

## **DEVELOPMENT CONTROL COMMITTEE**

Minutes of the meeting held at 7.30 pm on 28 June 2012

### **Present:**

Councillor Peter Dean (Chairman)  
Councillor Alexa Michael (Vice-Chairman)  
Councillors Reg Adams, Graham Arthur, Eric Bosshard,  
Lydia Buttinger, Nicky Dykes, Simon Fawthrop, Peter Fookes,  
John Ince, Russell Jackson, Charles Joel, Mrs Anne Manning,  
Russell Mellor, Tony Owen, Richard Scoates and Harry Stranger

### **Also Present:**

Councillors Stephen Carr, Roger Charsley, Will Harmer,  
David Hastings and Peter Morgan

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

Apologies for absence were received from Councillors Douglas Auld, Katy Boughey and Tom Papworth; Councillors Tony Owen, Charles Joel and Reg Adams attended as their respective substitutes.

#### **2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **3 CONFIRMATION OF THE MINUTES OF THE MEETINGS HELD ON 16 MAY 2012 AND 7 JUNE 2012**

**RESOLVED** that the Minutes of the meetings held on 16 May and 7 June 2012 be confirmed and signed as a true record.

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

No questions were received.

## 5 PLANNING REPORTS

The Committee considered the Chief Planner's reports on the following planning applications:-

Item No.	Ward	Description of Application
5.1 (page 9)	Bromley Town	(12/01339/FULL1) - Single storey buildings and reconfiguration/change of use of part of shopping centre to provide 5 restaurants (Class A3), electricity substation, repositioned entrance to shopping centre and area for tenant plant on roof, with landscaping works and relocation of gates and railings at <b>Queens Gardens, Kentish Way, Bromley.</b>

Oral representations in objection to the application were received from Mr Tony Banfield, a local resident and Chairman of the Bromley Civic Society and The Friends of Bromley Town Parks and Gardens.

Mr Banfield raised the following points:-

- The previous application was refused on Conservation Area grounds and the current scheme had not overcome the original objections either in principle or detail.
- Queens Gardens had been gifted under a restrictive covenant to celebrate Queen Victoria's Diamond Jubilee.
- The Italian Garden was created in compensation for land which was given up to the Glades development.
- The Glades Terrace was created as a condition of the permission given for the original Glades development.
- The National Planning Policy Framework (NPPF) policies on heritage, open space and sustainable development, together with the Council's own conservation area policies were overriding considerations and presented an overwhelming case against the development.
- The siting of the proposal was a departure from the Adopted Area Action Plan (AAP).
- There were concerns about damage, danger and loss of amenity.
- The proposed design was out of keeping with the surrounding area.
- The grass-creting of the emergency vehicle hardstanding area was no compensation for the loss of the Italian Garden.

Oral representations in support of the application were received from Mr Howard Oldstein, General Manager of Capital Shopping Centres.

Mr Oldstein raised the following points:-

- Growth and prosperity in Bromley was important.
- Bromley Town Centre was not fresh enough.
- The vision set out in the AAP was key and the development would boost day and night time economy.
- The development aimed to be family friendly.
- The original footprint had been reduced by 50% and no part of the development would be constructed on historic ground.
- The development would enhance eating areas across the town centre.
- There would be 750 car parking spaces within a 500 yard radius of the scheme.

The final bullet point on page 9 of the report was amended to read:- 'reduction in overall floor space of 14%'.

Mr Oldstein confirmed that consultation with Bromley residents had been conducted via their web-site and directly with local residents.

The Chief Planner circulated plans showing the exact location of the proposed development. Members were informed that the condition concerning the proposed opening hours was consistent with that received in February. If Members were minded to permit the application, the following amendments to conditions were suggested:-

- Condition 7 - update approved plan reference number.
- Condition 17 - delete plan numbers.
- A condition relating to archaeology should be inserted.

Comments received from the Advisory Panel for Conservation Areas (APCA) stated that none of the concerns arising from the previous application had been resolved. It was reported that a further 17 letters of objection had been received however, Bromley MyTime had withdrawn their objections to the application.

