

DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held at 7.30 pm on 28 January 2020

Present:

Councillor Alexa Michael (Chairman)
Councillor Yvonne Bear (Vice-Chairman)
Councillors Vanessa Allen, Katy Boughey, Mark Brock,
Kevin Brooks, Peter Dean, Simon Fawthrop, Christine Harris,
William Huntington-Thresher, Charles Joel, Russell Mellor,
Tony Owen, Angela Page, Richard Scoates, Melanie Stevens
and Michael Turner

46 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

An apology for lateness was received from Councillor Kevin Brooks.

47 DECLARATIONS OF INTEREST

Councillor Joel declared a non-pecuniary interest in Item 6 as he was connected with the Chairman of the Crockenhill Parish Council. Councillor Joel remained in the room but did not take part in the vote.

Councillors Fawthrop, Owen and Page declared non-pecuniary interests in Item 9 as they were acquainted (through the Orpington Conservative Club) with the local resident speaking in objection to the application.

Councillor Scoates declared a non-pecuniary interest in Item 9 as a close relative resided in the area. He remained in the room but did not vote.

In regard to Item 9, Councillor Huntington-Thresher informed Members that he had attended as a visiting Member to speak in objection to the application when it was previously considered at the Plans 4 Sub-Committee meeting on 5 December 2019 and he wished to do the same on this occasion.

As a result, Councillor Huntington-Thresher stood down as a Committee Member for Item 9 and only spoke as a visiting Member to the application. He remained in the room but took no part in Members' discussion and did not vote.

48 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

**49 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON
26 NOVEMBER 2019**

RESOLVED that the Minutes of the previous meeting held on 26 November 2019 be confirmed and signed as a correct record.

50 MATTERS OUTSTANDING FROM PREVIOUS MINUTES

RESOLVED to note that all actions outstanding from previous meetings had been completed.

**51 PLANNING APPLICATION (17/01564/FULL1) - BOURNEWOOD
SAND AND GRAVEL, SWANLEY BYPASS, SWANLEY BR8 7FL
(Cray Valley East Ward)**

Description of application – Variation of Condition 1 of planning permission ref. 10/00657/VAR (allowed at appeal under PINS ref. APP/G5180/A/11/2145860) to permit continued extraction of Thanet Sand until 31 March 2020 and restoration and re-contouring with inert waste until 14 January 2021, with associated access, buildings and structures to remain until 14 January 2021.

The Assistant Director, Planning summarised the report in a brief presentation to Committee as follows:

- The application was made to extend the life of the quarry to allow sufficient time to complete the extraction and infilling.
- The applicant had not responded to any communication from the Council since a site visit was made in September 2019, including requests for a progress update.
- Officers fully appreciated local concerns about the quarry and the impact it had for many years on the area. In the first appeal decision in 1996, the Council raised concerns about the potential for a marginal, drawn-out operation. In 2011, an appeal against refusal for the continuation of operations was lost, although the Council had been successful in winning appeals against the expansion of activities at the site such as the sale of materials.
- Views regarding impacts were based on proposed timescales rather than any further extension. If granted permission, it was intended to take enforcement action following the expiry of the permission with the ultimate goal of the restoration of the site as envisaged.
- The recommendation and conditions were pursuant to Counsel's advice sought by Officers to inform an overall strategy for the site to achieve the goal of restoration.
- The key point of the legal advice was that if the Council wished to enforce against the operation following the expiry of the permission, Officers were advised very strongly that this would be more likely to achieve the end goal of ensuring the site was restored by imposing a new set of conditions

with the application rather than relying on less suitable conditions on the previous permission.

Taking the above into account, the application was recommended for permission, subject to detailed conditions. The Greater London Authority had confirmed it had no objection with the Council determining the application.

