and September 2009. The Inquiry Inspector's report was considered by the SoS and on 02.07.10 a letter was sent by the Department of Communities & Local Government (CLG) stating that the SoS is minded to agree with the Inspector's recommendation to grant planning permission, subject to revised conditions and the submission of a revised Section 106 Agreement.

3.3 The SoS is of the view that 3 of the conditions, which require the payment of money, would amount to a tax and that the principle that there can be no taxation without clear support in law would thus be breached. He therefore proposes deleting conditions 58-60 and the related Annex A1 "Outline Specification Park Works". The SoS considers that any arrangements for the payment of any monies for the improvement works, as originally set out in these conditions and Annex A1, should be the subject of a planning obligation, and he accordingly invited the LDA to submit a reformulated Section 106 Agreement incorporating those provisions.

3.4 The SoS agrees with the Inspector that the CAC and LBC applications can be granted subject to conditions set out, but considers that it would not be appropriate to grant these consents in advance of the planning application.

3.5 The SoS set a timetable to allow 8 weeks for the submission of a reformulated agreement, followed by 3 weeks for circulation of and comments on it i.e. to issue a decision on or before 06.10.10. He emphasised that his letter did not invite comments on any other matters than those he raised regarding conditions / obligations.

3.6 The LDA and Council officers have given the matter consideration. Essentially the issue is that the LDA does not have an interest in the residential sites, which are in Council ownership, and the Council is the Local Planning Authority and could not enforce the provisions of a Section 106 Agreement. However the Inquiry Inspector has noted in his report the undertaking made on 22.07.09 by the Council's Executive that the proceeds of the sale of the residential sites will be dedicated to meeting the costs of Park improvements, which is on public record.

3.7 The LDA's solicitors suggested alternative proposals for ringfencing the residential sales monies for Park improvements to the Decision Officer at the CLG. As these raised legal issues CLG stated that it would not be possible to keep to the timetable for the SoS decision, and a new timetable would be set out in writing once a revised Section 106 Agreement was submitted by the LDA.

3.8 The LDA duly submitted a revised Agreement and wording for revised conditions, and these will be made available to other parties by CLG. The SoS will now issue his decision on or before 22.11.10.

Non-Applicable Sections:	Policy, Financial. Legal and Personnel Implications
Background Documents: (Access via Contact Officer)	Letter dated 21.07.10 from Department for Communities and Local Government, and Report on Inquiry concerning applications by the London Development Agency at Crystal Palace Park.