

COUNCIL MEETING

26th FEBRUARY 2018

QUESTIONS FROM MEMBERS OF THE PUBLIC FOR ORAL REPLY

1. From Josh King to the Education, Children and Families Portfolio Holder

With reference to the published local plan, can the education portfolio holder explain the planning process used to ensure that the Council fulfils its statutory duty to provide school places, particularly at a secondary level?

Reply:

The draft Local Plan considered the need for education places over the plan period (to 2029/30) on the basis of the GLA's School Roll Projections and identified an adequate supply of sites to meet that need. The Council's Secondary Schools Development Plan illustrates how the existing and proposed school infrastructure can meet the identified need and address the Council's statutory duties under the Education Act 1996. The draft Local Plan has responded to the identified need for secondary provision in draft Policies 27 (Education), 28 (Education Facilities), 29 (Education Site Allocations) and under draft Policy 55 (Urban Open Space). At that point, it is up to the individual trusts, free schools, SFA to make planning applications in the usual way.

Supplementary Question:

Do you agree that academisation of schools in Bromley has made the planning of school places difficult and that a return to the local education authority would allow a more coherent plan to be developed?

Reply:

I would certainly agree that as a result of Bromley's drive towards academisation, Bromley being one of the fastest academising local authorities in the country, we have found certain challenges as a result of that and we will be feeding back to the SFA and partners around some of those challenges and what we have discovered. To suggest that we bring this back in-house is not something that can happen at this point.

**2. From Paul Rudling to the Leader of the Council
(answered by the Environment Portfolio Holder)**

Re Bullers Wood Boys planning application: In light of the Planning Inspector's report which resulted in permission being rescinded by the Development Control Committee on 25th January 2018 what action has the Council taken to mitigate the risks to the Girls attending Bullers Wood Girls using these same roads and pavements.

Reply:

None in this area in recent times.

Although not ideal, there are not regarded as being any obvious, necessary or practical mitigation measures which need to be taken for the smaller cohort of girls walking past this site, nor thankfully, accident statistics to support that is the case either.

The safety issues raised by Independent Traffic Consultants and the Government's Planning Inspectorate refer to the far larger cohort of boys who would be arriving and congregating at the site, in conjunction with the overloaded local road network.

I am reminded by Traffic Engineers that the Planning Inspector's main concerns were related to the Bickley Road exit and the parking of vehicles on street near to the 2 access points. He also raised concerns regarding the lack of footway on the south side of Chislehurst Road but that would not affect the girls accessing their school.

Supplementary Question:

With the safety of schoolchildren in mind, would the Councillor agree with me that the decision made by the Portfolio Holder for Environment in 2011 to allow withdrawal of funding for school crossing patrols was foolhardy, considering that a Freedom of Information request has confirmed that at that time the cost to the Council per pupil was less than £5 per year.

Reply:

No, I would not. We have continued to provide school crossing patrols in association with schools and linked in with their school travel plans. We do have to consider the finances of the Council, however, the school crossing patrols have continued to be jointly provided between the Council and the schools who wish to have them.

**3. From Andrew Ruck to the Leader of the Council
(answered by the Chairman of Development Control Committee)**

The Bullers Boys Development Control Committee meeting on 25th January: The published minutes of the DCC meeting show that a motion to refuse planning permission was not proposed. The motion which was carried was to "not ratify the October 2017 decision". However this does not constitute a motion to refuse planning permission. It therefore seems that the Council has yet to vote to refuse planning permission and yet it has issued a refusal determination notice. How can this be?

Reply:

A motion to ratify had already been rejected and the report made it clear that it was for members of the committee to decide whether to change the decision they had made on 4th October or not.

It was clear that the motion not to ratify the decision would result in the refusal of the application, and this was clarified in the agreement of the Committee to the previously suggested refusal ground set out in the October 2017 Development Control Committee report at the time the motion was voted upon at the meeting. The Planning Officer read out the reason for refusal.

The applicant's agent was advised that a refusal notice would be issued. This notice has since been issued.

Supplementary Question:

On 25th January, who voted to refuse planning permission for Bullers Wood School for Boys?