While Committee Member and Ward Member Councillor Bear would like to have seen the original conditions complied with, she moved that the application be permitted subject to the proposed conditions and informatives set out in the report, together with additional conditions and clarification as follows:-

- No further extensions would be considered in regard to the deadlines listed in the application.
- The Council would monitor the key dates and, if not complied with, enforcement action would be taken.
- Full clearance and restoration of the site should be carried out by 14 January 2021.
- Clarify point 14 by adding that restoration details should be agreed with the Council verifying that there had been no contamination of the land by the infill carried out within an agreed period.
- No processing should take place on site.
- There shall be no access from Hockenden Lane which should be closed off to the Council's satisfaction.
- The site must be fully restored to Green Belt by 14 January 2021.

Councillor Fawthrop seconded the motion that the application be permitted and requested a condition be added to remove Permitted Development rights from the site.

Having considered the report, objections and representations, Members RESOLVED that PERMISSION BE GRANTED as recommended, subject to the conditions and informatives set out in the report of the Assistant Director (Planning) with the addition of further conditions and amendments as set out above.

52 PLANNING APPLICATION (18/05599/FULL1) - LAND REAR OF TESCO STORES, EDGINGTON WAY, SIDCUP (Cray Valley East Ward)

Description of application – Construction of 13 units to be used for Use Classes B1(c), B2 and B8 together with access from Edgington Way, Sidcup and creation of access from the Fitzroy Business Park, car parking and associated works.

Oral representations from the applicant's agent in support of the application included the following points:-

- This high quality scheme was structured in a way that no planning conditions would delay the commencement of the development.
- The scheme would not become a through run for traffic as the dual access routes were not connected.
- Pre-application consultation had taken place with various key organisations to resolve immediate issues with design and development.
- Further consultation was undertaken with Natural England, Kent Wildlife Trust and Ruxley Nature Reserve Group.
- All feedback provided was considered.
- The provision of 156 car parking spaces included electric vehicle car charging spaces, disabled bays and cycle parking. The parking provision was higher than the recommended London Plan standards.
- All parking would be on site leaving the Sandy Lane area clear for passing traffic.
- The scheme would improve the Borough's industrial offer.

In response to a question raised by Councillor Fawthrop, the agent confirmed that in accordance with the London Plan, the scheme currently proposed 20% active and 20% passive electric vehicle charging points. Consideration could be given for 20% active and 80% passive to be provided.

The Development Management Area Team Leader summarised the report in a brief presentation to the Committee which included the following:

- Site photographs and a site plan had been circulated to Members.
- Updated modelling data was provided on 19 December 2019 and 27 January 2020. These had been reviewed by TfL, Bexley Highways Officers and Bromley Highways Officers and no objections were raised.
- Further to discussions with TfL and Bexley Highways Officers, there was no longer a requirement in the application for the "reviewing and revising of road markings for the A223 Edgington Way/Tesco access" as set out in the heads of terms.
- Further objections received from a local business owner were circulated to Members.
- The proposed site was 2.17 ha and was located south of the Tesco Sidcup Superstore.
- Planning permission was sought for the construction of 13 good quality B1(c), B2 and B8 units created in the form of 6 blocks with a total gross external area (GEA) of 11,190m². Unit sizes varied from 1,803m² to 355m². The units would consist of a steel portal frame construction with a height of approximately 10m.
- The proposed development provided 156 on-site car parking spaces including 13 disabled spaces, 32 spaces with active electric vehicle charging points (20% of the total) and a further 32 spaces with a passive provision for future electrification.
- A new access from Edgington Way and Fitzroy Business Park was proposed.
- The site was located within the Cray Business Corridor (Foots Cray), which was recognised as a Strategic Industrial Location (SIL) and as such the

principle of development was policy compliant and appropriate in this designated employment area.

- In addition, the proposal would bring a long-standing, underutilised site back into an industrial/commercial use in accordance with NNPF, London Plan and local policy aspirations.
- It was considered that no unacceptable impact would arise to neighbouring occupiers or highways.
- The application was recommended for permission, subject to conditions and the prior completion of a S106 legal agreement.

In opening the debate, Committee Member and Ward Member Councillor Bear welcomed the provision of the proposed units. However, she reported there were extensive objections to the access route via the Fitzroy Business Park. While Sandy Lane could deal with additional traffic, on-street parking was fully used by all the existing units and therefore became a single track road during peak hours. Traffic also built up at the junction to Ruxley Corner roundabout with delivery vehicles and customers wishing to turn into the Selco site. Councillor Bear requested that further work be carried out by the Highways Team to assess Sandy Lane's capacity to deal with additional traffic.

