

Committee	PLANNING COMMITTEE (C)	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date: 18 OCTOBER 2018

MINUTES

To approve the minutes of the meeting of Planning Committee (C) held on the 11th September 2018.

LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the PLANNING COMMITTEE (C) held in ROOMS 1 & 2, CIVIC SUITE, LEWISHAM TOWN HALL, CATFORD, SE6 4RU on 11th September 2018 at 19:30.

PRESENT: Councillors Ogunbadwa (Chair) (CO), Brown (CB), Gibbons (CG), Smith (CS), Mallory (CM), Sheikh (CSH)

OFFICERS: Richard McEllistrum (RM) – Planning Service, Paula Young (PY) – Legal Services and Samuel James – Committee Co-ordinator, John Greirson – Shadow Co-ordinator

APOLOGIES: Councillor Penfold, Gallagher, Krupski, Mallory (lateness), Sheikh (lateness)

1. DECLARATION OF INTERESTS

There were no declaration of interests.

2. MINUTES

Meeting Commenced at 19:40. The minutes of the meeting Planning Committee (C) held on the 2nd August were approved.

Councillor Ogunbadwa (CO) welcomed all attendees, and announced that the order of Items as set out in the agenda would be amended.

3. Pavement at the Intersection of Sydenham Road & Queensthorpe Road SE26

The presenting officer (RM) outlined the facts of the case for the retrospective application for planning permission and advertisement consent for a free-standing solar-powered Smart Bench with advertisement panels on the Pavement at Intersection of Sydenham Road & Queensthorpe Road, SE26. They noted that the applicant had been given advice that the bench was permitted development, however, it was later discovered that planning permission was required.

The applicants were invited to speak in support of the application. The founder of Strawberry Energy, and their agent introduced themselves and gave a brief overview of the smart benches and their functionality, and stated that 8 of 10 applications in the borough had already been approved.

No questions from members followed, and the objector was invited to speak against the proposal.

Annabel McClaren, the chair of the Sydenham Society argued that the bench was harmful to the conservation area, and that the TfL bench that has been replaced by the smart bench was of a better quality and more inclusive of those with disabilities – as it had a back and arm rest. It was also claimed that local residents had not been adequately consulted. Before and after photos were tabled for Councillors.

Councillor Smith (CS) expressed sympathy for the objectors concerns, particularly with regard to the unsuitability of the smart bench for those with disabilities, however, he stated that there were other available, more standard, benches within close proximity. He stated that some of the existing shop fronts and adverts, and even parked vehicles were more of an eyesore than the bench, and did not think the harm to the conservation area would be sufficient to warrant refusal.

CS motioned to accept the officer's recommendation and was seconded by Councillor Brown (CB).

Members voted as follows:

FOR: Councillors Ogunbadwa (Chair), Gibbons, Brown, Smith.

AGAINST: None

RESOLVED: Unanimous vote to accept officer's recommendation to grant planning permission and advertisement consent for DC/18/105750 and DC/18/105751

4. Pavement in front of 317-319 Evelyn Street, SE8 5RA

The presenting officer outlined the details of the case, as very similar to the previous item (item 3), but in a different location. The applicant is the same, and the nature of objections similar.

The applicant stated that adequate consultations had been carried out with highways and local residents, and that he considered the benches to be a public benefit.

No objectors spoke against the scheme.

CS made similar comments as he did during the previous item, around the fact that adverts on shop fronts in the immediate vicinity were more harmful than the advertisement on the benches.

He acknowledged that some objectors were against the specifics of what the benches were advertising and that this could not be materially considered, especially considering that is likely to change.

CS motioned to accept the officer's recommendation, which was seconded by Councillor Gibbons (CG).

Members voted as follows:

For: Councillors Brown, Ogunbadwa (Chair), Smith and Gibbons.

Against: None

RESOLVED: Unanimous vote to accept officer's recommendation to grant planning permission and advertisement consent for DC/18/105689 and DC/18/105720

5. Sydenham Gas Holders, Bell Green, SE26 4PX

The presenting officer outlined that this item was an information update for members to note regarding refused application for planning permission (DC/17/100680), which has subsequently been appealed by the applicant.

It was stated that the Council have sought Counsel on defending the refusal reasons put forward by this committee, and it has been agreed that only reason 1 and 2 will be defended. Reasons 3 and 4 are considered to be indefensible as the evidence for them cannot be substantiated, for the reasons outlined in the report in the agenda.

A statement of case in effect of this has been sent to the Inspectorate, and an inquiry is due to be held in 2019.

Councillors noted the update.

RESOLVED: Noted by councillors

At 20:08 Councillor Sheikh (CSh) arrived and took a seat at the member's table, shortly followed by Councillor Mallory (CM).

6. 86-92 Bell Green, SE26, 4PZ

Councillor Ogunbadwa (Chair) (CO) reminded members that they had previously deferred this item, and that the main issues to be considered are the air quality within the proposed flats, and the viability report and subsequent lack of affordable housing proposed.

