

DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held at 7.30 pm on 9 July 2014

Present:

Councillor Peter Dean (Chairman)
Councillor Nicky Dykes (Vice-Chairman)
Councillors Vanessa Allen, Graham Arthur, Douglas Auld,
Teresa Ball, Kathy Bance MBE, Eric Bosshard, Katy Boughey,
Lydia Buttinger, Simon Fawthrop, Charles Joel, David Livett,
Alexa Michael, Michael Rutherford and Richard Scoates

Also Present:

Councillor Will Harmer

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

An apology for absence was received from Councillor Michael Turner.

2 DECLARATIONS OF INTEREST

No declarations of interest were received.

3 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 10TH APRIL AND 4TH JUNE 2014

RESOLVED that the Minutes of the meetings held on 10 April 2014 and 4 June 2014 be confirmed and signed as a correct record.

4 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

5 PLANNING REPORTS

Members considered the following planning application report:-

Item No.	Ward	Description of Application
5a (page 17)	Bromley Town	Erection of a cinema (Use Class D2) on the roof of the shopping centre and the change of use of existing retail units (Use Class A1), a financial services unit (Use Class A2) and mall

		space (sui generis) to create new restaurant units (Use Class A3), drinking establishments (Use Class A4) and a retail kiosk (Use Class A1) within the shopping centre along with external alterations to the Elmfield Road entrance and alterations to the existing parking provision at roof level at Intu Bromley, The Glades Shopping Centre, High Street, Bromley BR1 1DN.
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The following oral representations in support of the application were received from Mr Marc Myers, General Manager, Intu Bromley:-

- The proposal to introduce a boutique cinema and casual dining cluster to the Centre was part of a £24m investment that encompassed an internal refresh which was currently under way and the proposals for a restaurant terrace by Queens Gardens. The cinema and restaurant proposal would create 60 permanent and 130 temporary jobs in the town.
- Consultations had shown that both the shoppers and retailers who Intu were trying to attract to the Centre, agreed that Intu Bromley and the town centre, were in need of more casual dining and leisure facilities in order to revive the evening economy and restore Bromley to its place in the market as a metropolitan town centre. Intu wanted to provide a safe and seamless transition from traditional daytime commercial activities to evening activities.
- The Council's 2012 Retail and Leisure Report demonstrated a substantial level of unmet demand within the town. Despite the establishment of the restaurant terrace by Queens Gardens, Bromley would still rate well below the national average for retail and leisure for a town of its size.
- Although Bromley residents wanted to support their town, they were increasingly driven to spend their money and leisure time elsewhere, ie. Bluewater, Greenwich and the West End. With the impending development of Westfield in Croydon, immediate action would be needed to ensure that Bromley did not lose out. Bromley deserved this development and needed it to continue to compete. The proposed 220 seater cinema would go some small way to address the gap which would still exist even after the completion of developments at Bromley South and Orpington.
- It was necessary to increase dwell time in the town and in order to do this, trading hours would need to be extended not just for restaurants and leisure but for retailers who would want to capitalise on the increased footfall delivered through the potential new leisure development; this would 'smooth the peaks' in trading because once shoppers were aware that the Centre remained open for longer, they would be more inclined to make their journeys outside peak times.

- Provision of adequate parking was fundamental to the success of Intu Centres. Intu would not propose a scheme which resulted in a detrimental impact on the attractiveness of the centre to customers, many of whom, despite the convenient location of Intu Bromley, come by car.
- Intu Bromley currently had a very good car parking ratio and even with the loss of some spaces, it would still compare favourably with similar centres in the region. For the vast majority of the time, Intu Bromley car park retained sufficient capacity to meet demand however, on the rare occasion that full capacity was reached, shoppers would be able to use alternative town centre car parks which, in turn, would lead to increased footfall and activity in those parts of the town.
- In terms of visual impact, the cinema would be situated well back from the building edge so views of the proposed development would be limited. The design would be of a contemporary nature and high quality materials and finishes would be used which would sit well within the wider built environment.

In response to Member questions, Mr Myers informed the Committee that if the application was successful, detailed discussions would take place with retailers affected by the development concerning options for relocation.

The boutique cinema would remain open until 11 pm or 12 am.

With regard to the impact of the proposals on Bromley South, analysis had shown that the development together with the cinemas at Orpington and Bromley South would still leave Bromley 2,000 seats short of what was required. Members were asked to bear in mind that this proposal was for a boutique cinema not a multi-complex.

The analysis also showed that Bromley would not be 'over-restauranted'. People wanted choice and the proposals before Members would provide just that.

