

## DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held on 23 November 2010

### Present:

Councillor Alexa Michael (Chairman)  
Councillor Charles Joel (Vice-Chairman)  
Councillors Reg Adams, Douglas Auld, Nicholas Bennett J.P.,  
Katy Boughey, Lydia Buttinger, Peter Dean, Peter Fookes,  
Will Harmer, Russell Jackson, Paul Lynch, Mrs Anne Manning,  
Russell Mellor, Gordon Norrie and Richard Scoates

### 50 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS

Apologies for absence were received from Councillors Simon Fawthrop J.P and John Ince. Councillors Gordon Norrie and Nicholas Bennett J.P. attended as alternates for Councillors Fawthrop J.P. and Ince respectively.

### 51 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 52 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 14 OCTOBER 2010

Minute 37 - Apologies for Absence and Notification of Alternate Members (page 3)

It was reported that Councillor Will Harmer's apology for absence had been omitted from the Minutes and should, therefore, be inserted.

Subject to the above amendment, Members **RESOLVED** that the **Minutes of the meeting held on 14 October 2010 be confirmed and signed as a true record.**

### 53 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

### 54 TEMPLATE FOR REPORTS TO DEVELOPMENT CONTROL COMMITTEE

At the previous DCC meeting held on 14 October 2010, it was noted that page 2 of the report template, (designed to provide Members with useful statistical information) was occasionally left blank by reporting officers.

The Head of Strategy and Renewal had attended a course on the best use of the Council's standard template and as a result had put forward the suggestions detailed in paragraphs 3.5 to 3.18 of the report as the most appropriate use of the template in respect of reports submitted to Development Control Committee.

The following amendments/additions were suggested and agreed by Members:-

1) Paragraph 1 - Reason for report (page 1 of the template)

It would be useful to provide a more detailed account under the heading Reason for report.

2) Paragraph 3.7 - Cost of proposal

It would be useful to Members if officers could consider whether costs of staff could be identified and inserted at this point.

3) Paragraph 3.10 - Total current budget for this head

Where possible, the figure given should be the appropriate sub section of the Planning Division.

4) Paragraph 3.15 - Legal requirement

The relevant sub-section(s) of the Planning Act legislation from which the legal requirement arises should also be inserted where appropriate.

**RESOLVED that the suggestions set out in the report be agreed subject to the additions/amendments at points 1-4 above.**

**55 INTERNAL AUDIT AND VALUE FOR MONEY REPORTING - BUILDING CONTROL PILOT**

On 16 September 2010, Members of Audit Sub-Committee endorsed the approach to Value for Money (VfM) reporting by Internal Audit and requested that the submitted report be referred to a meeting of the Development Control Committee for Members to note the approach to Value for Money reporting and in particular, to consider the pilot VfM work undertaken on the Building Control Service.

The VfM assessment included a scoring matrix which resulted in the Building Control service achieving a score of 3 (the highest being 4), with the conclusion that VfM requirements were substantially met.

The Chairman concluded that the results of the VfM assessment were a good endorsement that the Building Control service was doing an effective job bearing in mind that housing developers could opt out of using the Council's services and hire independent building control officers instead.

**RESOLVED** that the approach to Value for Money reporting be endorsed.

## **56 PLANNING APPEALS MONITORING - 2010**

Members considered planning appeals statistics for the period January to September 2010 together with an assessment of the Householder Appeal Service (HAS). The report also contained information on a pilot study concerning a proposed change in procedure for conducting appeal site visits for written representation appeals.

Members' attention was drawn to discrepancies in the statistics given in paragraph 3.1 (page 39). The Chief Planner informed Members that paragraph 3.1 should in fact read:-

'3.1 In the period January to September 2010 208 new appeals were lodged. This represents an anticipated total figure of approximately 250 appeals in 2010 compared with 300 in 2009. Over the same period 205 appeal decisions were received of which 107 were dismissed, 85 were allowed, 5 were part allowed/part dismissed, 1 was invalid, 2 were deemed by the Inspectorate to be out of time and therefore withdrawn and 5 were withdrawn.'

In respect of the percentage figures given in paragraph 3.3 (page 39), the Chief Planner indicated that the remaining 35% of appeals had been dealt with under the fast track appeals (FTA) process.