Fitzroy Business Park was a private industrial estate which closed overnight with traffic at a minimum. However, should the proposal be permitted, it would be in constant use throughout the day and would need to remain open 24 hours a day to allow vehicular access to the proposed new units and this raised security issues. Councillor Bear requested sight of confirmation from the freeholders of Fitzroy Business Park that they agree to the proposals.

Councillor Bear moved that the application be deferred. Councillor Page seconded the motion.

Having considered the report, objections and representations, Members RESOLVED that the application be DEFERRED without prejudice to any future consideration for the following reasons:-

- 1 For further work to be carried out by the Highways Team to assess Sandy Lane's capacity to deal with additional traffic.
- 2 To seek confirmation from the freeholders of Fitzroy Business Park that they agree to the proposals; and
- 3 To seek the provision of 20% active and 80% passive electric vehicle charging points.

53 PLANNING APPLICATION (18/05600/FULL1) - LAND REAR OF TESCO STORES, EDGINGTON WAY, SIDCUP (Cray Valley East Ward)

Description of application – Construction of 13 units to be used for Use Classes B1(c), B2 and B8 together with car parking and associated works with access from Edgington Way, Sidcup.

Oral representations from the applicant's agent in support of the application included the following points:

- Thorough pre-application consultation had taken place with various key organisations to resolve any immediate issues with design and development.
- All feedback provided was considered.

In response to Member questions, the agent advised that the land associated with the proposal was entirely owned by the applicant except for a small piece of land which would provide access through the Fitzroy Business Park. He confirmed that the freeholder of the Fitzroy Business Park had been notified of the application.

The duty to notify adjacent land owners i.e. Tesco fell to the Local Planning Authority. To his knowledge, Tesco was consulted.

The Development Management Area Team Leader summarised the report in a brief presentation to the Committee which included the following:-

- Site photographs and a site plan had been circulated to Members.
- Further to discussions with TfL, Bexley and Bromley Highways Officers, Bexley had requested a condition be added requiring *a scheme to increase vehicular capacity of the right turn lane along Edgington Way leading into the Tesco access road to be submitted to the Local Authority and a S278 agreement for any highway works subsequently required.*
- Further objections from a local business owner had been received and circulated to Members.
- This application was broadly similar to item 8 except that this application was for a single access via Tesco.

Committee Member and Ward Member Councillor Bear advised that in principle, she had no objection to the scheme going ahead with access through Edgington Way and moved that the application be approved. The Chairman seconded the motion.

Councillor Fawthrop requested that a condition be added that 100% (20% active, 80% passive) electric vehicle charging points be provided.

Having considered the report, objections and representations, Members RESOLVED that PERMISSION BE GRANTED SUBJECT TO THE PRIOR COMPLETION OF A SECTION 106 LEGAL AGREEMENT as recommended and subject to the conditions and informatives set out in the report of the Assistant Director (Planning). A further condition was added for 100% electric vehicle charging points (20% active and 80% passive) to be provided.

**54 PLANNING APPLICATION (19/01345/FULL1) –
146 CHARTERHOUSE ROAD, ORPINGTON BR6 9EU
(Orpington Ward)**

Description of application – Demolition of 5 existing houses and associated structures and erection of 28 residential units comprising an apartment block with 9x1 bed and 11x2 bed units and 8x3 bed houses together with basement car parking with access from Saltwood Close, surface level car parking, cycle parking, refuse and recycling facilities and associated landscaping.

Oral representations from a local resident in objection to the application raised the following issues:

- The scheme had not been reduced in size as requested.
- The overall development was not in keeping with the surrounding area.
- The three storey building would overlook Nos. 2-14 Winchester Road.
- Local residents would prefer a scheme consisting of terraced houses with gardens.
- The junction by the BP garage was very busy and especially dangerous to parents walking their children to school.