Reply:

I refer you back to my previous answer. By virtue of the fact that the ratification was not done it follows that the ratification was refused.

Supplementary Question from Cllr Angela Wilkins

I am not a regular Member of Development Control Committee, but I did stand in that evening. I do not agree with Councillor Dean. There were not reasons given for refusal, no vote for refusal was taken. There is legal advice, which I have had sight of over the weekend, that this planning application is undecided and I would ask you therefore to take the matter back to Development Control Committee so that it can be decided.

Reply:

I refer the Member to my previous answer to Mr Ruck as I consider the Committee did make a decision. Further, you are asking me to agree to accept a referral back to the next meeting of Development Control Committee based on legal advice which you have been shown but neither myself nor the Council's Director of Corporate Services, or the Chief Executive, have been party to this advice. At this point therefore I cannot agree to your request, of course, the applicant does have the right of appeal against the decision made by the Development Control Committee on 25 January.

Additional supplementary question from Councillor Nicky Dykes:

I think it is important that we clarify this. Please clarify if there was an actual vote for refusal, because I sat on that Committee and there was not.

Reply:

The legal advice that I have been given is that by virtue of the fact that the decision was not ratified, it is not ratified.

Additional supplementary question from Councillor Will Harmer:

With a planning application, when it is decided, there are three outcomes – it is permission, refusal or deferral. Why does the decision not to grant permission automatically mean refusal?

Reply:

That is the advice that I have been given.

4. From Rhian Kanat to the Environment Portfolio Holder

Please provide details of all TfL grants applied for by the Council to fund road safety, pedestrian walkway and cycling improvements in the Borough in the last 4 years and how such grants were spent.

Reply:

The Borough has bid successfully for funding from a number of TfL funding streams, however some bids were not successful.

TfL funded schemes that have contributed to road safety, pedestrian and cycling improvements in Bromley were made allocations as follows:-

2014/15: £2,554k

2015/16: £2,774k

2016/17: £3,304k

2017/18: £2,805k

Funding was used to facilitate schemes such as road safety education for pre-driving age teenagers, cycle training for all ages, location-specific casualty reduction schemes, improved crossing facilities and new cycle routes. I have included the cost of congestion reduction and parking schemes, as these help make improvements for all road users and reduce what is commonly known as “rat-running” along residential roads.

Bromley has also successfully bid, in terms of pedestrian facilities, for £2.9m of Major Scheme Funding for Bromley North Village and £2.85m for the ongoing public realm works in Beckenham.

The Borough was supportive of a number of Quietways, some of which have not been progressed by TfL, but two of which are well developed for implementation next year. Because it is at an early level, no precise funding can be quoted at this time, but this would represent a significant investment in cycling and walking in the Borough.

The Borough also previously bid for £600k of Cycle to School partnership funding which was not supported by TfL.

Supplementary Question:

Why did the Council not apply for a Liveable Neighbourhoods Grant in October last year?

Reply:

The Liveable Neighbourhoods Grant was a new area where we wanted to understand what would represent a successful bid going forward, plus we were delivering the Beckenham scheme so at that time we did not consider that it was appropriate to put the effort into a bid, however, that is an area that we will be addressing going forward.

5. From Julie Ireland to the Chairman of Development Control Committee

If there were genuine and overriding concerns about road safety on Chislehurst Road, why did the Development Control Committee approve the inclusion of a school on the St Hugh’s playing field site in their Draft Local Plan?

Reply:

The concerns raised about road safety relate to the specific scheme put forward in the planning application considered by the Development Control Committee, and do not preclude a different scheme being granted planning permission. The site allocation does not mean that all other planning considerations are set aside, including road safety.

**6. From Georgette Purdey to the Leader of the Council:
(answered by the Chairman of Development Control Committee)**

Now that there is specific data on pupils applying for Bullers Wood School for Boys and the fact that 176 pupils will live within 1.2 miles of the school, does this not represent a similar material impact to the Traffic Report that led to the recall of the planning decision to the Development Control Committee on 25th of Jan 2018? As

such, will London Borough of Bromley now consider another recall of the planning application in light of this factual data - as opposed to a speculative report on 25/01 - and vote again of the planning permission for Bullers Wood School for Boys? If not, why not?

