

**EXECUTIVE**

**7<sup>th</sup> February 2018**

**QUESTIONS FROM MEMBERS OF THE PUBLIC**

**(A) Questions for oral reply**

- 1. From Colin Kavanagh to the Renewal and Recreation Portfolio Holder**  
(As Mr Kavanagh was not present a written reply was sent.)

With regard to the Council's Housing Strategy, can you please confirm that the Council is satisfied with the current level of affordable housing provision made available by way of Section 106 agreements. Can you also confirm what considerations the Council give when accepting discretionary payments in lieu of affordable housing being provided and confirm how the Council have used/intend to use such payments to tackle the housing crisis in Bromley?

**Reply:**

The Council applies national guidance and development plan policy when it considers planning applications that should provide Affordable Housing. We usually commission, for each residential application, an independent assessment of the applicants Affordable Housing proposal so that we have adequate information for deciding on the application in a satisfactory way. Payments in lieu of onsite provision are an exception and the Council has used those contributions to provide additional accommodation for local people via Housing Associations.

- 2. From Eugene Nixon to the Care Services Portfolio Holder**  
(As Mr Nixon was not present a written reply was sent.)

Please explain what is meant by the term "social housing rent" and the current, average rent levels of social rent in LB Bromley. Please list by each ward in the borough the number of newly built homes let by social housing providers, at social rent, since 2014.

**Reply:**

Broadly the term 'social housing rent' refers to the rent levels able to be charged for housing association and local authority rented accommodation (excluding any private market rent properties they may manage). There are 2 main rent setting regimes:

Social Housing Rent: In general this would relate to a proportion of older existing stock and not new build accommodation. Rents are determined through a national rent setting regime which involves a formula to determine a 'target rent'. The calculation takes account of property values, local earnings relative to national earnings and property size.

Affordable Housing Rent is subject to rent controls that require a rent of no more than 80 per cent of the local market rent (including service charges, where applicable). In Bromley, in the event that 80% of market rent is above the local housing allowance payable by housing benefit the rent level will be capped at local housing allowance rate to ensure that it is still affordable to those on low incomes. In Bromley most of our housing associations set rents at between 65% and 80% of market rents.

Housing associations are required to develop new rented accommodation at the affordable rents level in line with the contracts they have signed with the HCA – as such rent levels will either be at local housing allowance level or lower.

In terms of average social housing rent levels in Bromley, these will vary depending upon location, property type and size. I am afraid we would not hold this information as the Council would not be party to rent setting - housing associations set the rental levels directly across their stock in line with the above regimes. All housing association accommodation let through Bromley Homeseekers will have rent levels in line with the national regimes above and these will be published on the Bromley Homeseekers website as properties become available for letting.

**3. From Jane Ward to the Renewal and Recreation Portfolio Holder**

(A written reply was sent.)

Please list on a ward by ward basis the number of housing association properties built at social rent levels in the borough in the last four years.