The percentage figures given at paragraph 3.6 (page 39) did not include the outcome of the remaining 6% of appeals. Members were informed that 4% had been withdrawn and 2% were ruled to be 'out of time'.

Councillor Peter Fookes asked if applicants were charged to use the FTA process. The Chief Planner replied that no charge was applied.

Councillor Douglas Auld was dismayed to learn that under the FTA process, Members were not permitted to contact the Planning Inspectorate and the Council could no longer submit a written statement to accompany the reason(s) for refusing an application. Councillor Auld recommended (and it was agreed by Members), that the Chief Planner should write to the Inspectorate expressing the Council's concerns and to report back to a future meeting of the DCC with the Inspectorate's response.

Councillor Nicholas Bennett J.P. suggested (and it was agreed by Members) that a further report clarifying what rights the Council had/did not have during the FTA process be submitted to a future meeting of the DCC.

Councillor Russell Jackson asked if statistics were available to indicate the number of applications which had proceeded to appeal stage as a consequence of being refused under delegated power. In response, the Chief Planner agreed to submit a report to the next meeting of the DCC, outlining the various methods of appeal and whether those appeals had arisen from a refusal under delegated power.

**RESOLVED that:-**

- 1) the Chief Planner write to the Planning Inspectorate expressing the Council's concerns that under the FTA process Members were not permitted to contact the Inspectorate and the Council could no longer submit a written statement to accompany the reason(s) for refusing an application. An updating report setting out the Inspectorate's response to be submitted to a future meeting of the DCC;**
- 2) a further report clarifying what rights the Council had/did not have during the FTA process be submitted to a future meeting of the DCC; the Chief Planner would then write to the Planning Minister if appropriate; and**
- 3) a report be submitted to the next meeting of the DCC outlining the various methods of appeal and whether those appeals had arisen from a refusal under delegated power.**

**57 PLANNING APPEALS - COSTS 2010**

Members considered an update on the award of costs in planning appeals for the period January to October 2010 including a list of all costs decisions for the same period.

Referring to the total amount of £10,000 paid by the Council as a result of claims for costs, Councillor Russell Mellor declared this figure to be comparatively modest.

In regard to Appendix 1 of the report - Costs Decision 2010, Councillor Mellor commented that it would have been useful in cases where awards had been made, to include a column which indicated whether the application had been granted or refused upon appeal.

**RESOLVED that the report be noted.**

**58 CONSULTATION ON PROPOSED NEW TREE PRESERVATION ORDER REGULATIONS**

The Department of Communities and Local Government issued a consultation document to seek views on consolidating legislation and streamlining tree preservation order procedures. The aim of the proposed alterations was to

reduce administrative burden and ensure a fairer system whilst maintaining strong tree protection.

Members were requested to consider the consultation document along with the Council's responses to the questions set out in Appendix 1 of the report.

The Chairman commented that consolidating legislation and streamlining procedures was the sensible thing to do. It was a good idea to replace the existing three sets of regulations with one new set and she was pleased to note that under the new procedures all new TPOs would come into effect immediately.

Referring to paragraph 3.3.5 (page 51), the Chairman stated that the proposals therein went some way but not as far as she would have liked, to avoid the unnecessary loss of trees.

At the request of Councillor Russell Jackson, the Chief Planner agreed to circulate the report to Members of the Renewal and Recreation PDS Committee for their information.

**RESOLVED that the responses to the consultation questions in Appendix 1 of the report be agreed and that the Chief Planner circulate the report to Members of the Renewal and Recreation PDS Committee for information purposes.**

## **59 CONSULTATION ON PLANNING FOR SCHOOLS DEVELOPMENT**

In October 2010, the Government issued a consultation paper entitled 'Planning for Schools Development' which proposed changes to the Town and Country Planning (General Permitted Development) Order 1995 (as Amended). The proposed changes aimed to free-up the planning system in relation to schools development thereby making it easier for promoters of new schools to find existing buildings which could be easily adapted for school use and when they do so, to facilitate that change of use by removing any unnecessary red tape.

Members were requested to adopt the changes and, if appropriate, add to the suggested responses detailed at paragraph 3.9 of the report.

The Chairman commented that school applications were significant items which raised concerns regarding parking, noise and traffic. Consideration needed to be given to the fact that schools held open days and out-of-hours activities etc. For the reasons given above, school applications should be subject to planning permission.