Reply:

The decision to report back to Development Control Committee the second planning application for St Hugh's Playing Fields was based on a significant planning decision made by a Government Inspector being published prior to the issue of the planning decision on that application. This was a new material planning consideration. The decision has now been issued on that application and therefore reconsideration is no longer possible. However, the applicant has a right of appeal against the decision and has had the ability to appeal since 31 January 2018. The applicant could also submit a new planning application but that is a matter for the applicant to consider.

The refusal was issued on 31st January 2017 and the appeal lodged on 1st August 2017, which was the very last day of the 6 month window for submitting an appeal.

(At this point the time allowed for questions expired, but the Mayor stated that she would allow question time to continue to allow all first questions to be answered.)

7. From Jayne Burman to the Education, Children and Families Portfolio Holder (answered by the Environment Portfolio Holder)

Bullers Wood School for Boys has been proven to be needed to address the current and projected shortfall of secondary school places in the Borough and given the current cohort of applicants it can be determined that 98% live within a 1.2 mile or 22 minute walk of the school. Given that the road safety concerns apply to the same stretch of road that girls walking to Bullers Wood school for girls, why hasn't the Council addressed the pedestrian road safety concerns and proposed or made changes to the roads to solve the problem rather than refuse the school?

Reply:

The planning application considers the road at the time. There are not any obvious, necessary or practical mitigation measures which need to be taken for the smaller cohort of girls walking past the site. Thankfully, accident statistics support this to be the case, and the safety issues raised by Independent Traffic Consultants and the Government's Planning Inspectorate refer to the far larger cohort of boys who would be arriving and congregating at the site, in conjunction with the overloaded local road network.

I am reminded by Traffic Engineers that the Planning Inspector's main concerns were with the Bickley Road exit and the parking of vehicles on-street near to the two access points. He raised concerns regarding the lack of footway on the south side of Chislehurst Road but that would not affect the girls.

Supplementary Question from Councillor Ian F. Payne:

My understanding is that 98% of 170 plus boys would be walking to school. Now we have 170 boys – they will be driven. Is that not going to create a problem for the roads in that area and snarl them up?

Reply:

The decision was made by Development Control Committee. I am not able to explain how they came to their decision – I was not at the meeting.

(With the agreement of Members, the Mayor extended question time for an additional fifteen minutes.)

8. From Rich Wilsher to the Resources Portfolio Holder

The Council is taking part in a Voter ID pilot scheme for the May elections. In answers to questions about this scheme at the last Council meeting you talked of a “communications plan delivering a tailored and comprehensive awareness raising campaign” to encourage voters to bring ID to polling stations. We are now only 2.5 months away from the elections. Please provide full details of that communications plan.

Reply:

With the help and support of the Cabinet Office, we have developed an extensive campaign plan reflecting the needs and preferences of Bromley.

Our campaign has already started with the Council website being updated, our Customer Contact Centre being fully briefed, posters and leaflets being distributed in prime locations across the borough, social media (both Facebook and Twitter) being used and local press releases being issued. We will build on this in the lead up to the election and publicity will be extended throughout the borough and will include posters in bus shelters and shopping centres, bill boards in railway stations, community facilities, places of worship, full page adverts in local newspapers, mobile ads and so on.

We will be sending posters and leaflets to some 500 community organisations across the borough as well as emailing resources to them with information on how to obtain more if required. In addition, we are working with one of our partners – Community Links – both through the Borough Officers Strategic Partnership Forum and through the associated Communications Leads Group to identify what opportunities there are to spread the word through existing meetings, forums and events with the wide range of community groups with which they work.

We are planning to place a particular emphasis on the hard to reach groups. Using the expertise that Community Links has built up working with these groups we will identify where, in their view, groups may benefit from further face-to-face communication.

We have also persuaded the Cabinet Office to let us provide posters and leaflets to candidates and parties engaged in the election so they can spread the message as well.