Oral representations from the applicant's agent in support of the application included the following points:

- The site was currently underused.
- The scheme consisted of high quality new homes much needed for young professionals and young families.
- 33 parking spaces would be provided, the majority to be located in a basement car park.
- The scheme supported the aim of redevelopment of small sites.
- A CIL contribution would be made.
- There would be passive provision of electric vehicle charging points.
- None of the units would be used as HMOs.
- A help-to-buy scheme would be made available.
- The development was only marginally viable due to the high land value which was more than twice that envisaged by the Council.

In response to a question from Councillor Boughey, the agent explained that the provision of 35% affordable housing could not be factored into the scheme because the existing land value equated to more than twice the value

envisaged when the Council looked into the viability process. However, a sum of £99,000 would be paid as a contribution to affordable housing.

Councillor Page asked why the applicant had designed a scheme that was so out of keeping with the character of the area. The agent advised that Saltwood Close included a flatted development area whereas Charterhouse Road consisted of more suburban-type properties. The proposed scheme therefore complemented the current layout of mixed dwellings.

The Development Management Area Team Leader summarised the report in a brief presentation to the Committee which included the following:-

- Site photographs, site plan and CGI from the application submission were circulated to Members.
- Planning permission was sought for the demolition of a total of 5 existing detached and semi-detached houses.
- Erection of a 3 storey block of 20 flats located at the junction of Winchester Road/Charterhouse Road and Saltwood Close.
- Erection of a terrace of 3 bedroom houses comprising 4x3 storey units and 1x2 storey unit facing Saltwood Close.
- Erection of a terrace of 3 x 2 storey houses facing Winchester Road
- A total of 28 residential units.
- The application would provide a net increase in housing which was a meaningful contribution of 23 additional units towards the housing supply in the Borough.
- The application had been assessed against the relevant policies of the local plan and all other material considerations. The layout, form, scale and appearance of the development was acceptable and would not have a significantly adverse impact on the local character of the area or the street scene.
- Details of the standard and quality of accommodation including mix, unit size, accessible units, daylight and sunlight and noise were considered to be acceptable and together with the form of development.
- The impact on the amenities of existing residents close to the site and representations received had also been taken into account and it was not considered that the development would lead to a significant loss of residential amenity.
- In addition, the development would provide health, education and affordable housing financial contributions and a contribution towards the Orpington to Green Street Green Cycle route.
- The application was recommended for permission, subject to conditions and the prior completion of a S106 legal agreement.

Oral representations from visiting Member Councillor William Huntington-Thresher in objection to the application were received at the meeting and included the following points:-

- The delivery of an average of 121 dwellings per hectare was above the density range specified in the matrix.

- The development exceeded policy guidelines in relation to the number of units and habitable rooms per hectare.
- The scheme did not respect the current building line and would result in a complete change of character to the area.
- While he was not against redevelopment of the site, any scheme would need to accord with guidelines and be in keeping with the surrounding area.
- The development was backland/garden development and would result in loss of character, amenity space and landscaping.
- The affordable housing provision was not met due to the financial cost of the underground car parking.

While Councillor Fawthrop welcomed the applicant's willingness to provide 100% electric vehicle charging points, he considered the scheme did not contribute positively to the character of the area. There were ways to design a more attractive site which could still provide a profit for the applicant.

Councillor Fawthrop moved that the application be refused on the grounds of density matrix not complying with that suggested in the London Plan Policy 3 – Back garden development and Policy 4 – Design, in that the scheme did not contribute positively to the character of the area.

Although Councillor Dean had previously considered the application at the time of deferral and had not supported the scheme, he advised that strong, sustainable reasons would be required for Members to refuse the application. The main objections were density and the fact that the scheme was out of character with the surrounding area. In his opinion, the density issue could be overridden by the fact that the Council had a requirement to improve its housing supply in Bromley and this application would bring an additional 23 units, specifically aimed at young professionals and young families with the aid of a help to buy scheme. This would overcome the density issue in the final analysis. He considered the Council would not be successful at appeal stage should Members choose to refuse the application. Councillor Dean therefore moved that permission be granted.