A further letter had been received from the applicant who suggested that the current application conformed to minimum requirements, did not encroach on the historic gardens and the impact on the conservation area had been addressed. The Chief Planner confirmed that the land did not form part of the historic garden and was not deemed to be urban open space. The terraced area was marked in the Unitary Development Plan (UDP) as site 11 and the proposal to extend the Glades had been carried forward into the AAP as site E.

It was confirmed that Condition J09 related to the proposed opening hours of 6pm - midnight, 7 days per week.

Councillor Dykes commented that the proposed scheme was an overdevelopment of the site which went beyond the AAP and the NPPF provided further grounds for refusal. The application did not conform with

Policy BE13 of the UDP with regard to conservation areas which should be a leading material consideration and the footprint of the development was unacceptably large. Whilst Councillor Dykes was amenable to a single restaurant being constructed, she lay emphasis on the fact that once the land had been relinquished for development, it would be impossible to reclaim it. Councillor Dykes moved that the application be refused.

The Chairman considered that the amended development scheme would have less impact on Queens Gardens. As the site did not form part of the historic grounds and was a non-designated area, there would be no restrictions to prevent development of the site. The scheme complemented the rear aspect of the Glades and the proposed restaurants would brighten up the area and attract more people to Bromley. The Council was committed to improving the Town Centre and the scheme would have a major impact on the economy for Bromley. The Chairman moved that permission be granted.

Councillor Joel raised the following points in support of the application:-

- The overall size of the units had been reduced.
- The issues raised concerning a means of emergency escape and refuse collection had been resolved.
- There would be no loss of space.
- A business plan had been carried out.
- The scheme formed part of the AAP and there was a need for Bromley to expand, improve and move forward.

Councillor Joel seconded the motion for permission.

Councillor Fawthrop seconded the motion for refusal of the application.

Councillor Owen noted that no provision had been made for customers who smoked. He also raised concerns regarding licensing and the sale of alcohol. For these reasons Councillor Owen urged Members to carefully consider the impact on the residential amenity of local residents.

Councillor Manning made the following points both in support and in objection to the application:-

- The conservation area would be affected.
- The opening of the pedestrian route at night time would be a good boost to Bromley.
- The widening of footpaths was welcomed.
- The applicants had not addressed the impact of the restaurants on the gardens.
- The reduction in the depth of the building was minimal.
- 1 or 2 restaurants located on the site (with buildings adjusted to face 90 degrees the other way), would be preferable.
- Views of the garden would be lost.

- The scheme would be an overdevelopment of the site.
- Bromley's open spaces should continue to be protected.
- A3/A5 use should not be permitted.
- There were no substantive reasons for granting permission.
- If granted, permission should be subject to further conditions relating to:-  
odours emanating from the restaurants; music, external lighting and signage.

Councillor Michael commented that although the site may not be part of the historic area, it was, nevertheless, an open space and the development would have an effect on the openness of the gardens. There was an intensive A3/A5 use and as a large quantity of restaurants already existed in Bromley North, the provision of only 1 or 2 restaurants would be sufficient.

Councillor Arthur supported the application and commented that this was a vibrant and creative scheme which would enhance shopping in Bromley and stimulate the economy.

Councillor Mellor considered the proposed development to be an overintensive use of the site and out of character with the surrounding area in relation to materials and design.

Although in favour of regeneration, Councillor Adams commented that Queens Gardens was an area of tranquility and should be preserved. He also agreed that the scheme was at variance with the Conservation Area Policy and the AAP and would be an overintensive use of the site.

Councillor Fawthrop raised concerns with regard to the removal of four trees and the loss of green space. He emphasised the need to keep the act of faith that had been created between residents and the Council at the time the gardens were first created.

Councillor Scoates was in favour of a reduction in size to 2 or 3 restaurants.

A motion to approve the application fell at 7-10.

Following a subsequent vote to refuse the application (10-7), Members **RESOLVED that PERMISSION BE REFUSED for the following reason:-**

**The proposal would be an overintensive development of the site, detrimental to the character and appearance of the Bromley Town Centre Conservation Area by reason of its size, site coverage, design, the loss of openness and public amenity to Queens Gardens, and be detrimental to the amenities of residential properties in the vicinity of Queens Gardens, by reason of increased evening activity resulting in noise and disturbance, contrary to Policies BE1 and BE11 of the Unitary Development Plan, Policy OSM of the Bromley Town Centre Area Action Plan and the Conservation Area Statement.**

Item No.	Ward	Description of Application
5.2 (page 31)	Bromley Town	(12/01340/LBC) - Relocation of gates and railings LISTED BUILDING CONSENT.