An error was reported in the response to question 10 (page 62) which was amended to read:- *'There is no planning reason for the proposals to apply to only one type of school.'*

The Chief Planner stipulated that the consultation document primarily dealt with the use of buildings; it did not deal with any useful development which could go with it.

Councillor Reg Adams commented that the Local Authority had a duty to respond to the questions. He stated that the suggested responses appeared to frustrate the purpose of the report which was to make it easier for promoters of new schools to find existing buildings that can be easily adapted for school use and when they do so, to facilitate that change of use by removing any unnecessary red tape.

Councillor Adams went on to comment on various questions/responses as detailed below:-

- Questions 1 and 2 - Agreed, the Local Authority should retain responsibility.
- Question 3 - Retaining the right to revert to the previous use within a period of five years appeared to be a little disingenuous.
- Question 6 - Each case should be treated on its own merits.
- Question 11, paragraph 2 - The whole point of the Academies Act of July 2010 was that qualifying for a free school depended on whether there was a demand for it. Councillor Adams recommended (and Members agreed) that paragraph 2 be deleted and replaced with: 'The consultation document relates only to use of the buildings. However, it is difficult to separate the use from the ongoing operational development which may be needed to support the use and this also needs to be addressed.'

Councillor Mrs Anne Manning stated that although the consultation concerned the use of buildings, the Council was also concerned about operational use and this should be made clear in the response.

Referring to the first sentence of paragraph 3.6 which stated "Paragraph 16. The government is keen to free up the planning system", Councillor Russell Jackson reported a contrary view from residents within his Ward who would like to see a stronger system implemented.

**RESOLVED that the changes to the Planning for Schools Development document be adopted subject to the following:-**

**1) The response to question 10 (page 62) should be amended to read: 'There is no planning reason for the proposal to apply to only one type of school.'**

**2) Paragraph 2 at Question 11 (page 62) be deleted and replaced with: 'The consultation document relates only to use of the buildings. However, it is difficult to separate the use from the ongoing operational**

**development which may be needed to support the use and this also needs to be addressed.’.**

## **60 LOCAL REQUIREMENTS FOR THE VALIDATION OF PLANNING APPLICATIONS**

In July 2008 the Development Control Committee adopted the use of ‘local lists’ which indicated the requirements/documents needed to properly assess various types of applications. The lists enabled officers to invalidate applications that were not accompanied by relevant material to assess the impact of certain effects and put forward mitigation.

In accordance with guidance issued by the Department for Communities and Local Government in March 2010, the local list of requirements had been reviewed and Members were requested to adopt the revised list as a basis for consultation purposes.

The Chief Planner circulated two additional items outlining the requirements/documents needed to properly assess specific types of application, namely a Lifetime Homes/Wheelchair Housing Statement and Section Drawings and Levels (attached hereto at Appendix). Referring to the required information on Section Drawings and Levels, Councillor Katy Boughey conveyed her disappointment that more detailed drawings could not be requested.

Councillor Russell Mellor referred to the Marketing Evidence requirements on page 69 of the report and voiced his concern at the loss of industrial premises by the change of use to non-business or non-retail. Councillor Mellor was eager to promote and retain the use of industrial development and therefore recommended (and Members agreed), that the requirement be deleted and replaced with: ‘Robust Marketing Evidence - to justify a departure from policy.’

Councillor Reg Adams confirmed the need for measurements to be more prominent as it was difficult to establish the impact of applications on the street scene unless specific height, width or length measurements were included in drawings.

The Chief Planner responded by saying it would be difficult to incorporate such measurements particularly when scale drawings were used. It was not an option that could be insisted upon.

Councillor Charles Joel drew attention to dimension discrepancies which occur within scale drawings and supported the inclusion of as much detail as possible within reports.

Councillor Nicholas Bennett J.P. reported comments received from Councillor Julian Grainger. He stated that both he and Councillor Grainger were keen for photographs to be included in reports.

The Chief Planner responded that current requirements were excessive and the idea of the revised document was to produce a list of basic requirements. Photographs may still be used but were not insisted upon.

The Chairman recommended (and Members agreed) that the requirement referred to as 'Transport Assessment' (page 71) should be amended to read: 'Transport/Traffic Impact Assessment.'

