

PLANS SUB-COMMITTEE NO. 1

Minutes of the meeting held at 6.00 pm on 5 May 2021

Present:

Councillor Alexa Michael (Chairman)
Councillor Angela Page (Vice-Chairman)
Councillors Kathy Bance MBE, Katy Boughey, Christine Harris,
Tony Owen, Will Rowlands, Suraj Sharma and Gary Stevens

Also Present:

Councillor Angela Wilkins

27 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

An apology for absence was received from Councillor Kira Gabbert; Councillor Gary Stevens attended as substitute.

28 DECLARATIONS OF INTEREST

The following non-pecuniary declarations were made in regard to Item 3.1:-

Councillor Michael said I know the applicant. I have known him for a number of years both as an estate agent and property developer in Bromley borough and also as a member of the Conservative Party. He was formerly resident in my Ward and was Treasurer of the local Conservatives in the Ward but he is not a friend or a close associate.

Councillor Boughey said I have known the applicant for a number of years, not in a personal capacity at all, as a local Chislehurst resident, local estate agent and a member of my branch committee but I have had no business dealings with him whatsoever.

Councillor Sharma said I have known the applicant for a number of years, not in a personal capacity at all, as a local Chislehurst resident, local estate agent and a member of my branch committee but I have had no business dealings with him whatsoever.

Councillor Harris said I've known the applicant as he was an officer of BCA when I was Deputy Chair. His estate agency is close to a property that my son lets out. Someone in his office has found a tenant for my son's flat twice, not the applicant personally, one of his staff, in a normal business capacity. He's not a personal friend;

The above Members all took part in the discussion and vote of the item.

29 PLANNING APPLICATIONS

29.1 CHISLEHURST CONSERVATION AREA

(20/01718/FULL1) - Selwood House, Kemnal Road, Chislehurst, BR7 6LT

Description of application - Erection of two storey rear extension to provide one additional two bedroom duplex flat with own entrance (accessed from Pickwick Way) and to enlarge four existing flats providing them with a new exclusive entrance (access from Kemnal Road); along with minor external and internal alterations to existing building to form an additional one bedroom flat within the existing building (flat 14) in place of former communal lounge and kitchen. Use of existing highway access off Pickwick Way for additional parking (including EV charging) and additional refuse/recycling and cycle storage.

The report requested Members to consider new material planning considerations which had arisen since the resolution to grant planning permission was made on 1 October 2020. The original report to members had contained an error in relation to Paragraph 11 of the NPPF and the application of the presumption in favour of sustainable development. The Chislehurst Conservation Area is a designated heritage asset. The original Committee Report should have made clear that in the event that the policies in the NPPF relating to the protection of designated assets were found to provide a clear reason for refusal, the presumption in favour of sustainable development set out in NPPF Paragraph 11 d) i would not apply. The report offered Members an opportunity to take this into account prior to the issue of a decision which had been delayed. The recommendation to Members was that having regard to the new material considerations set out in the report, the decision made on 1st October 2020 could be ratified.

The Chairman introduced the report and the Head of Development Management reported that further to the Committee's original resolution, conditions had been drafted under delegated authority and circulated to Members of the Committee.

Oral representations in objection to the application were received at the meeting.

Ward Member and Committee Member Councillor Boughey stated that when previously considering the application, she was very aware that the site was situated in the Conservation Area. She explained her assessment of the application and said that as stated in paragraph 3.13 of the planning report, Members had considered that the proposed development would not harm the character and appearance of the conservation area. She said the decision the Committee made originally was the correct decision and moved that the decision be ratified.

Councillor Sharma agreed with Councillor Boughey. He said he will not repeat everything he said at the first meeting as that can be found within the Minutes. He mentioned that the conservation area was discussed at the last planning committee. He seconded the motion to ratify the decision to grant permission.

A motion to refuse the application on planning grounds was put forward by Councillor Bance which was seconded by Councillor Michael.

In regard to the number of declarations made by Members, the Legal Representative referred to the Council's Code of Conduct for Councillors and Co-opted Members which stated:- *'Members must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.'* He confirmed that all the declarations had been carefully considered by the Council and the assessment made that they did not breach the Code of Conduct, were properly made and that Members could participate in consideration of the application.

A transcript of the discussion by Members is attached as an Appendix

Members having considered that the proposal would not harm the character and appearance of the conservation area **RESOLVED** that the decision made on 1 October 2020 to grant permission be ratified with the addition of the conditions drafted under delegated authority.