Mr Myers acknowledged the need to advertise alternative car parks in Bromley on occasions when the Intu car park had reached full capacity. He suggested that, if successful, the Bromley BID could look into this matter. The proposed loss of 118 car parking spaces equated to 7% of the overall Intu capacity.

Ward Member Councillor Dykes considered the proposals to be beneficial especially in light of other exciting developments that were also planned for Bromley. The establishment of a boutique cinema would give Bromley an up-market edge. Whilst the loss of 118 car parking spaces was a concern, other car parks in the town were under-occupied so this would not cause a major impact. Councillor Dykes moved that permission be granted.

Councillor Rutherford agreed that this was a high quality scheme. Having held discussions with residents, it was clear there was a demand for Bromley to go 'up-market'. The development would benefit businesses in the Town Centre and the proposed restaurants would encourage people to stay for lunch. Footfall at night would increase and combined with cinemas already in Bromley would contribute towards a safer environment. Councillor Rutherford seconded the motion for permission to be granted.

Whilst supporting the application, Councillor Fawthrop alluded to the need to ensure that the car parking situation was fully addressed.

Councillor Michael was concerned at the possible loss of retail use, which was contrary to the Area Action Plan which identified a need to attract retail to Bromley. In particular, the loss of Waterstone's bookshop and the 'niche' shops in the arcade area was undesirable and Councillor Michael asked that special consideration be given to relocate these elsewhere in the centre.

Councillor Auld was concerned that if permission was granted, the development may have an impact on the rest of Bromley by virtue of the fact that this would be established three years ahead of developments planned for other opportunity sites identified in Bromley. For this reason, together with his concerns around the loss of car parking spaces, Councillor Auld moved that the application be refused.

Councillor Arthur considered the development to be well thought out and of an innovative design which would provide a much needed boost to Bromley.

Members having considered the report, objections and representations, RESOLVED that PERMISSION BE GRANTED as recommended, subject to the conditions and informative set out in the report of the Chief Planner with the following conditions amended to read:-

'3 The development hereby permitted shall be carried out in accordance with the following approved plans: 3494 AL(01)0780 P03 (Site Location Plan); 3494 AP(02)0915 P01 (Block Plan of Site); 3494 AP(02)0900 P01 (Existing Basement Level Plan); 3494 AP(02)0901 P01 (Existing Lower Mall Plan)

3494 AP(02)0902 P01 (Existing Mezzanine Plan); 3494 AP(02)0903 P01 (Existing Upper Mall Plan)

3494 AP(02)0904 P01 (Existing Car Park Level 1 Plan); 3494 AP(02)0905 P01 (Existing Car Park Level 2 Plan); 3494 AP(02)0906 P01 (Existing Roof Level Plan); 3494 AP(02)0910 P01 (Existing Elmfield Road Elevations); 3494 AP(06)0911 P01 (Existing Sections AA, BB & CC); 3494 AP(02)0912 P01 (Existing Kentish Way Elevation); 3494 AP(04)0921 P01 (Proposed Lower Mall Plan); 3494 AP(04)0922 P01 (Proposed Mezzanine Plan); 3494 AP(04)0923 P01 (Proposed Upper Mall Plan); 3494 AP(04)0924 P01 (Proposed Car Park Level 1 Plan); 3494 AP(04)0925 P01 (Proposed Cinema/Car Park Level 2 Plan); 3494 AP(04)0926 P01 (Proposed Roof Level Plan); 3494 AP(05)0930 P01 (Proposed Elmfield Road Elevations); 3494 AP(05)0931 P01 (Proposed Cinema/Car Park Level 2 South, East & North Elevations); 3494 AP(05)0932 P01 (Proposed

Cinema/Car Park Level 2 North West & South West Elevations); 3494 AP(05)0933 P01 (Proposed Kentish Way Elevation)

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

6 Details of a scheme of external lighting (including the appearance, siting and technical details of the orientation and screening of the lights and the means of construction and laying out of the cabling) shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement of the development unless otherwise agreed in writing by the Local Planning Authority. The approved scheme shall be implemented before the development hereby permitted is first occupied and the approved scheme shall be permanently maintained in an efficient working manner and no further external lighting shall be installed on the site without the prior approval in writing by the Local Planning Authority.

Reason: In order to comply with Policy ER10 of the Unitary Development Plan and in the interest of amenity and public safety.

10 Before any works on site are commenced, a site-wide energy assessment and strategy for reducing carbon emissions, in accordance with the submitted Sustainability Statement, shall be submitted to and approved by the Local Planning Authority. The results of this strategy shall be incorporated into the final design of the buildings prior to first occupation. The strategy shall include measures to allow the development to achieve a reduction in carbon emissions of 25% above that required by the 2010 building regulations.