**RESOLVED that:**

- 1) the requirement referred to as 'Marketing Evidence' be deleted and replaced with 'Robust Marketing Evidence - to justify a departure from policy';**
- 2) the requirement referred to as 'Transport Assessment' (page 71) be amended to read: 'Transport/Traffic Impact Assessment';**
- 3) subject to the amendments made at points 1) and 2) above, the revised local requirements be adopted (including the two additional requirements circulated) as a basis for carrying out consultation with statutory consultees, residents associations, agents and others; and**
- 4) a report on the results of the consultation be submitted to a future meeting of the DCC.**

**61 SUPPLEMENTARY PLANNING DOCUMENT (SPD) ON  
PLANNING OBLIGATIONS**

In January 2010, the draft Supplementary Planning Document (SPD) on Planning Obligations was endorsed by Members of the Development Control Committee for a six week period of public consultation.

As a result of the consultation, a report was submitted to the Committee which sought to provide guidance on the requirements and mechanisms for S106 planning obligations to development proposals in the Borough. Members were requested to consider the responses to consultation (Appendix 1) and endorse the revised draft SPD document (Appendix 2) for adoption by the Council's Executive.

Mr Peter Martin, Head of Strategy and Renewal gave an outline of the report and explained that the document concerned procedures and gave samples of the Bromley Section 106 legal precedent and affordable housing definitions, interpretations and schedule. The SPD would remain in place until 2014 when it could be superseded by the Community Infrastructure Levy (CIL), which the Government has just announced is to be revised and retained.

Mr Martin was pleased to report that in response to representations made, a new paragraph 3.26 had been included which explained details on the child yield factor and nursery costs per place.



The Chairman queried who the Council would negotiate with after 2013 when the Primary Care Trust was disbanded and was informed that a replacement body was yet to be decided upon and put in place.

**RESOLVED that the Supplementary Planning Document be endorsed as amended, for adoption by the Council's Executive Committee on 8 December 2010.**

## **62 PERMITTED DEVELOPMENT AT BIGGIN HILL AIRPORT**

Members had requested information concerning existing permitted development rights at Biggin Hill Airport. The report outlined national provisions that grant aviation permitted development rights, derived from Part 18 of the Town and Country Planning (General Permitted Development) Order 1995 (GDPO) and explained the use of permitted development at the airport.

Nathaniel Lichfield and Partners had submitted a letter of support on behalf of Biggin Hill Airport Limited, the contents of which were conveyed to Members (attached hereto as Appendix 2). Members' attention was drawn to the Consultation and Notification Agreement formally entered into between the airport and the Council in November 1996. The Agreement provided a basis for undertaking public consultation, addressing concerns raised during consultation and identified a number of sensitive locations where the airport had agreed not to exercise its permitted development rights. The Agreement also provided clear procedures for taking forward developments with appropriate safeguards.

The Chairman reminded Members that the General Permitted Development Order applied to all airports.

Referring to paragraph 7 (page 179), Councillor Richard Scoates asked if both buildings would still be covered under the GDPO provision if the airport decided to keep the original fire station in tact and build another. The Chief Planner responded that as long as both buildings fell within the GDPO then that would be acceptable. Councillor Scoates then queried what would happen if the new station proved to be an overdevelopment. He was reminded that the Council could not consider the merits of a proposal which is permitted development. Finally, Councillor Scoates enquired what, if

anything, would make the fire station exempt from permitted development. The Chief Planner replied use for non-operational purposes would render the development outside of the GDPO.

Councillor Mellor referred to paragraph 15 (page 181) which stated: "Members should be aware that removing permitted development rights using an Article 4 Direction may raise issues of financial compensation, since the airport operator is effectively being denied rights that are usually granted by the GPDO." Councillor Mellor emphasised his concern that unless removal of

permitted development rights was sought under an Article 4 Direction, then as South Camp and the developments thereon (including the fire station and the new Rizon Hangar) were specifically excluded from the Green Belt, all works undertaken would be permitted by virtue of the GPDO, giving the owners a free reign to do as they wished.

The Chief Planner responded that South Camp does lie within the operational area of the airport and that Article 4 Directions apply to any category of permitted development not just at airports.

Councillor Charles Joel agreed with Councillor Mellor and referred to Clause J - Interpretation of Part 18 (page 187). Councillor Joel said that as the content of the interpretation related to the airport, it would appear that the airport would be free to do virtually anything it wished and that the Council's hands were tied.