The presenting officer outlined the additional information that had been received since the previous deferral, including an elevational alteration to the entrance which removed a 'pinch point' in the pavement, and an alteration to the proposed ventilation system which would draw air from the 'cleaner' side of the building.

He also introduced James Mercer (JM), the Planning Departments viability consultant from Urban Delivery, who would be able to answer more specific questions on the viability report assessment. It was iterated that no amendments had been made to the viability report, and that JM was present only to answer member's queries.

Members were then invited to ask questions of the presenting officer. CS asked whether the air quality in the application area was any worse than the rest of the trunk road network in Lewisham.

RM replied that the application site's air pollution readings were towards the higher end of all readings in the borough, but that there had been readings as bad or worse at other locations.

Councillor Gibbons (CG) stated that initially officers had disagreed with the viability report, but eventually came to the conclusion that it was acceptable, and asked what this initial objection was.

JM stated that the disagreement regarded the developer's calculation of the benchmark land value, residual land value, and initial construction costs, which were £250,000 lower than the Council's estimation. However, based on the 17.5% profit margin for the developer it was concluded that the site would be unviable if the proposal included affordable housing.

The applicants were then invited to speak in support of the proposal. Present were the applicant, their agent and specialist consultants.

They stated that the proposal would regenerate the site, included 3 bedroom family homes, a £350,000 financial contribution to the borough, and had received 32 letters of support.

They stated that a mechanical ventilation system would be installed to alleviate the air quality concerns, future residents would therefore be afforded better air quality than those in the existing buildings, and that the CIL contributions could be utilised by the Council to improve air quality in the borough.

They also stated that without minimum levels of return for developers then the housing crisis would only be exacerbated.

Finally the stated that the pinch point in the pavement found in the previous revision of the plans had been amended.

CO then invited members to ask questions of the applicants.

CS stated that he had previously met with the developers, in order to see the design of the proposal, and asked them what market testing had been done, and what measures would be utilised to ensure the ground floor units were let commercially, acknowledging recent trends in retail, which may make the units difficult to let.

The applicant stated that the ground floor commercial provision had been supported by officer since the pre application stage, and that it was in the developer's own financial interest to let the units out.

Councillor Sheikh (CSh) asked whether the mechanical ventilation equipment had been proven to reduce air quality impacts in other cases.

The applicant's air quality expert stated that mechanical ventilation is commonly utilised practice, where air is taken from nearer the top, or the cleaner side if the building and drawn into the homes inside, but that there was no real testing regime in place, due to other factors such as internal sources of pollution.

CG questioned the suitability of communal gardens for the 5 proposed 3 bedroom (family sized) units, with regard to children's safety. The applicant replied that it was part of building control regulations to ensure a suitable enclosure, and also that children would not be expected to use the communal garden unsupervised.

The objectors were invited to speak. Francis Bernstein (FB), a resident of Crystal Palace stated that the air pollution values at the site were comparable to more central

locations such as Catford and Brixton, and that the traffic volumes in this location were comparable to those at Elephant and Castle.

He went on to explain why the Council's method of testing air quality is insufficient to give a full assessment of the air quality in any given area, because the diffusion method currently used is only able to give a single average reading over a period of a year. He stated that automatic electronic methods were much more accurate and precise and can give a fuller picture of the air quality over short and long term periods, over which the air quality would significantly fluctuate. He urged members to invest in accurate automatic systems.

Julia Webb (JW), a local objector then spoke against the scheme. Firstly she stated that she felt Bell Green had been left as a dumping ground, that the proposed design did not reflect the local character, and that there was no provision of affordable housing. Julia stated that community provision was lacking in the local area, and that the infrastructure couldn't deal with the people already living in the area, let alone in the additional homes proposed here. She wanted to see community provision in the ground floor commercial unit, so local people could have a stake in the development. Concern was raised that the design of the proposal was disappointing, and that the redevelopment should be tied in to the redevelopment of the health centre to allow for provision of affordable housing.

Members were given the opportunity to ask questions of the objectors.

CSh noted that the objectors were different at this committee to the last, and asked what organisation had happened at the local level to deliver the community services that the objector stated should be provided to them.

JW raised issues of gang violence, difficulty securing doctors' appointments, and securing children's places at local schools. She stated that the issues were for decision makers to resolve, not the community and that face-to-face consultations between residents and councillors should be carried out so that the real effects on people's lives can be fully considered.

CS asked whether the community would rent the commercial unit, and JW responded by saying yes, but they would be unlikely to afford it.

CM, following up on CSh's earlier question, expressed concern about 100% private housing development not including any community benefits, and asked whether this had been considered at an earlier stage.

JW stated that Bell Green has massive potential to deliver a large amount of affordable housing, due to all the land-banked land. She stated that a master plan needs to be developed and delivered in the area, so that large buildings could be clustered and not spread about.

CG asked the objector whether this proposal would be likely to have a significant impact on traffic and pollution in the area, as it is only for 23 units, and surely the impact of that would not be significant in the grand scheme.