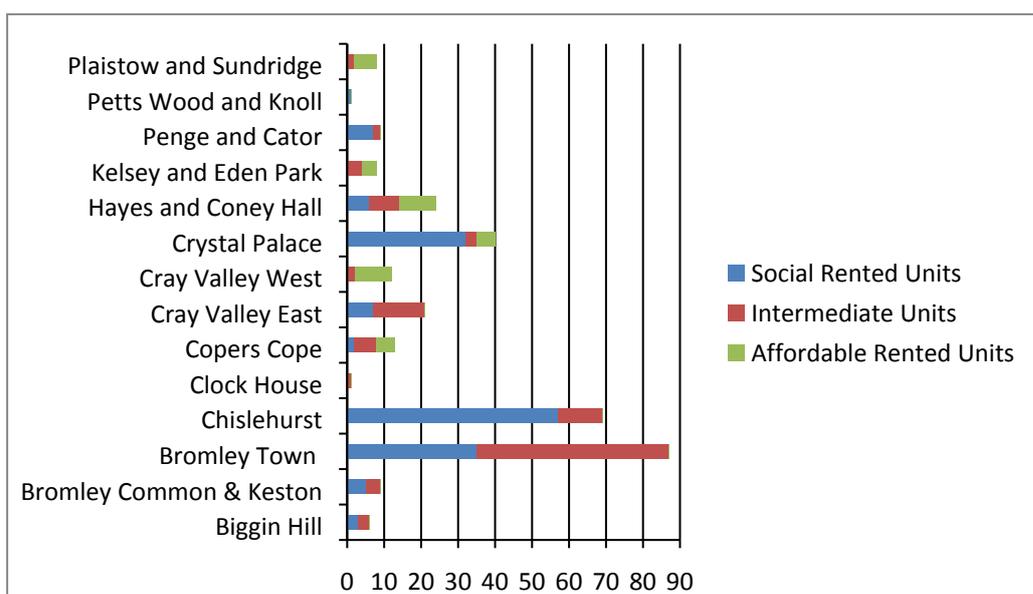
**Reply:**

Between April 2013 and December 2017 a total of 155 social-rented units were completed in the Borough. These have been broken down on a ward by ward basis in Table 1 which has been circulated, along with intermediate and affordable rented unit completions.

Table 1: Affordable housing units completed by ward (2013-2017)

Ward	Social Rented Units	Intermediate Units	Affordable Rented Units
Biggin Hill	3	3	
Bromley Common & Keston	5	4	
Bromley Town	35	52	
Chislehurst	57	12	
Clock House		1	
Copers Cope	2	6	5
Cray Valley East	7	14	
Cray Valley West		2	10
Crystal Palace	32	3	5
Hayes and Coney Hall	6	8	10
Kelsey and Eden Park		4	4
Penge and Cator	7	2	
Petts Wood and Knoll	1		
Plaistow and Sundridge		2	6
<b>Total</b>	<b>155</b>	<b>133</b>	<b>40</b>

Figure 1: Affordable housing units completed by ward (2013-2017)



#### **4. From Dermot Mckibbin to the Leader of the Council**

Will the Leader of the Council take advice from relevant Council staff to review the assertion by the government in the draft Tenant Fees bill and accompanying guidance on page 6 at paragraph 29 that there is no legislation about “holding deposits “ in the light of the guidance on unfair terms in tenancy agreements published by the Office of Fair Trading at paragraphs 3.14 to 3.24 on pages 22 to 23 and the new Competitions and Markets Authority publication “ Consumer Protection law guidance for lettings professionals” as published on 13 June 2014 at page 61?

#### **Reply:**

I can confirm that page 6 at paragraph 29 of the draft Tenant Fees Bill states that there is no legislation about “holding deposits.” This Bill and the related Consumer Protection guidance quoted will, of course, be reviewed in due course as part of the Trading Standards two year Plan.

#### **Supplementary Question:**

Mr Mckibbin asked whether, in view of the Government’s priority to fix the broken housing market, there was a need for simple, transparent legislation and whether the Council would make representations to Government in support of this?

#### **Reply:**

The Consumer Protection guidance quoted has also been reviewed but it does not provide any stipulations for Legislation controlling the definition of holding deposits, which appears to be the confirmation sought. I would suggest that debating the legislative nuances of a Bill travelling through Parliament might be avoided in open Committee at this stage; any interpretations expressed could be subject to potential challenge.

It does provide guidance for prospective tenants with clear information about why they are likely to have to pay a pre-tenancy payment or holding deposit, the sum that is required and the circumstances in which it will or will not be refunded. This last point is key. For the purpose of this guidance, a distinction is drawn between pre-tenancy holding deposits, which are taken before the agreement is signed in order to reserve the property, and security deposits, which may be taken when the tenancy agreement is signed.

Lettings professionals should therefore take care when taking a holding or pre-tenancy deposit, to check whether it has to be treated as a security deposit.

Where a security deposit is taken, unlike a holding deposit, it is required by law to be protected with a Tenancy Deposit Scheme. If it is any comfort, I can confirm that this authority will be in the vanguard of authorities protecting tenants who are taken advantage of by unscrupulous landlords.

## **5. From Andrew Ruck to the Leader of the Council**

Re Bullers Wood Boys planning Application. Why did Councillor Dean not manage and direct the DCC Meeting on 25th January in accordance with the Chief Executive's brief to ratify the decision from October and follow the guidance of the Planning Officer that the decision could be ratified?

### **Reply:**

A Chairman's job is not to direct Councillors to endorse officer recommendations; rather to consider the facts and either agree with them or find differently.

The Chief Executive himself actually stated "you can ratify the decision you made on 4 October, that's the recommendation, obviously other decisions are open to Members in the normal manner of your decision-making" which underlines that simple fact.

Similarly, you will I know be aware that the Officers' recommendation for the application on the evening of the DCC meeting on 4<sup>th</sup> October was for refusal of the scheme.