Councillor Fawthrop moved that the application be refused; this was seconded by Councillor Dykes.

Following a vote of 9-3, Members **RESOLVED that LISTED BUILDING CONSENT BE REFUSED for the following reason:-**

**The relocation of the gates and railings would be premature in the absence of any planning permission for development on their existing site.**

## **6 CHANGES TO NATIONAL AND LOCAL PLANNING SYSTEM - UPDATE**

Members considered the main implications for Bromley resulting from the publication of the National Planning Policy Framework, the Local Planning Regulations 2012 and the Local Neighbourhood Planning Regulations 2012 which, along with the London Plan, formed the administrative and legal framework for the development and application of planning policies within the Borough. The proposed timetable for the development of the Borough's Local Plan was also considered.

The Chairman gave a brief outline of the report and drew Members' attention to paragraph 3.10 relating to the Local Plan development timetable.

Referring to paragraph 3.5 of the report, Councillor Ince commented that some neighbourhood plans would be more suitable to Parish Councils and Shires. He was concerned that residents' associations and action groups may impede plans for improvement. The Head of Planning Strategy responded that many residents' associations would be seeking to protect the quality of areas however, the Government introduced Neighbourhood Plans as part of their growth proposals and the expectation was that they facilitate growth. All Neighbourhood Plans would have to be consistent with the Local Plan and would need to take cognisance of the London Plan.

With regard to paragraph 3.2, the following amendments were suggested:-

- 4<sup>th</sup> bullet point - the words 'cultural infrastructure' should be replaced with 'school places'.
- 5<sup>th</sup> bullet point - the words 'climate change' should be replaced with 'affordable energy'.

Members were informed that the housing targets would have to be set at a borough level and not determined in Neighbourhood Plans. They were primarily to encourage development as an improvement to areas.

Councillor Fawthrop commented that continuous emphasis should be placed on the need for extra car parking facilities for future sustainability.

Subject to the comments and suggestions above, Members **RESOLVED that the changes to national planning policy and local planning regulations be noted and the proposed revisions to Bromley's local plan development timetable be agreed.**

## **7a LIVING IN BROMLEY - HOUSING OPTIONS**

In May 2012, the Local Development Plan Advisory Panel (LDPAP) agreed that work undertaken in preparation of the Core Strategy be incorporated into a Bromley Local Plan to comply with the Government's Planning Reforms. The report outlined the preferred strategy and options in relation to housing which would form the major part of the Living in Bromley section of the Local Plan. Members were requested to agree the policy approach set out in the report for incorporation into the Local Plan Options and Preferred Strategy Consultation document. The Executive would be requested to agree the document for consultation in early autumn.

The Chairman gave a brief outline of the report and stated that residents had been involved in the consultation process as suggested by the LDPAP.

Referring to Option 4A.3, Councillor Fawthrop raised concerns in relation to housing targets as developers were increasingly reporting that they could not viably include affordable housing in their schemes. Councillor Fawthrop suggested that a clause be inserted to ensure that economic conditions were taken into consideration. He also suggested that the words 'right to buy' and 'shared ownership' be incorporated into the option. Councillor Jackson requested that a percentage of the 35% target be allocated to shared ownership and that where Housing Association developments were proposed, that a right to buy scheme was incorporated. The Chairman responded that the issue of 'right to buy' could be dealt with individually at the time of application.

The Chairman referred to Option 4A.4 which stated that if more than 10 units were proposed, then the developer would be under an obligation to supply affordable housing. In response, the Chief Planner informed Members that the London Plan needed a percentage or numerical target and option 4A.3 was preferred because the 35% target was what the Council achieved via the UDP period. People disposing of and acquiring land should be aware of the constraints and whether a viability assessment had been undertaken. The target of 35% worked effectively. Large sites consisting of more than 10 units would be subject to a viability assessment.

Councillor Mellor commented on the importance of meeting targets and preferred to see a target of 470 units over the plan period. However, he did emphasise the need for the Council to remain mindful of the need to protect Green Belt land.