We will keep the campaign under constant review to ensure that we are engaging with all the communities in the borough so that every eligible elector is able to identify themselves and vote on 3 May 2018.

Supplementary Question:

All of this sounds very reassuring, but how will the Council gauge empirically or otherwise the success of this pilot scheme?

Reply:

It is worth reflecting that the information that we are requesting that people provide is the same as they would provide if they were collecting a parcel from the post office, and I think you would agree with me that the democracy of this country is more important than the collection of an individual parcel. In terms of identifying whether it is a success or not, that is what the pilot is intended to do. There will be considerable feedback after the election and our input will shape the way that it is spun out across the country. What we do know is that it has been well-established that there has been voting fraud, not just in Labour areas where they have had to re-run the election of Mayors and so on, but elsewhere as well. That is why the pilot is important and the information that we feed back to the Cabinet Office subsequently is going to influence the way that it is rolled out afterwards.

Additional supplementary question from Councillor Peter Fookes:

Would there not be a better way of spending £150,000 of public money, with regard to this issue? I notice that in response to my written question tonight that over 8,000 people registered to vote late in the run-up to the General Election - Why are we not looking at ways of extending the voter registration deadline? I am aware that in certain other countries you can register to vote on polling day itself.

Reply:

We are actually receiving £150,000, not paying it. I think you would accept on behalf of the people you are here to represent that an income of that nature is something worth having, rather than turning away. It is also worth reflecting that 98% of people in this borough are registered and that is something we should be very proud of and one of the reasons why we have been chosen as a pilot.

Additional supplementary question from Councillor Simon Fawthrop:

Would the Portfolio Holder agree that one person committing fraud in the election is one too many because everybody's vote deserves to be a valid vote.

Reply:

Yes.

Additional supplementary question from Councillor Stephen Carr:

I have supported this initiative for a long time and I am delighted that it is happening and Bromley has been given the opportunity to be a pilot in this area. I was very pleased with Councillor Arthur's response outlining the benefit and the help we are getting from our partners. Did he mean, for example, the support from Community Links, when I notice the communication that has come out at 5pm this afternoon to all Members which identifies to those readers of the Bromley Mencap Newsletter, for example, where ID would be needed for members of the public when they go to the polls, and can I be assured that all those partners will be getting similar correspondence? My understanding is that they will be – can that be confirmed?

Reply:

I have not seen that particular response to Bromley Mencap, although I do see that they have sent me something to read. It is something that we should be very proud of that we have over the years developed special language and leaflets which we get approved by Community Links in order to ensure that we can reach these hard to reach groups. It is absolutely essential that we do. There is no reason because if

somebody has a particular learning difficulty they should be excluded from the democratic process. We need to reach these people, and that is what is done.

**9. From Josh King to the Leader of the Council
(answered by the Resources Portfolio Holder)**

Following the collapse of Carillion and the news that another major provider of public services is under financial pressure, can the Leader outline what contingency plans the Council has to ensure continuity of services, particularly those for the vulnerable, such as adult care services and those for children and young people?

Reply:

In the unlikely event of any Council Contractor falling into financial difficulty, the service would be taken back in-house for an interim period and the staff in question employed under TUPE arrangements to ensure the seamless provision of services to Bromley residents, forward planning and the setting aside of financial reserves to adjust to potential shocks of this nature offering a very good reason as to why long term financial planning and the holding of responsible levels of reserves is vital. A strength of this Council's, completely misunderstood and frequently criticised by the party Dr King seeks to represent from May.

Talking of children and young people in particular, and as a relevant point to note, the Council has a proven track record of successfully managing in-sourcing of Council services as was demonstrated by the youth offending service.

Supplementary Question:

When was the last time a contractor was required to be replaced and what did the Council do?

Reply:

If you had given me notice of that question you would have got a precise reply. (The Mayor suggested that a written reply should be provided.)

10. From Andrew Ruck to the Leader of the Council:

A typical school planning application costs £1M of public money. Bullers Boys will now need at least 3. Did the Council do all it could to work with the applicant prior to it being brought to committee to mitigate the cost to the public purse?

Reply:

Yes it did.