Councillor Brooks was disappointed with the proposals in terms of non-provision of affordable housing and the unattractiveness of the design. However, he doubted that the application could be refused on merit as there were no material planning considerations. He encouraged Members to listen to the advice of planning officers. Councillor Brooks seconded the motion for permission.

Councillor Joel supported the application. In an effort to avoid Orpington becoming a ghost town, attempts were being made to turn it into a major town centre. In this regard, an increase in the number of dwellings in the area could contribute to the creation of jobs and trade within the town centre. Underground car parking was a very expensive exercise and should be welcomed as the extra cars would be hidden from view. The proposed houses would have their own amenity space with some having front gardens

while flats would have balconies. This would comply with the requirements of housing standards.

Councillor Turner seconded the motion for refusal. There was very little to commend the scheme. In his view, Members' hands should not be tied as to whether or not the Council may lose an appeal.

Councillor Owen agreed that the scale and mass of the development was completely out of keeping with the area and supported refusal of the application.

In stating that the design of the development was subjective and therefore not a material planning consideration, Councillor Allen supported the application and urged Members to take into account the planning officer's comments and recommendations.

Having considered the report, objections and representations, Members RESOLVED that PERMISSION BE REFUSED on the grounds of density, Policy 3 – Back garden development and Policy 4 – Design, in that it did not contribute positively to the character of the area.

55 PLANNING APPLICATION (19/01670/FULL1) - THE PORCUPINE, MOTTINGHAM ROAD, MOTTINGHAM SE9 4QW (Mottingham and Chislehurst North Ward)

Description of application – Full planning permission for the demolition of the existing public house and erection of an A1 retail foodstore, with associated car parking, reconfigured site access, landscaping, servicing and other associated works.

THIS REPORT WAS WITHDRAWN BY THE ASSISTANT DIRECTOR, PLANNING.

56 PLANNING SERVICE IMPROVEMENTS

In respect of continuous service improvements to the Planning Service, Members considered the new committee report template to be used for planning applications submitted to future Plans Sub-Committee and Development Control Committee meetings.

Consideration was also given to the draft Local Planning Protocol for referral of reports to General Purposes and Licensing Committee, Executive and Full Council for adoption as part of the Council's Constitution.

Members were requested to ensure that full planning reasons were given when requesting call-in of planning applications.

Following consultation with the Chief Legal Officer, the Assistant Director, Planning reported that recommendation 2 set out on page 175 of the report be amended to read:

'Members are asked to agree the draft Local Planning Protocol for referral on to meetings of the Standards Committee on 12 March 2020, Development Control Committee on 18 March 2020 and Full Council on 27 April 2020 for adoption as part of the Council's Constitution.'

Members were advised that having reviewed paragraph 4.5 of the Protocol with legal officers, it was agreed the wording be amended to read:

'4.5 It may be useful for committee members to visit a site to familiarise themselves without prior to consideration of an application at committee. Any informal visit should be carried out discreetly and if Members do encounter an applicant or neighbour, they should ensure there is no risk of this leading to the perception that they were no longer impartial i.e. by expressing a particular view.'

Referring to detailed conditions attached to an application, Councillor Fawthrop requested that a standard set of conditions be provided to the Committee and that the full text of any non-standard conditions be included in future reports.

Councillor Owen was pleased with the new report template which was helpful to all Members whether or not they sat on Planning Sub-Committees or DCC.

Councillor Joel asked if Members were able to contact case officers if they had any queries in regard to planning applications. The Assistant Director, Planning confirmed that case officers would always make themselves available for that purpose.

Recommendation 19 relating to training proposals was currently a work in progress and further information should be available before the next DCC meeting.

It was reported that not all Members call-in requests included clear planning reasons. Councillor Huntington-Thresher requested guidance be circulated to Members on how to make a call-in request without being seen as pre-determining an application. The Assistant Director, Planning advised that a resident contacting a Member about particular aspects of an application was a good enough, clear reason. Another way was to set out the planning issue without giving a view on it i.e. 'design or density issue'.