In response to a comment from Councillor Owen in relation to inappropriate development on residential gardens, the Chief Planner informed Members that Option 2A.4 recognised that development of residential gardens was not acceptable where it would cause harm to the residential area and prevented developers from using garden land for development.

Referring to paragraph 3.6.3, Councillor Ince noted there were no targets for intermediate/shared ownership. The Chief Planner clarified that under the existing plan, the percentage split was 70/30 between social housing and other types of affordable accommodation and emphasised the importance of selecting the most suitable type of housing for individual sites.

Councillor Joel welcomed the provision of housing designed for wheelchair accessibility and commented that he would like to see a percentage target set for the provision of a mix of housing supply for disabled, elderly and young people.

Subject to the comments and suggestions above, Members **RESOLVED that the policy options be incorporated into the Local Plan Options and Preferred Strategy Consultation document.**

## **7b OPTIONS PAPER FOR GYPSIES & TRAVELLERS AND TRAVELLING SHOWPEOPLE**

In May 2012, the Local Development Plan Advisory Panel (LDPAP) agreed that work undertaken in preparation of the Core Strategy be incorporated into a Bromley Local Plan to comply with the Government's Planning Reforms. The report outlined the preferred strategy and options in relation to Gypsies and Travellers, which would form the major part of the Living in Bromley section of the Local Plan. Members were requested to agree the policy approach set out in the report for incorporation into the Local Plan Options and Preferred Strategy Consultation document. The Executive would be requested to agree the document for consultation in early autumn.

Referring to paragraph 3.19 (page 55), Councillor Mellor sought clarification on what liability was placed on the Council to provide a pitch to people living outside the Borough. In response, the Chief Planner informed Members there was no liability on the Council and that anyone could ask for a pitch in Bromley however, they would need to pass a test in order to obtain one.

Councillor Scoates referred to Option 2: Existing sites without permanent permissions (page 59) and stated that it was not acceptable to grant further temporary permission for the site in Layhams Road and that the site should not be expanded. The Chief Planner reported that if families were established and their children were settled in school, it would be difficult to refuse further temporary permission. He also stipulated that age, disability and education were crucial factors in traveller appeals. The only other alternative would be to find a number of sites elsewhere in the Borough. Councillor Scoates was disappointed with the current policies which stipulated that the Council was



required to grant plots to meet a specified quota and by doing so, land had been eroded.

Councillor Ince stated that further alterations to Green Belt land should be resisted; however, the Council were under challenge to create more spaces and were expanding anyway.

Councillor Fawthrop was concerned with the large number of articulated lorries at the Travelling Showman site and suggested that some action be initiated to revert the site to farmland. The Chief Planner confirmed that he was satisfied that all residents were part of the Travelling Showpeople's Guild. No further provision was planned for the site which had been granted permanent permission.

Councillor Buttinger refused to support any option which involved building on Green Belt land. In response, the Chief Planner emphasised the need to take account of expanding families. He stipulated that the preferred option suggested that, having established what the borough's target for provision should be, the Council would then have a policy to deal with sporadic visitors to the area.

It was suggested that the Chairman should write to local MPs to request that the issues raised by Members be considered in Parliament and nationally. A letter should also be written to the Secretary of State to reinforce the Council's views.

Subject to the comments and suggestions outlined above, Members **RESOLVED that:-**

- 1) the options set out in the report and recommended by the Local Development Plan Advisory Panel be endorsed as 'Preferred Options' in the forthcoming Local Plan consultation document;**
- 2) the Chairman write to local MPs to request that the issues raised above be considered in Parliament and nationally;**
- 3) the Chairman also write a letter to the Secretary of State reinforcing the Council's views.**

#### **7c REVIEW OF GREEN BELT, METROPOLITAN OPEN LAND AND URBAN OPEN SPACE BOUNDARIES**

In May 2012, the Local Development Plan Advisory Panel (LDPAP) agreed that work undertaken in preparation of the Core Strategy be incorporated into a Bromley Local Plan to comply with the Government's Planning Reforms. Following LDPAP's review of the Green Belt, Metropolitan Open Land and Urban Open space boundaries, DCC Members were requested to agree that the suggested amendments made by the LDPAP be incorporated into the Local Plan Options and Preferred Strategy Consultation document. The

Executive would be asked to agree the document for consultation in early autumn.