With all due respect, and I know how sensitive this matter is, you would have quite rightly been furious if the Chairman had directed the Committee to arrive at that decision.

### **Supplementary question:**

Mr Ruck asked why members had been allowed to bring up matters that were not material matters.

### **Reply:**

The Leader suggested that Mr Ruck needed to contact the Chairman of the Development Control Committee on this matter.

## **6. From Paul Rudling to the Leader of the Council**

Re Bullers Wood Boys planning Application: Why did the Planning Department/Legal Team advise the Council to take a flawed Planning Inspector's report to the Development Control Committee on 25th January 2018?

### **Reply:**

Planners took the view that the comments of the Government's Independent Planning Inspectorate when refusing the applicant's appeal against the first application, held material planning implications for the second, given the similarity of both schemes.

The Council's internal Legal team endorsed that view, as did a senior QC when approached for independent legal opinion in recognition of the importance and sensitivity of the application.

As a result of that advice the Chief Executive made the decision that further Member oversight was necessary to weigh and consider ratification of that decision made on 4<sup>th</sup> October.

**Supplementary question:**

Mr Rudling asked whether it would have been better for the Planners to advise the Inspector of the abnormal road conditions on the day of his visit? He added that this was a matter of the facts of the situation.

**Reply:**

The Leader responded that the Council was not in a position to direct or dictate to Planning Inspectors.

**7. From Julie Ireland to the Environment Portfolio Holder (answered by the Leader of the Council)**

Please explain the change in policy in Churchfields Waste and Recycling Centre with regard to cardboard. There is no longer a separate bin for cardboard, instead residents have been told to place any cardboard in the household waste bin. Why has this change been made?

**Reply:**

I am sure that Ms Ireland would wish to congratulate Bromley on having the second highest recycling rate in London.

Due to the requirements to ensure that cardboard is clean of additional packing materials and remains dry until it is processed, we no longer operate an 'open air' bay for residents to deposit unsorted cardboard. However, cardboard that is sorted can be placed in the enclosed 'paper & cardboard' recycling container that is located on the site – maybe this was not spotted on your visit. We are currently reviewing the capacity of the container and further options to improve cardboard recycling so it can be recycled effectively.

**Supplementary question:**

Ms Ireland asked whether cardboard from roadside collection was put into general waste?

**Reply:**

The Leader confirmed that this was still recycled.

## **8. From Rhian Kanat to the Leader of the Council**

Is the Council planning to review its Code of Conduct for Councillors in light of the significant reputational damage caused by Cllr Rideout's participation in the Planning Committee for Bullers Wood School given Cllr Rideout also has a declared long-standing and deep relationship with the Sundridge Residents Association a main proponent against the school development?

### **Reply:**

Councillor Rideout does not have a pecuniary interest and is perfectly entitled to sit on the panel under the provisions of the Localism Act 2011.

Bromley goes beyond what is required in legislation and requires its Members to also record non-pecuniary as well as pecuniary interests and in recent years, both Central Government and the Courts have taken the view that Councillors should be able to take part in such meetings too.

In summary, being a member of a Residents Association does not preclude any elected member from holding a view, speaking on an item or voting on an planning application in either their own, or any other ward and I do not agree with your assertion that any reputational issues have been caused to either the Council or the process based on these facts.

### **Supplementary question:**

Ms Kanat asked whether the Leader considered the Code of Conduct to be adequate?

### **Reply:**

The Leader responded that he did, but if Mr Bowen as the Council's Legal Advisor and Monitoring Officer considered that a review was necessary a report could be presented to a Standards Committee meeting, which would include independent persons.

## **9. From Maeve Beaven to the Education, Children and Families Portfolio Holder**

What exact measures is the Council taking to meet the shortage of secondary school places both for the cohort of 180 boys expecting to go to Bullers Wood School for Boys in September 2018 and in subsequent years?

### **Reply:**

There is no shortage this year. Everyone applying to Bullers Wood will have had six choices of school. Everyone will get a place.

### **Supplementary question:**

Ms Beaven asked the Portfolio Holder to spell out the contingency arrangements.

**Reply:**

The Portfolio Holder repeated that there was no shortage of places for this year. There was a shortage of between 13-19 forms of entry by 2022, but there were plans in the pipeline and he was talking to some schools about bulge classes.

(As the period for taking public questions expired at this point, the remainder of the questions were dealt with by written answers.)