(Note ; The Minute of the consideration by Members on 1st October 2020 provides that "Members having considered the report, objections and representations, **RESOLVED** that **PERMISSION** be **GRANTED AGAINST OFFICERS' RECOMMENDATIONS FOR THE REASONS** THAT the overall impact of the proposed development would be to improve the external appearance of Selwood House as the detailing of the extensions reflect the locally listed building and will be subservient in mass, scale and height. The proposal would therefore not harm the character and appearance of the locally listed building and its setting within the Conservation area. The proposed duplex flat would not adversely harm the amenities of the neighbouring residential properties on Pickwick Way and in particular, the neighbour at 20 Pickwick Way. The proposed duplex will sit to the side of that property which would have an uninterrupted outlook down Pickwick Way. There is a garage between that house and the proposed duplex. From within 20 Pickwick Way there will be only limited views of the duplex. The

main part of the garden of 20 Pickwick Way is to the rear and south facing and the proposal will not cause overshadowing or loss of light to that property.

MEMBERS ALSO RESOLVED THAT the Assistant Director (Planning) be given delegated authority to determine the conditions to be imposed on the grant of planning permission”.

The Minute was confirmed by Members as a correct record of their decision on 4th February 2021.)

The meeting ended at 6.27 pm

Chairman

APPENDIX

SPECIAL PLANS 1 SUB-COMMITTEE MEETING HELD ON WEDNESDAY 5 MAY 2021 AT 6.30 PM.

Transcript of Recording

Chairman Councillor Michael: Good evening ladies and gentlemen. It is 6pm; welcome to this evening's special meeting of Plans Sub-Committee No. 1. Can everybody hear me? (Response: yes). Thank you. I notice that there are members of our sister Committee of Plans 3 already present. This relates solely to Plans No.1 so I would ask those Plans 3 Members (only Members of Plans 3) simply to observe at this stage.

The first item is apologies for absence and notification of substitute Members for the special meeting of Plans 1; have we been advised of any?

Lisa Thornley (Clerk): Yes, good evening Chairman. We've had an apology from Councillor Kiera Gabbert and her substitute is Councillor Gary Stevens.

Councillor Michael: Thank you very much Mrs Thornley. Item two is declarations of interest. Do any Members present need to declare an interest in the item under discussion? I shall start from the Chair to say that I know the applicant. I have known him for a number of years both as an estate agent and property developer in Bromley borough and also as a member of the Conservative Party. He was formerly resident in my Ward and was Treasurer of the local Conservatives in the Ward but he is not a friend or a close associate. So I am able to speak and participate in this meeting. Any other declarations of interest, please show. Councillor Boughey, Councillor Sharma and then Councillor Harris please.

Councillor Boughey: Thank you very much Chairman. Very similar to yourself, I have known the applicant for a number of years, not in a personal capacity at all, as a local Chislehurst resident, local estate agent and a member of my branch committee but I have had no business dealings with him whatsoever. Thank you very much.

Councillor Michael: Thank you; Councillor Sharma.

Councillor Sharma: Well likewise Chairman, the applicant is known to me as a member of the Conservative Association and as a prominent local businessman who is a member of many of the associations that we meet such as the Chislehurst Business Group, Rotary and the like. I don't know him in a personal capacity, he is not on my Christmas card list and I'm freely able to speak.#

Councillor Michael: Thank you Councillor Sharma. Councillor Harris.

Councillor Harris: I've known the applicant as he was an officer of BCA when I was Deputy Chair. His estate agency is close to a property that my son lets out. Someone in his office has found a tenant for my son's flat twice, not the applicant personally, one of

his staff, in a normal business capacity. I don't think that that stops me speaking on the application or voting. He's not a personal friend; he's not on my Christmas card list.

Councillor Michael: Thank you Councillor Harris. Any other declarations of interest? If there are none we'll move on, thank you and that brings us to the item under discussion this evening. Now, on page 1 of the report, it says 'the report considers new material planning considerations arising since the resolution to grant planning permission for the application on 1 October last year'. Now this relates to a paragraph on page 25 of the first report which is 7.3.9 at the top of page 25 which states 'in this particular case, there are no areas under protection or assets of particular importance and therefore paragraph 11(d)(i) of the National Planning Policy Framework does not apply and therefore the proposal is addressed in relation to paragraph 11(d)(ii) of the National Planning Policy Framework which stipulates that where a five year housing land supply cannot be demonstrated as is the case, then there should be a presumption in favour of sustainable development but this application site is part of the Chislehurst conservation area which is regarded as a designated heritage asset and therefore an area or asset of particular importance when applying the National Planning Policy Framework and therefore paragraph 11(d)(i) does not apply. Therefore there is not necessarily a presumption in favour of sustainable development because of the existence of the conservation area. However, the conservation area status was mentioned in the report on page 8 in both design and heritage in the officer's summary of key reasons for the recommendation for refusal in both design and heritage if you look on page 8 but the officers say that would not have made a difference to the officer's recommendation. Before we begin, Mr Hamilton is there anything you would like to add.