Referring to indicator number 11 on page 74 of the report, Councillor Fawthrop requested that the car park for Jubilee Gardens and the scout hut adjacent to it (located in Tent Peg Lane), be incorporated.

Councillor Manning commented that it was logical to have boundaries for common land but questioned why the bulk of the land was designated as Green Belt land whilst that which stretched beyond the boundary was designated as urban open space. The Chief Planner confirmed that this was in keeping with the rules on Green Belt boundaries which stipulated that any land outside a defensible boundary would be classified as urban open space.

Councillor Buttinger was concerned that a significant amount of Green Belt land had been given up to development and suggested that a policy be put in place whereby if a development took away green space then it should be replaced.

Councillor Michael was pleased to note that smaller pieces of land had been redesignated. The Chief Planner reported that there was approximately 32 sq m of green land comprising various designations.

Councillor Bosshard emphasised the need for the Council to continue to be robust in developing Green Belt boundaries.

Subject to the comments and suggested amendments outlined above, Members **RESOLVED that the suggested amendments to the Green Belt, Metropolitan Open Land and Urban Open Space boundaries be endorsed and included in the forthcoming Local Plan consultation document.**

## **8 LB BROMLEY FIVE YEAR SUPPLY OF HOUSING**

The National Planning Policy Framework specified that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In line with this policy, Members considered the five year supply position for the Council from 1 April 2012-31 March 2017 (Appendix 1).

The Chairman briefly outlined the report and informed Members that the target for the supply of housing was currently 500 p.a. The report would be updated annually.

Councillor Ince stated that a number of windfall sites had been found however, there had been problems in that they proved to be of too high a density. The Council needed to be robust in looking for further sites. The Head of Planning Strategy commented that the earlier report on Housing Options had included the need to consider and reflect the character of the local area including density. Officers were looking to analyse the historic

pattern of windfall sites, mindful that a number of them would have been on garden land and therefore may be different going forward.

Members were informed that the Council had adopted planning obligations which determined health and education requirements. Issues were taken on board through supplementary planning documents and such requirements are catered for by way of Section 106 Agreements.

**RESOLVED that the five year supply position 01/04/12-31/13/17 be agreed.**

## **9 PROPOSED REVIEW OF PLANNING ENFORCEMENT POLICY**

Following the implementation of the Localism Act in November 2011, a number of new measures to reinforce local planning authorities' enforcement powers were introduced. Changes to the Planning Act came into force on 6 April 2012. The National Planning Policy Framework published in March 2012 introduced new policy guidance which emphasised the importance of effective enforcement as a means of maintaining public confidence in the planning system.

The report summarised recent changes to legislation and national policy guidance and reviewed the Council's approach to planning enforcement. Members were requested to authorise the preparation and adoption of a Local Enforcement Policy (incorporating the changes introduced by the Localism Act), in accordance with the guidance in the National Planning Policy Framework.

The Chairman outlined the report and welcomed the policy to reinforce Local Planning Authorities' enforcement powers.

Councillor Mellor questioned whether there would be sufficient staff to undertake the enforcement action required.

In response to a question from Councillor Manning, the Chief Planner informed Members that the new powers introduced under Section 225C (paragraph 3.7, page 201), could be used on temporary signs outside public houses, however most signs were likely to have been removed before the 28 day expiry of an Action Notice.

Councillor Buttinger asked the cost of a level 4 penalty imposed for being in breach of a Breach of Condition Notice (paragraph 3.5, page 201). The Legal Representative informed Members that he thought it was £2,500; this would be confirmed to Members via e-mail.

**RESOLVED that the report be noted and the preparation and adoption of a Local Enforcement Policy in accordance with the guidance in the NPPF incorporating the recent changes introduced by the Localism Act be endorsed.**

## **10 REPORTS TO NOTE**

### **10.1 PUBLICITY FOR PLANNING APPLICATIONS**

Members considered a report which outlined the Council's legal responsibilities and informal procedures for publicity for planning applications.

**RESOLVED that the report be noted.**

The Meeting ended at 10.10 pm

Chairman