The applicant knew from day one that they faced very serious planning issues in terms of congestion and road safety. Planning officers confirm that all reasonable steps were taken to alert the applicant to their ongoing concerns throughout the entirety of the application periods.

Ultimately, only the applicant can decide upon the specific details of the scheme that they wish to seek approval for and on both occasions they chose not to adapt their plans to address the concerns that had been raised.

11. From Rhian Kanat to the Education, Children and Families Portfolio Holder

With no permanent site currently confirmed for Bullers Wood for Boys, Shaw Futures Academy and the new Harris Sydenham School and the Council's recent track record of refusing planning permission for new schools what is the Council's plan to deliver sufficient school places to meet the projected shortfall which on your own figures hits 22 forms of entry by 2022?

Reply:

The first thing to have a look at is the figures for the number of places we are expecting by 2022 – we are expecting to find 12 forms of entry, rather than 22. I think the figures being referred to are LGA figures, and they do not include government centrally funded schools, so for example it does not have Eden Park School in there which was given approval last year.

The Council will continue to work with the Education and Skills Funding Agency to help them provide Bullers Wood for Boys (we are doing an awful lot of work at the moment to try to get a temporary solution open for this week), Shaw Futures Academy (there was quite a bit of opposition to that including from the Liberal Democrats and a lot of local people, but I am sure that they will put in an appeal), and the new Harris Sydenham school (which has not yet applied for planning permission.) If there are any delays to these proposed schools, the Council will work with existing schools to ensure there are sufficient places available, and we will continue to do that over the long term.

Supplementary Question:

What specifically does the Council do to assist applicants with planning permissions for schools?

Reply:

In terms of the Education department, with the Shaw Academy, when that application was going forward, I met with the school leadership team, we tried to put their planning people in touch with the planning department at this local authority and tried to make sure that there was communication with residents and with the Council as well. Moving forward, with the Harris Sydenham, which is the first one that has been approved by the DfE since I have been in this role, I have met a number of times with the Harris Academy people and again we are starting that process to make sure that there is communication all the way through the process.

Additional supplementary Question from Councillor Dykes:

Can he confirm that we have identified sites that we would like for the schools, Bullers Wood being St Hugh's and Shaw on Westmoreland?

Reply:

Both of those sites are in the Local Plan for education. I know that Bullers Wood for Boys is going to push ahead with an appeal – I know that work is going on at the moment. I know that the Shaw Academy Trust is looking for an appeal on the Westmoreland Road site.

12. From Julie Ireland to the Environment Portfolio Holder

What consultation of key road user groups was undertaken in respect of the new proposals for a shared pedestrian cycle path from Bromley South to Shortlands via Queen Anne Avenue?

Reply:

Officers have consulted with the following groups/people - Cycle Touring Club, Bromley Mobility Forum, Disability Voice Bromley, Experts by Experience, Bromley Association of People with Disabilities, London Ambulance Service, Bromley Cyclists, Kent Association for the Blind, London Fire Brigade, Metropolitan Police, London Buses, Licensed Taxi Drivers Association, Southeastern, Transport for London, St. Marks C of E Primary School, Harris Primary Academy School, LBB Road Safety Team and all residents along Valley Road, Hillside Road and Queen Anne Avenue (including any side roads from these).

Consultation started on 20th February.

Supplementary Question:

How come none of the residents I have spoken to over the last two months have been consulted? If the consultation only started on 20th February I am guessing that is going to be your answer?

Reply:

Yes it would be.

(At this point the time allocated for questions expired and the remainder of the questioners received written replies.)

13. From Georgette Purdey to the Leader of the Council:

Can we have full disclosure of the amount of money spent on legal advice to allow the planning consent given in Oct 2017 for Bullers Wood School for Boys to be recalled to the January DCC meeting. Can we also have full disclosure of all exchanges and document pertaining to the precise grounds for returning planning consent to a second meeting once it had been given. If not, why not?

Reply:

Given the sensitive and unusual nature of this matter advice was sought from leading counsel. Counsel's fees are commercially sensitive as independent advice of the highest quality was required. Correspondence in respect of the decision to report back to Development Control Committee is not publicly available as it involves internal discussions between Officers of the Council and the documents are the subject of legal professional privilege.