Jake Hamilton, Head of Development Management: Thank you Madam Chairman. Just to add that further to the Committee's original resolution to grant permission, conditions have been drafted under delegated authority. Those have been circulated to Members of the Committee. But in terms of the summary you've given, there's nothing I'd add, thank you.

Councillor Michael: Thank you Mr Hamilton. We have one member of the public speaking, Mr Ville, local resident wishes to speak in objection. Just before I call Mr Ville I would ask everybody to consider the application having regard to the new material consideration, not necessarily to discuss everything that we talked about before. So, Mr Ville are you in the meeting?

Mr Ville: Yes I am thank you Councillor Michael.

Councillor Michael: You have three minutes to put your case to the Members and when you finish, Members may have some questions for you but you have three minutes starting as soon as you are ready. Thank you.

Mr Ville: Thank you Madam Chairman. I should declare that I'm a resident of Pickwick Way. The application concerned tonight, is within the Chislehurst conservation area. Councillors need to decide whether they accept the existence of the conservation area and whether they support it. In particular, the proposed duplex development harms the character of the locally listed building, Selwood House. If Councillors support the conservation area, they should vote against this proposal. Now as a local resident you would, of course, expect me to say that but this is also the view of our hardworking,

professional Civil Servants who spend 40 hours plus per week on these matters. On four occasions, Civil Servants have rejected proposals on this land, each time one of the reasons given for rejection is that the plot of land is in the Chislehurst conservation area. That's four times. On one occasion, in 2018 the Planning Inspectorate also came to the same view. Furthermore, 95% of all planning applications are decided by Civil Servants. So we clearly trust their judgement. In this case, the Planning Team put together a 30 page considered report and recommended the application be refused. The matter is now being considered again because the Council Legal Officer, Mark Bowen has said that the issue of the conservation area was not given due consideration at the previous meeting and the presumption that sustainable development must take precedence was wrong. I am going to quote what Mr Bowen has said:- "The site lies within the Chislehurst conservation area which is a designated heritage asset and therefore an area of particular importance. The presumption in favour of sustainable development may not apply". So the Committee now needs to vote against this proposal for four reasons. First, the previous meeting made a mistake in presuming that sustainable development must take precedent over the Chislehurst conservation area. Secondly, expert Civil Servants have refused planning on this site on four occasions and have referred to the Chislehurst conservation area on every occasion. Thirdly, if approved, this decision will set a dangerous precedent opening up the floodgates for future development in the Chislehurst conservation area and fourthly, the views of 40 local residents were ignored by their elected representatives. Finally or furthermore, I do need to advise you how this matter came to Committee. Councillor Sharma called the matter in. He then requested the matter be heard on Plans Committee 1. He then spoke with Councillor Boughey in favour of the applicant who is known to both Councillors. I would argue that this is not a fair and honest way in which these matters should be decided.

Councillor Michael: Mr Ville, your three minutes is up.

Mr Ville: I've finished.

Councillor Michael: Thank you very much Mr Ville. Members any questions for Mr Ville? There doesn't seem to be any so thank you very much for your contribution Mr Ville and I now turn to the Ward Councillors. Councillor Boughey.

Councillor Boughey: Thank you very much indeed Chairman. I think when considering the application for Selwood House, I was very aware the site was in the Chislehurst conservation area. My main considerations were design, heritage and conservation, the impact on the neighbouring amenities and the impact on the general character. As the proposal would only add two more units to the Council's housing stock, NPPF para.11 was not a major consideration when making my judgement. Other positive elements of the application, the restoration of Selby House and the improved appearance of the rear façade and gardens were very important factors in my decision to support the application. As is stated in paragraph 3.13 of the planning report, Members considered the proposed development would not harm the character and appearance of the conservation area and being in a conservation area doesn't mean that development is prohibited. If that was the case, we wouldn't have building taking place in quite a large area of the whole of Bromley borough because we have probably more conservation areas in the Bromley borough than any other London area and being in a conservation area is a factor that you have to consider but it does not preclude development and

therefore I think the decision we made originally was the correct decision and I would move that again this evening. Thank you very much indeed Chairman.