Reason: In order to seek to achieve compliance with the Mayor of London's Energy Strategy and to comply with Policy 5.2 and 5.7 of the London Plan 2011.

It was reported that the applicant had requested condition 1 be amended to read that the development must be begun not later than the expiration of 5 years (as opposed to the 3 years stated in the report).

The Chairman moved that this request be denied; Councillor Fawthrop seconded the motion.

RESOLVED that Condition 1 remain as set out in the report of the Chief Planner.

Members considered the following planning appeal report:-

Item No.	Ward	Description of Application
5b (Supplementary Report - Page 1)	Copers Cope	Erection of five storey building comprising 74 residential units; A1 retail; A3 café/restaurant and a D1 creche in place of Block A03 forming part of the approved planning permission 09/01664 for the redevelopment of the Dylon site at Dylon International Ltd, Worsley Bridge Road, London SE26 5BE.

The Chairman introduced the item, referring to the planning history relating to the site.

The Chairman moved that the appeal be contested for the reasons given in the report of the Chief Planner. Councillor Fawthrop seconded the motion.

Councillor Dykes commended officers for presenting a well thought out and detailed report and emphasised the need for business space to continue to be protected.

The Chief Planner drew Members' attention to the modified financial contributions by comparison with a previous application, as set out in the agenda.

RESOLVED TO CONTEST THE APPEAL as recommended on the following grounds:-

1 The proposal has not satisfied the tests in National Planning Policy Framework paragraph 22 and would therefore result in the loss of a valuable employment opportunity and the long-term protection of the site should continue. The proposal is contrary to the Borough's employment strategy and Policies EMP3 and EMP4 of the Unitary Development Plan and Policies 4.1 and 4.2 of the London Plan.

5c (14/01752) - Dylon International Ltd, Worsley Bridge Road, London SE26 5BE

This item was withdrawn from the agenda.

Members considered the following planning application report:-

Item No.	Ward	Description of Application
5d (page 35)	West Wickham	Part one/two storey side/rear and single storey front extensions at 32 Copse Avenue, West Wickham BR4 9NR.

Two errors within the report were identified as follows:-

- The first paragraph on page 36 should read: 'Permission is sought for a part one, part two storey side extension and a *part one/part two* storey rear extension.'
- The final sentence of the penultimate paragraph on page 37 should read: 'It is not considered, therefore, that any overlooking or harm to the amenities of the residents at No. 30 would result from the proposal.'

The following oral representations in objection to the application were received from neighbour, Mr Robert Payne:-

- A great deal of information had been gathered and provided to support objections to the application however, the planning report failed to reflect any of the points raised.
- There was a distinct lack of care which could be seen in the way the report for 34 Copse Avenue had been pasted into the previous report for 32 Copse Avenue. The neighbouring house number had also been incorrectly pasted.
- Contrary to what was stated in the report, the proposed extension at 32 Copse Avenue was not similar to the extension at 34 Copse Avenue, it was completely different and in this respect, the application had not been properly reviewed.
- Councillors had a difficult job in reviewing such residential plans and Members were respectfully asked to take Mr Payne's very strong objection into account when considering the application.
- Mr and Mrs Payne had resided at their property for 18 years during which time they had enjoyed a high level of privacy. The proposed first floor enormous patio style set of full height opening windows, together with the Juliet type balcony, would totally compromise that level of privacy, would tower over Mr Payne's property and would look straight onto his rear terrace.

- There would be a total removal of sunlight and reduction in daylight to Mr and Mrs Payne's six foot square stairway window. Copse Avenue was situated on a hill and No 34 was already approximately 1 metre higher than Mr and Mrs Payne's house.
- A precedent would be created by building an overbearing two storey structure totally out-of-character with the rear garden scene in the area.
- A precedent would also be created by the over-development of the existing host building by 80%.
- The application, if approved without modification, would affect the lives of Mr and Mrs Payne in a totally unacceptable way.

In summing up, Mr Payne asked Members to take into account his considerable concerns and refuse the application.

Councillor Joel reported that he had been Chairman of the Plans 4 Sub-Committee when this application was previously considered. At that time he had visited the site and concluded that what was being proposed was no different to other extensions in the immediate vicinity and for this reason he had supported the application. Referring to loss of light through the staircase window at number 30 Copse Avenue, Councillor Joel commented that as the area was not an habitable room, this would not have a significant impact on No 30. Councillor Joel moved that the permission be granted.

