

**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** Tuesday 29 January 2013

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

**Title:** APPEALS BY CAPITAL SHOPPING CENTRES LTD (CSC)  
AGAINST THE COUNCIL'S DECISION TO REFUSE PLANNING  
AND LISTED BUILDING CONSENT FOR DEVELOPMENT AT  
QUEEN'S GARDENS, BROMLEY

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**Chief Officer:** Director of Renewal & Recreation

**Ward:** (All Wards);

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1. Reason for report

This report seeks Members views as to whether the ground of refusal should be defended at appeal as drafted or amended as requested by the appellants.

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2. RECOMMENDATION(S)

Members views are requested.

### Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Quality Environment
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### Financial

1. Cost of proposal: Estimated Cost Not known at this time
  2. Ongoing costs: Non-Recurring Cost
  3. Budget head/performance centre: Central Contingency provision
  4. Total current budget for this head: £150k
  5. Source of funding: Existing revenue budget for 2012/13
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### Staff

1. Number of staff (current and additional): 53 fte's (excluding Building Control, Land Charges)
  2. If from existing staff resources, number of staff hours: 14
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### Legal

1. Legal Requirement: Statutory Requirement Non-Statutory - Government Guidance None:  
Further Details
  2. Call-in: Applicable Not Applicable: Further Details
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): several thousand
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1 Development Control Committee on 28 June 2012 refused planning permission for an application for planning permission (12/01339) and consent for an application for listed building consent (12/01340). Both applications related to a proposal to extend the Glades Shopping Centre by adding 5 restaurants and relocating the gates to Queen's Gardens.
- 3.2 The applicants (CSC) have confirmed that they intend to appeal against the refusal of permission and consent
- 3.3 Their agents have written to the Council in a letter dated 10<sup>th</sup> December 2012 a copy of which is attached to this report. In short they are asked that the Council withdraw the part of the reason for refusal highlighted in their letter – "and be detrimental to the amenities of residential properties in the vicinity of Queens Garden by reason of increased evening activity resulting in noise and disturbance".
- 3.4 In support of their request they make reference to a decision taken in February 2011 (ref. 11/02466). This concerned the use of land adjacent to Abbaye (now Belgo) in Queen's Gardens for the installation of decking with umbrellas, lighting and fencing and use of the land for the placing of tables and chairs. The main issues identified were the impact on the living conditions of the occupiers of flats near the site and the effect on the character of Queen's Gardens which is in Bromley Town Conservation Area. On the first issue the Inspector concluded that the level of disturbance was acceptable due to the town centre location. On the second issue he also considered the proposal acceptable and granted permission.
- 3.5 The appellants have pointed out that the Council is required to have evidence to substantiate each reason for refusal. Their conclusion based on the nature of the development, the development plan allocation and no objection from the environmental health officer is that part of the ground of refusal "cannot be reasonably upheld". Should an Inspector concur that part of the ground of refusal is unreasonable an award of costs would be likely.

### 4. LEGAL IMPLICATIONS

Addressed in the report.

### 5. FINANCIAL IMPLICATIONS

A successful claim for costs against the Council could be expected if the appellants succeed in their appeal against refusal of permission. It is not possible to put a figure to the level of costs. An amount of £150k is held in the central contingency as a provision for any potential costs that may be incurred for any planning appeals that are lost.

<b>Non-Applicable Sections:</b>	Policy and Personal Considerations
Background Documents: (Access via Contact Officer)	Letter from Nathaniel Lichfield and Partners dated 10 December 2012