Councillor Michael: Thank you very much Councillor Boughey; so you are moving permission?

Councillor Boughey: Yes I am.

Councillor Michael: Councillor Sharma and then Councillor Bance please.

Councillor Sharma: Thank you Chairman, I would like to echo everything just said by my colleague Councillor Boughey. I will not repeat everything I've said from the first Committee meeting, they can be found within the Minutes. We have been asked this evening to give consideration to the above matters and the weight that can be afforded to the additional housing proposal in this case in the conservation area. The conservation area was discussed at the last planning committee and I was of the view that this development would enhance the conservation area and I will second Councillor Boughey's move to grant permission.

Councillor Michael: Thank you Councillor Sharma. Councillor Bance and then Councillor Harris please.

Councillor Bance: Thank you very much. Well I actually agree with everything Steven Ville has said and I'm going to propose refusal. There were several issues that prompted me to rethink my decision to grant permission on 1 October. I now propose refusal on planning grounds. But firstly for transparency, I declare that I have been contacted since that planning meeting by Mr Vinod. I also admit I was very surprised and disquieted by the number of declarations of interest made at that first meeting on 1 October. In my 11 years as a Councillor and on planning committees, I cannot recall an occasion where that has happened and for the record, the declaration was that they knew the applicant and we've heard more of that. But I have since learned that he was a candidate for the Conservative Party in the 2018 elections and I think some of that calls into question the integrity of this Committee. Another surprise was that the Minutes of the planning committee meeting were not issued shortly after the meeting having taken place. That's another first in all my years on these committees. This application has raised so much interest and there are 40 residents who oppose this application so I ask myself 'did we get this right?'. Now, officers have given us the opportunity to ratify our decision and that to me means to review the report again, consider the merits of the application and decide if they outweigh the adverse impacts of this application and that's what I've done. We know that paragraph 3.1 advises that there was an error in the report and we've heard about that, specifically in relation to paragraph 11 of the National Planning Policy Framework and the presumption in favour of sustainable development which could have impacted the Committee's ability to properly weigh up this application where we granted planning permission. The additional housing supply in this application is not significant or affordable so does not mean we had to favour sustainable development nor does it give us cause to undermine our own policies. The more important paragraph is 3.4 – the issue of the conservation area. If we give planning permission to this application, we would be setting a precedent to developers and we would be totally ignoring the Council's own policies. This report states clearly that the NPPF gives reasons to refuse a development in the conservation area so why would we ignore this? This application site lies within the

Chislehurst conservation area; we've heard lots from that organisation. It's an area of asset of particular importance. So these are clear planning reasons to refuse this application. The NPPF is there for a reason so Bromley should follow it as we normally do. So I propose refusal and urge you to support that.

Councillor Michael: Thank you very much Councillor Bance. I do need to correct something you said when you said the applicant was a candidate for the Conservatives in the 2018 local elections in Bromley. That is not true, he was not a candidate, he was approved as a potential candidate as one of a pool of candidates and he put himself forward for selection as a possible candidate in Bromley Common and Keston (the same Ward as me) but he was not elected by the membership so therefore his name did not go forward as a candidate on the ballot paper in that selection.

Councillor Bance: It still shows it has a lot more to do with the Committee than was first put forward.

Councillor Michael: Okay but the point is his name did not actually appear on the ballot paper. He was not a candidate although he had ambitions to be one. Councillor Harris.

Councillor Harris: As I already declared, I knew the candidate because of BCA and I would not like to think that any person who's given up time for a political party there should be prejudice against applications being made. So if I want to do a studio above my garage, that's not going to be good because I'm a Councillor. I don't actually think that that part of it should be relevant. When I spoke up for this application it was because when I arrived at the site in error, I arrived at the front of the building; I didn't realise I should be in Pickwick Way. When I went to the front of the building I thought it was a magnificent building, absolutely beautiful. When I tried to find out where everyone was and I went round the back, I couldn't quite believe the difference in the building and I couldn't quite understand why the residents of Pickwick Way would not want to look onto a more pleasant, attractive building and land than they currently do. Under the insistence of one of the residents, I went into his home and viewed what he perceived what he would look at from his kitchen, considering his property was surrounded by a very high wall and trees and great garden, I really did not think at all that it was an issue. I still believe what he would see was better than what he was currently seeing. I didn't really take a big notice of the two properties to be honest; I was thinking of the street scene, how it would improve it. But what I was confused by was yes, the Minutes weren't issued the next day as they normally are and it's my understanding tonight, we're only supposed to be looking at the additional point that has been made not revising the whole application which we tore apart piece by piece originally. Now if we had issued the result of that evening we wouldn't be sitting here. We can only go back because us, the London Borough of Bromley, did not issue our result of that evening which was approval. Even after thoroughly investigating all of us, when I assume it should have been issued then, it wasn't issued again and if it had been, again we would not be sitting here looking at something that has come up about an application we have approved. I think we're all wasting our time. We accepted it, we talked about everything on the night and I think it's already been proposed and seconded but I will be voting that we stick to the result that night that we approve this application. Thank you.