Having read the report and considered the objections, Councillor Michael could see nothing unacceptable about the application in planning terms. The proposals were in line with side space policy, were not over-dominant and would not have a major impact on the privacy of neighbours. For these reasons, Councillor Michael seconded the motion for permission to be granted.

Councillor Fawthrop disagreed and moved refusal on the grounds over-development and side space issues. There would be an increase in the size of the house which would impinge on the amenity of the residents at No. 30. At certain points of the proposed development, the side space would not amount to a metre. Where a high standard of separation existed, this would cause a pseudo-terracing effect at the site and was an issue Members should protect against.

On the basis that the addition of a Juliet balcony was likely to result in overlooking, Councillor Buttinger seconded the motion for refusal.

Members having considered the report, objections and representations, RESOLVED that PERMISSION BE GRANTED as recommended, subject to the conditions set out in the report of the Chief Planner.

**6 LAND AT UPPER ELMERS END ROAD AND CROYDON ROAD
- APPLICATION FOR REGISTRATION AS A TOWN OR
VILLAGE GREEN**

Report CSD14095

Members considered an application to register land comprising the triangular area of ground bounded by Upper Elmers End Road, Croydon Road and Elmerside Road in Elmers End as a Town Green. As the registration authority for Bromley, it was the duty of the Council to decide the application for registration of the land as a new Town or Village Green.

The Chairman of West Beckenham Residents' Association (WBRA), Ms Marie Pender, spoke in support of the application and made the following representations:-

"I hope you have been able to read my letter, see the old maps and the support we have had from local people and other local organisations - Copers Cope Area Residents' Association and The Beckenham Society.

Your legal advice concludes that "it is not considered that the application can succeed". But, you know - it can - if you want it to. The legal advice also says that you, as registration authority, "may decide to register - or decline - on the basis of the application and the evidence before you". It is therefore within your discretion to accept the implied compliance with the spirit of the 2006 Act, by accepting our case. Or by proceeding to register the green voluntarily - as owners of the land.

The spirit of the Act is surely that open land that has been enjoyed by local people for only 20 years should continue to be available for that enjoyment. The only real restrictions in the spirit of the Act are that the enjoyment must be legal and without the use of force or subterfuge, and that the owner should not be forced to have the land registered against its will.

Your legal advice is that the burden of proof lies in "the civil standard of balance of probabilities". The balance of probabilities does not require written testimony – that would be 100% proof. The balance of probabilities is most certainly that this land - never built on and in existence for 300 years – has been used, as the Act describes, for much longer than 20 years.

My letter and the maps show the history of this land. I also emphasise that, for much more than 20 years, the council provided benches for people to sit on – why would you do that if the green were not used for passing the time? Your signs say "don't let your dog foul the grass" – why, if there is no dog walking? This land has been enjoyed legally and without the use of force for centuries.

The Council are owners of the land, so why would you object to its protection through registration? There need not be costs involved. If the Council were to

agree, there is, for instance, no need for any public inquiry, as suggested by the legal advice.

We understand the Council has rightly been persuaded to register Beckenham Green under the Act. Though the initial legal reaction to that application was also a loud 'no!' We congratulate you on meeting the wishes of the people of Beckenham in that instance."

Having lived in Beckenham for over 30 years, the Chairman confirmed that the green had been used for various activities, ball games, dog walking etc for many years. The WBRA represented over 500 residents, most of whom would not support the application if the statement submitted by Ms Pender was untrue. The Council was unable to prove that the green had not been used for the activities mentioned above. The land was surrounded by roads, however, this had not prevented other areas of land from being registered as town or village greens.

The Chairman also reported that contrary to what was written in the report, the land on which the toilet block stood would be leased not sold and should be excluded from Member consideration.

It was reported that Ward Member Councillor Sarah Phillips was in support of the application. The Chairman moved that the land should be registered as a new town or village green.

In seconding the motion, Councillor Fawthrop emphasised the need to protect such land for residents in the Borough.

Councillor Arthur drew Members' attention to the legal technical definition for registering land as a town or village green. He was concerned that if legal advice was ignored and Members chose to register land without adequate proof of use, then this would set a precedent for future applications.

The Legal Officer agreed with Councillor Arthur and explained the legal framework which must be applied to any application in order for registration to take place and which was addressed in the report. The Development Control Committee when exercising the powers of the Council as a Registration Authority, was required to apply these criteria. It was possible for a land owner on a voluntary basis to dedicate land as a Town Green but this would be a separate matter for the Executive to deliberate upon.

RESOLVED that Members of the Executive Committee be recommended to apply to voluntarily register the land as a new town or village green.