Councillor Fawthrop asked if planning officers contacted Members who failed to give clear reasons, to remind them to do so as just simply accepting the call-in would likely lead to more of the same. He suggested that a gentle reminder from officers would be helpful. The Assistant Director, Planning confirmed that officers did contact Members.

It was agreed that the above matter would be looked at in further detail and brought to Committee for consideration at a future date.

Councillor Joel asked if the Planning Department could notify Ward Members and invite them to pre-application meetings. The Assistant Director, Planning would welcome input from Members at that stage and suggested meetings be arranged to take place following DCC Committee meetings.

Members were invited to submit comments on the draft Planning Protocol to the Planning Department. The Protocol would be submitted for further considered at the DCC meeting in March 2020.

Councillor Bear requested that a direct reference be made to the new Probity in Planning guidance to state explicitly that the Council's Planning Protocol reflected the key principles and practices as advocated.

It was suggested that a call-in form be designed to ensure that clear reasons were included when Members submitted call-in requests.

Councillor Owen referred to page 187 of the Probity in Planning document relating to Councillor and Officer Conduct and in particular the section on integrity which stated that 'holders of public office should not act or take decisions in order to gain financial or other material benefits for themselves.' Councillor Owen asked whether any Member had transgressed in this regard and if so, what was the penalty. The Legal officer advised that it would be a criminal offence should a pecuniary interest in a contract (for example) not be declared by a Member.

Councillor Allen reported that complaints re Councillor conduct were dealt with by Officers and the Standards Committee was given a report. When she attempted to raise issues in regard to call-ins etc., she was told this was a DCC matter and yet DCC were now saying it was a matter for the Standards Committee. The Legal Officer confirmed he would raise this issue with the Director of Resources.

Following further discussion and a subsequent vote, Members agreed it was not necessary for a simple form to be designed for use by Councillors when calling in applications.

RESOLVED that:

- 1) the new committee report template for planning applications to be used for all Plans Sub-Committee and Development Control Committee meetings be approved subject to a standard set of conditions being provided to the Committee and the full text of any non-standard conditions being included in future reports;**
- 2) the draft Local Planning Protocol for referral on to meetings of the Standards Committee on 12 March 2020, Development Control Committee on 18 March 2020 and Full Council on 27 April 2020 for adoption as part of the Council's Constitution be agreed subject to the amendment of paragraph 4.5 as reported above. It was further resolved that a direct reference be made back to the new Probity in**

Planning to explicitly state that the Council's Planning Protocol reflected the key principles and practices as advocated; and

- 3) full planning reasons be given by Members when requesting call-in of planning applications.**

57 DEVELOPMENT MANAGEMENT TEAM PERFORMANCE

The report provided a quarterly update on the performance of the Development Management (Planning Applications) team and included enhanced information on:-

1. the number of applications received and determined;
2. the speed of decisions;
3. applications received by category; and
4. the number of major applications determined.

RESOLVED that the report be noted.

58 PLANNING APPEALS QUARTERLY MONITORING REPORT - OCTOBER 2019 TO DECEMBER 2019

Report DRR20/005

Members considered an overview of planning appeal decisions since 2016, together with a more detailed analysis of the period between 1 April 2019 to 31 December 2019.

RESOLVED that the report be noted.

59 DELEGATED ENFORCEMENT ACTION (OCTOBER 2019 TO DECEMBER 2019)

Report DRR20/006

Members were advised of enforcement action taken under Delegated Authority for alleged breaches of planning control during the period October-December 2019.

RESOLVED that the report be noted.

60 LONDON PLAN UPDATE

Report DRR20/015

The report provided Members with an update on the progress of the draft new London Plan following its Examination in Public in 2019.

Councillor Fawthrop suggested that the Chairman of DCC write formally to the Secretary of State to object to approval of the London Plan in regard to removal of garden protection and the 800m car free zone within a transport hub.

RESOLVED that:-

- 1) the 'Intend to Publish' version of the London Plan and the timescale for the next steps in the London Plan process be noted; and**
- 2) the Chairman of DCC write formally to the Secretary of State to object to approval of the London Plan in regard to removal of garden protection and the 800m car free zone within a transport hub.**

The meeting ended at 9.21 pm

Chairman