Councillor Michael: Thank you very much Councillor Harris. I'd like to speak from the Chair if I may. When this item came before Members in October last year, I voted for

refusal as per the officer's recommendation with the clear knowledge that the application site is part of the Chislehurst conservation area and that was part of the reason why I supported refusal. As I said then and say it again now, I have no problem with enlarging the four existing flats and creating another flat from the block. My problem is the additional two bedroom duplex flat which is to be accessed from Pickwick Way for the simple reason I think it's out of size, out of scale and does not fit with the character and appearance of the existing houses, the existing properties in Pickwick Way. Design can be very subjective, the issue has always been in the eye of the beholder as I maintain but in this case I do not think that the proposed duplex flat would be a suitable development for Pickwick Way which is a road where all the houses are very very similar and have similar degrees of separation between them. So I will be refusing and I will also second Councillor Bance's motion for a refusal. Would anybody else like to speak before I put this to the vote?

Greg Ullman, Legal Representative: Madam Chairman may I just say a couple of words? As the number of declarations was mentioned, I thought I would just say what everyone knows, that the Council has a Code of Conduct for Councillors and co-opted members and that does say that "You must act solely in the public interest and should never improperly confer advantage or disadvantage on any person or act or gain financial or other material benefits for yourself, your family, a friend or close associate.". Now we have a procedure whereby Members declare an interest, and all of the declarations of interest that were made have been carefully considered by the Council and the assessment has been made that the Council's Code of Conduct has not been breached, that the declarations were properly made and that Members could participate and the fact that on this occasion, it so happened that there were a larger number than normal, doesn't in any way invalidate the previous vote, it was just what happened. I do have some sympathy with Councillor Harris that in any political party, Councillors will come across a large number of fellow activists and people who are interested in politics. It doesn't mean that they are friends or close associates or that they would in some way be debarred from putting planning applications to the Council. So I thought I would just make those remarks that the Council did check the matter and were satisfied that the Code of Conduct has been properly followed.

Councillor Michael: Mr Ullman, thank you very much for your comments on the Code of Conduct and the legal side of the issue. If nobody else wishes to speak, I shall now put this.....Councillor Page?

Councillor Page: Sorry Madam Chairman but I should just say that I wasn't at the previous meeting but what I have done is watch the full debate on the YouTube recording of it so I was aware of what was actually said at the time.

Councillor Michael: Thank you very much for confirming that. Well, if nobody else wishes to speak I shall put this to the vote now. We have two motions on the table, one for permission, one for refusal. The motion for permission was put first so I will take that first. In the interests of absolute clarity, I'm going to make this a roll-call vote. So I would like everybody to say either 'for permission' or 'against permission'. I will start with myself, I am voting against permission. So Councillor Angela Page for or against permission please.

Councillor Page: Against.

Councillor Michael: Councillor Kathy Bance?

Councillor Bance: Against.

Councillor Michael: Thank you Councillor Bance. Councillor Boughey?

Councillor Boughey: For

Councillor Michael: Councillor Stevens?

Councillor Stevens: For

Councillor Michael: Councillor Harris?

Councillor Harris: For

Councillor Michael: Councillor Owen?

Councillor Owen: Against.

Councillor Michael: Councillor Rowlands?

Councillor Rowlands: For

Councillor Michael: Councillor Sharma?

Councillor Sharma: For

Councillor Michael: I make that four Members in favoursorry five Members in favour and four against, therefore this has permission and Members' decision to permit last time can be ratified. If any officer wishes to comment on that procedure please do say now before we finish.

Greg Ullman: Councillor Michael, that would be with the conditions that have been previously decided by the Assistant Director and were circulated to Members prior to this meeting.

Councillor Michael: Yes, I agree. So that brings us to the end of this special meeting. Thank you Members and we will now presumably move to the scheduled Plans 3 meeting. Thank you Members.

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