**7 LAND AT NEW BARN LANE, WESTERHAM - PROPOSED
ARTICLE 4 DIRECTION**

Report DRR/14/064

Members considered whether the Portfolio Holder for Renewal and Recreation should be requested to confirm the making of an Article 4 Direction to remove permitted development rights for specific classes of development on land at New Barn Lane, Westerham.

Located within the Green Belt, this land had recently been advertised for sale and whilst it was considered to have limited development potential, there was concern that in the foreseeable future, the land could be divided and sold in the form of separate plots.

Ward Member Councillor Scoates reported that situations such as this were becoming increasingly frequent. Part of the land being considered was an Area of Outstanding Natural Beauty and should be protected. The making of an Article 4 Direction would prevent the land from being partitioned into separate plots. Councillor Scoates emphasised the need for the Direction to be made with immediate effect and moved in favour of the proposal.

Councillor Michael agreed with Councillor Scoates and seconded the motion.

It was reported that any forthcoming compensation claims were likely to be relatively low in value when compared with other forms of development.

RESOLVED that the Portfolio Holder for Renewal and Recreation be requested to authorise the making of an Article 4 Direction for land at New Barn Lane, Westerham, to remove permitted development rights for the following classes of development:

- (i) the erection or construction of gates, fences, walls or other means of enclosure (Class A of Part 2);**
- (ii) the formation, laying out and construction of means of access (Class B of Part 2);**
- (iii) the provision of temporary buildings, etc. (Class A of Part 4);**
- (iv) the temporary use of land for any purpose for not more than 28 days per year (Class B of Part 4); and**
- (v) the use of land as a caravan site (Class A of Part 5).**

For (i) and (iv) above, this would be a Direction with immediate effect and for (v) the earliest possible effect (as explained in Section 7 of the report).

8 BROMLEY NORTH VILLAGE - PROPOSED REGULATION 7 DIRECTION

This item was withdrawn from the agenda.

9 DELEGATED ENFORCEMENT ACTION (APRIL-JUNE 2014)

Report DRR14/067

In accordance with agreed procedures, the report advised Members of enforcement action authorised under delegated authority for alleged breaches of planning control.

RESOLVED that the report be noted.

10 SEVENOAKS DISTRICT COUNCIL GYPSY AND TRAVELLER PLAN SITE OPTIONS CONSULTATION

Report DRR14/065

Members considered the Council's response to a consultation document produced by Sevenoaks District Council on the first stage of the preparation of its Gypsy and Traveller Plan. The consultation asked neighbouring local authorities whether they were able to assist Sevenoaks District Council in meeting its identified need for Gypsy and Traveller pitches in the Sevenoaks District.

Two sites identified by Sevenoaks District Council were relevant to Bromley due to their proximity to the borough boundary. These were located at land east of Knockholt Station and Holly Mobile Park, Hockenden Lane (east of the Swanley By Pass)

As Bromley Council was currently producing its local plan and developing site allocations to meet the Borough's own needs, it did not have sufficient capacity to additionally meet the needs of adjacent Boroughs.

The Chairman reported that it was incumbent upon Sevenoaks Council to let this Authority know their future plans and to request assistance from Bromley where possible. Bromley would need to do the same next year and would likewise be approaching Sevenoaks Council.

The Chairman moved in favour of the recommendation; this was seconded by Councillor Auld.

Councillor Buttinger alluded to a particular area close to her Ward which Sevenoaks was looking to intensify (land east of Knockholt Station). Whilst Councillor Buttinger understood Sevenoaks' predicament, it was of the utmost importance that Green Belt land remained protected.

At the suggestion of Councillor Scoates it was agreed that the response to question 11 be reinforced by including the fact that the land in question was located within a recognised flood zone.

In response to a question from Councillor Fawthrop, the Chief Planner confirmed that the site at Hockenden Lane, Swanley was currently a temporary site which Sevenoaks was hoping to make into a permanent site.

Councillor Bosshard requested that any maps or graphs included in future reports to the Committee, be more clearly defined.

RESOLVED that the proposed site options close to the Bromley boundary be noted and the responses to the consultation questions be endorsed, subject to the reinforcement of the response to question 11 to include the fact that the land near Knockholt Station was located within a recognised flood zone and a comment be added to the Hockenden Lane, Swanley site about restricting intensification.

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

The Chairman moved that the Press and public be excluded during consideration of the item of business listed below as it was likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

12 EXEMPT MINUTES OF THE MEETING HELD ON 10 APRIL 2014

RESOLVED that the exempt Minutes of the meeting held on 10 April 2014 be confirmed and signed as a correct record.

The meeting ended at 8.40 pm

Chairman