**10. From Wendy Plummer to the Leader of the Council**

Re Bullers Wood Boys planning Application. On 29 January, Doug Patterson wrote "we are satisfied that in terms of the constitution, there were no legal breaches" with regard to the DCC Meeting on 25th January. Were there any legal breaches in any other terms?

**Reply:**

Not that I have been made aware of.

**11. From Eugene Nixon to the Resources Portfolio Holder**

What are Discretionary Housing Payments and what are they used for? How much money has Bromley Council been given by central government to meet costs of Discretionary Housing Payments awarded in the current financial year (2017-18)?

**Reply:**

Discretionary Housing Payments (often referred to as DHP's) are administered by the Council and provide financial assistance to help tenants meet their housing costs.

The objectives of the Bromley's DHP policy as entered on the Authority's website include:

- Sustaining tenancies and preventing homelessness
- Keeping families together
- Supporting the vulnerable and elderly in the local community
- Helping people who are trying to help themselves
- Encouraging and sustaining people in employment

Central Government's DHP contribution to Bromley for 2017/18 was £726,861.

**12. From Dermot Mckibbin to the Leader of the Council**

Does the Council Leader support the Government's draft Tenant Fees bill, what are the implication costs of the proposed bill for Bromley Council, does the Council accept the Government's view that the financial implications of the bill are fiscally neutral (see page 15 paragraphs 112-114 of the draft bill)?

**Reply:**

The assertion that the legislation will be fiscally neutral will be reviewed by Officers in due course, once the wording in the Bill is confirmed and the Bill passes into mainstream legislation. The consequences for Bromley Council with regard to the financial implications for this legislation will also be assessed at that time.

**13. From Jane Ward to the Leader of the Council**

Noting that the Leader of the Council has recently met with developers to discuss the possibility of future building projects in relation to housing development in the borough, has he or any other Councillors actively sought to meet with leading Housing Associations and housing providers in the South East to discuss working collaboratively to seek to create opportunities to provide more affordable/social housing in the Borough, either through construction, or purchase and renovation of properties already located here?

**Reply:**

Regular Officer meetings take place with partner housing associations to explore all potential opportunities in the execution of Councillors' policies concerning the development, purchase and refurbishment of existing properties to provide a range of affordable housing.

Recent examples of the successes we have enjoyed locally include the More Homes Bromley property purchase scheme, refurbishment of 3 former vacant residential homes, the provision of payment in lieu funding to create in excess of 128 new homes across the borough in partnership with Clarion Housing Association, a bold modular housing initiative, Benedict House in Beckenham and Bromley's London leading Mears initiative.

**14. From Andrew Ruck to the Leader of the Council**

Re Bullers Wood Boys planning Application. Councillors Lymer and Rideout offered the Widmore Centre to Bullers Wood School for Boys during the DCC meeting on 25th January. That offer was accepted on 25 January 2017 in correspondence with Councillor Lymer. What have LBB done subsequently to follow up on this kind offer?

**Reply:**

Cllr Lymer didn't 'offer' the Widmore Centre during the DCC meeting on 25<sup>th</sup> January, she advised, and I quote verbatim (my brackets):

"We (Bickley Ward Councillors) acknowledged the undisputed need for school places in the Borough as well as the strong desire from parents for this school to exist and we haven't just sat back shouting from the sidelines 'no' at it. Since the very beginning we had suggested a viable alternative in our Ward.

The Widmore Centre used to be a secondary school. It could have been turned into Bullers Wood Boys months ago. Pupils could be going there now and it is not too late for this to happen.

We have reiterated this option to the Secretary of State for Education, our MP, the ESFA and Bullers Wood until we are blue in the face but we have been continually ignored”

Cllr Mrs Rideout never mentioned the Widmore Centre in her address.

**Supplementary Question:**

If this was not a genuine or realistic offer how will LBB address its material bearing on the vote at the Development Control Committee on 25th January? IE. at least two Development Control Committee Members may have not ratified the October Committee decision because they believed an alternate (and more suitable in their view) site was on the table.

**Reply:**

As I mentioned in my earlier response to you, Cllr Lymer stated :  
*“We (Bickley Ward Councillors) acknowledged the undisputed need for school places in the Borough as well as the strong desire from parents for this school to exist and we haven’t just sat back shouting from the sidelines ‘no’ at it. Since the very beginning we had suggested a viable alternative in our Ward.*

*The Widmore Centre used to be a secondary school. It could have been turned into Bullers Wood Boys months ago. Pupils could be going there now and it is not too late for this to happen.*

*We have reiterated this option to the Secretary of State for Education, our MP, the ESFA and Bullers Wood until we are blue in the face but we have been continually ignored.”*

It is not in the gift of the Council or individual Councillors to “offer” what is/was ultimately the ESFA’s property, and neither did she.