14. From Jayne Burman to the Education, Children and Families Portfolio Holder

How much public money has so far been spent by the Council on the Bullers Wood School for Boys process?

Reply:

In total, the Council has received a sum of £38,277 relating to the planning application for Bullers Wood School for Boys.

This sum includes pre-application fees of £10,948 to cover its costs of providing that service, and £27,329 for planning application fees.

The planning application fees are set at national level and are intended to substantially cover the Council's planning costs, which in this case would include the cost of a transport consultant, £8,366.

The planning application processing costs are not recorded by timesheets at a case-by-case level but overall costs are monitored in total at service level.

In addition, it has been estimated that the Highway Development Team have spent approximately 72 hours on this application, with an estimated cost of £2,560.

So overall, the Council would have incurred net costs of £2,560.

This excludes legal advice – counsel's fees are commercially sensitive and we do not propose to disclose the fees at this time.

15. From Rich Wilsher to the Resources Portfolio Holder

How many Freedom of Information requests did the Council receive from 1/7/17 - 31/12/17 and how many were answered in the regulatory 20 days?

Reply:

We received 678 new requests of which 459 were answered within 20 working days (68%.) Of those responded to outside the timescale then these would often require the Council seeking clarification applicants or taking time to consider the applicability of permissible exemptions under the Act.

16. From Josh King to the Leader of the Council

Can the Leader provide categorised details of legal expenses and those awarded against the council following cases lost over the last two years in planning cases, industrial tribunals, and freedom of information appeals?

Reply:

Over the past two years the costs awarded against the Council in planning appeals amounts to £268,801. Of that figure, £150,000 was incurred in the defence of the Sundridge Park Manor appeal, a particularly important case to defend given the Manor's key architectural Importance to our Borough's heritage.

There have been no settled awards of costs against the Council in respect of freedom of information request or industrial tribunals.

Any Council will need to defend decisions made on behalf of residents of the Borough at planning appeals from time to time and also against claims subsequently made in pursuance of them, leading to the need to instruct external counsel to do so.

17. From Rhian Kanat to the Environment Portfolio Holder

The announcement 2 weeks ago that the Council would finally agree to make some road safety improvements in the vicinity of St George's, Bickley Primary and the new

La Fontaine academy rather than defer to La Fontaine's own travel planning is most welcome. However the school started last week and no substantive changes have been made. What is the timetable for those changes and why has it taken so long to get to this point given that La Fontaine were confirmed on this site over a year ago?

Reply:

The Council did not consider siting 3 primary schools in a very small area to be the wisest decision; the decision did not fall to the Council. Prior to La Fontaine opening at the new location, new parking arrangements were introduced in a section of Nightingale Lane, to aid traffic flow in an already congested part of that street. Some additional safety signs are to be introduced to Tylney Road, Nightingale Lane and Bishops Avenue shortly. Further changes are being considered, some will be subject to consultation with residents. Even with knowledge of the pupils' postcodes it is difficult to predict actual travel patterns and we are now observing travel patterns to gauge the need and location for further measures particularly in the Homesdale Road area. We will continue to work with schools through the School Travel Planning process.

18. From Julie Ireland to the Leader of the Council

What are the minimum membership numbers that are required for a residents' association to be considered by Ward Councillors as representative of an area and does that RA need to prove that it genuinely consults with its members on issues before representing their views to ward councillors?

Reply:

Whether a resident is a Member of a Residents Association or otherwise misses the point completely. If a resident of Bickley holds a material planning concern and seeks our advice and possible intervention, the answer is one.

You would need to ask individual Residents Associations yourself as to how, if at all, they structure their internal constitutions.

19. From Rich Wilsher to the Public Protection and Safety Portfolio Holder

Why has Bromley not signed up to the London Rogue Landlord Database?

Reply:

The London Rogue Landlord Database was only launched at the end of December and Officers are currently assessing whether to sign up. Having said that, over the past few years we have not received a single complaint about rogue landlords, therefore if or when we do sign up, we currently have nothing to add to the database.