Councillor Mrs Anne Manning found both the report and the letter from Nathaniel Lichfield and Partners to be useful. The Council played a dual role as both Local Authority and owners of the land and as such, in the interests of all concerned, she suggested that an opinion on permitted development, the lease and the Unitary Development Plan be sought from Counsel.

The Chief Planner replied that although he understood Members' frustration, Counsel's only remit was planning and would not be able to undo permitted development rights. He would, however, seek Counsel's opinion as suggested.

Councillor Nicholas Bennett J.P. commented that requests for landlord's consent were often submitted to the General Purposes and Licensing Committee for consideration. He observed that consent should not be unreasonably withheld and pointed out that the airport was in situ long before the land was designated as Green Belt land. He thought it would be a waste of public money to seek Counsel's advice and urged against such action.

The Chief Planner confirmed that landlord's consent would be needed irrespective of whether the development was permitted development or not.

Councillor Mrs Manning emphasised that the airport needed to be successfully run as it was located on a hill, on the edge of the Borough and on Green Belt land. She also felt that the issue of compensation payments around Article 4 Directions was a threat.

Councillors Dean and Mrs Manning recommended (and it was agreed by Members) that the Council should seek further clarification on any subsequent permitted development consultation which raised concern.

**RESOLVED that:**

- 1) the 1996 Consultation and Notification Agreement between the airport and the Council be endorsed; and**
- 2) clarification be sought on any subsequent permitted development consultation which raised concern.**

The Meeting ended at 9.13 pm

Chairman

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## APPENDIX 1

<u>Additional Information Required</u>	<u>Relevant Policy or Statutory Provision</u>	<u>Types of Application That May Require This Information</u>	<u>Locations Where This Information May Be Required</u>
Lifetime Homes / Wheelchair Housing Statement	UDP Policy BE1 Design of New Development LP Policy 3A.5 Housing Choice and LP SPD Accessible London: achieving an inclusive environment	Lifetime Homes Checklist – all new residential developments. Wheelchair Housing proposals for developments of 10 or more dwellings	Borough-wide
Section Drawings and Levels	UDP Policy BE1 Design of New Development	Proposals that involve a change in levels. On sloping sites	Borough-wide

### Key / Definitions

BTC AAP  
 DCLG  
 LDF  
 LNR  
 LP  
 MOL  
 PPG  
 PPS  
 SINC  
 SSSI  
 TCP(DMP)Order  
 UDP  
 Bromley Town Centre Area Action Plan  
 Department For Communities and Local Government  
 Bromley Local Development Framework  
 Local Nature Reserve  
 London Plan (the Mayor of London's Plan)  
 Metropolitan Open Land  
 Planning Policy Guidance (by DCLG)  
 Planning Policy Statement (by DCLG)  
 Site of Importance for Nature Conservation  
 Site of Special Scientific Interest  
 Town and Country Planning (Development Management Procedure) Order  
 Bromley Unitary Development Plan

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Nathaniel Lichfield  
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Date 22 November 2010  
Our ref 10500/02/DG/JB/1355006v2  
Your ref Report No. RR10/00130

Dear Matthew

## Permitted Development at Biggin Hill Airport

We are writing on behalf of Biggin Hill Airport Ltd (BHAL) in response to the report on item 13 on the agenda for the Development Control Committee on Tuesday 23 November 'Permitted Development at Biggin Hill Airport'.

The report accurately reflects the background and operation of Part 18 of the General Permitted Development Order 1995 (GPDO) at the airport and we note your reference to the Consultation and Notification Agreement at paragraph 4.0.

The airport believes this agreement is of some considerable importance to the operation of Part 18 rights at the airport and that members should be reminded of this. This Agreement was formally entered into by both the Airport and the Council in November 1996 and has worked successfully for the past 15 years. More specifically it provides a basis for undertaking public consultation, for addressing concerns raised during this consultation process and has identified a number of sensitive locations where the airport has agreed it will not exercise its permitted development rights. The Agreement provides clear procedures for taking forward such development along with appropriate safeguards and has worked well for many years. Could we request that you bring this matter to the attention of Committee members.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jill Bell'.

**Jill Bell**  
Senior Planner

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