Bickley Councillors have however long since held and expressed the consistent view to the highest levels of Government that if a secondary school had to go somewhere locally, the Widmore Centre, itself a former secondary school, would self-evidently be the preferred location, especially given the unhelpful additional traffic impact the ESFA’s decision to cluster 3 primary schools so closely together will inevitably cause.

We still believe that makes sound common sense, despite the fact that the impending arrival of La Fontaine now significantly complicates that eventuality.

## **15. From Paul Rudling to the Leader of the Council**

Re Bullers Wood Boys planning Application: Why was Councillor Rideout allowed to sit on the Development Control Committee on 25th January 2018 given her predetermination and strident anti-campaign through her Sundridge Residents Association?

### **Reply:**

Councillor Rideout does not have a pecuniary interest and is perfectly entitled to sit on the panel under the provisions of the Localism Act 2011.

Bromley goes beyond what is required in legislation and requires its Members to also record non-pecuniary as well as pecuniary interests and in recent years, both Central Government and the Courts have taken the view that Councillors should be able to take part in such meetings too.

In summary, being a member of a Residents Association does not preclude any elected member from holding a view, speaking to an item or voting on an planning application in either their own, or any other ward.

## **16. From Julie Ireland to the Environment Portfolio Holder (answered by the Leader of the Council)**

Recent media reports have suggested that much of the collected recyclables end up being incinerated. How much of Bromley boroughs recycling is incinerated?

### **Reply:**

The amount of contaminants that are extracted from recyclable materials is reported each month by the contractor and reviewed by the Council's management team. The current contamination rate of recyclates is 9% of material collected and year to date we have processed 800 tonnes of waste that was presented for collection as recyclate. This waste is currently being landfilled and is not sent to the Energy from Waste (EfW) plant due to the proximity of where the reprocessing centres are and available local disposal facilities.

In summary, for the last available period, 91% of waste put out for recycling is recyclable, 100% of this is recycled and this represents 49.6% of total residential waste .

## **17. From Rhian Kanat to the Renewal and Recreation Portfolio Holder**

What training is given to Councillors on planning law and due process before they serve as members of planning committees and does the Executive consider this to be adequate in light of the Development Control Committee meeting proceedings on 25 January 2018?

**Reply:**

Training is provided as a part of the Induction process for new Councillors when they join the Council. Other training in planning matters is provided on a refresher basis and on matters of importance as they arise. Planning and legal officers are also available to advise Members both at committee and at any other time. The majority of Members sitting on the Development Control Committee have 5 or more years of planning committee experience.

**18. From Maeve Beaven to the Education, Children and Families Portfolio Holder**

Is the Council investigating temporary accommodation for Buller's Wood School for Boys whilst it resolves the access & egress arrangements?

**Reply:**

Bromley is working with colleagues to examine the potential of any alternative temporary sites. Ultimately it is for the applicant to apply for planning but the Local Authority stands ready to assist where it appropriately can.

**19. From Wendy Plummer to the Leader of the Council**

Re Buller's Wood proposal: It is understood the Section 106 agreement was completed and ready for signature on 9th December 2017. Why was this not progressed between LBB and ESFA?

**Reply:**

I am advised that the Council's Planning team was ready to complete the agreement and had made other parties aware of the fact before the Planning Inspector's decision was published.

**20. From Jane Ward to the Care Services Portfolio Holder**

How much money has Homes England or its predecessor made available to local Housing Associations in the borough to provide accommodation at social housing rent level, and what contact has Bromley Council had with Homes England in the last four years in regard to providing more Housing Association accommodation at social housing rent level?

**Reply:**

Under the current affordable homes programme 2016 – 2021 approved providers and developers submit bids directly for grant funding. As such, whilst the Council is consulted to determine whether it supports a scheme it is not directly party to any funding arrangements.

**21. From Dermot Mckibbin to the Leader of the Council**

What confidence should members of the public have that the provisions in the draft Tenant Fees bill will be enforced if only 7% all councils including Bromley Council have failed to enforce previous legislation to require the legal rules about the necessity for letting agencies to be fully transparent (see page 3 of the House of Commons Briefing paper on banning letting agent fees in England (Number 7995, 26 July 2017))?

**Reply:**

They should have every confidence as it will be implemented in Bromley.