FB stated that the traffic in this area is worse than the south circular, and the pollution is currently so bad that the applicant's needed to revise their proposal with the addition of mechanical ventilation to alleviate this. He recommended automatic air monitoring equipment be installed as soon as possible so that the hourly air quality values can be determined. He stated that this is particularly important as poor air quality can have a disabling effect on people's lives, so it is only fair that they know the levels of pollution.

CS acknowledged the issue raised regarding the air quality monitoring and agreed that the Council needs to do more monitoring in this respect, however, he stated that it was not a matter for this committee as it was irrelevant to the decision at hand. FB rebutted, and stated that it is relevant, because there is insufficient evidence on the local air quality to determine whether it would be acceptable or not.

CM agreed that he thought it was relevant to this decision, as the application was previously deferred on the grounds of the information regarding the air quality and questioned what discussions had gone on with the community regarding the use of the GF commercial units.

The presenting officer (RM) stated that all policies had been complied with, and there were no policies prescribing community usage on the ground floor of housing developments, and it was therefore not possible for planning to force developers to consider this. He stated that master planning is being considered for Bell Green currently, but that is not a reason to refuse the current application, as the application has demonstrated that it would not undermine the master plan. He stated that the planning department had done all that was required regarding the air quality evidence, but agreed that the Council should be doing more to monitor this.

CSH reminded members of the recent tragic death of a girl, due to poor air quality, meaning the air quality issues are more relevant than ever. She also raised concern over the big issue of gentrification, which this application would exacerbate by way of not delivering any affordable housing, and forcing local people out of the area. What consideration was given by the applicant for community use of the ground floor?

She reminded members that the Mayor's manifesto pledges 50% affordable housing, and this application was a clear departure from that. She then raised questions over the ownership of the land (and suggested that it may be Lewisham Homes) – to which the Chair stated that land ownership is not a planning consideration in this case.

RM stated that he carried out a site visit, as he was curious as to where the rumours the land was owned by Lewisham Homes had come from, as this was not the case. Whilst there he saw a sign on one of the doors with Lewisham Homes branding, and stated that the door was different to others on the building and appeared to have been fitted as a replacement, possibly from a building that was owned by Lewisham Homes at some point.

RM then stated that the Mayor's manifesto pledge of 50% affordable housing was not a material planning consideration, and that the Local Plan policy calls for the maximum possible provision of affordable homes, with which the application complies.

Councillor Jacques Paschoud (CP), then approached the member's table to speak under standing orders. She clarified that the proposal was in Bellingham Ward and not Sydenham. She stated that firstly, she disagreed with the language ('dumping ground') used by the objector.

She also stated that the people in existing housing on the opposite side of the road are breathing the same air, and therefore air quality needs to be improved instead of development being rejected.

She went on to state that currently the site is an eyesore, and needs redevelopment, and that she felt the design would be in keeping with the estate to the rear of the site. Concern was raised towards the 0% provision of affordable housing.

On the lack of community facilities claim, CP stated that in the surrounding area, including Bellingham centre, there are plenty of facilities including Home Park, the Library, the leisure centre, churches, and that these can be used to facilitate community schemes. She stated that the best way to overcome the issues of crime are to have more people living in the area, which would be achieved by this application.

CP stated that the proposed development would not have significant impact in making the air quality any worse, and finished by agreeing that the air quality needs to be improved, but this needs to be done alongside development so the area can also be improved.

CSh said that even a marginal increase in pollution should be considered an issue. CP responded by agreeing, but stated that the increase would be tiny compared to any scheme to reduce the number of car journeys to and from the Sainsbury's close by, by improving walking routes. She stated that we need to change people's driving habits, and not make no-go high pollution areas.

CM thanked Councillor Paschoud and stated that her comments had been useful, as had the answers surrounding the viability. He motioned to accept the officer's recommendation, but there was no seconder.

CS said to the developer that he did not appreciate being lobbied by developers. He went on to appraise the design of the building but raised concern that the ground floor retail unit may not generate sufficient interest from a retail occupier.

He went on to reiterate the air quality concerns, and noted that this was an issue that was failing to be talked nationally and not just locally, which is a disgrace. He raised concern that if this application was rejected due to poor air quality, then no other proposal could be accepted here.

He raised major concern over the viability report and the internal layout and over-density of the scheme. He stated that the viability report was based on a worst case scenario, and that a more pragmatic approach should be taken. On the basis of his personal calculations, he considered the application should be refused.

RM stated that all rooms meet the minimum requirements, and that building control would cover issues of noise attenuation between units. He reiterated that the

Council's professional opinion was that affordable housing was not viable on this scheme. JM stated that even with 0% affordable housing, there is still a profit deficit so the provision of any affordable housing is not viable. The permission would be subject to 2 review mechanisms, and the council would see a large cut of any profits made over the developer's calculations.

CS stated that he had used values at nearby sites in his calculations, and he considered the developer's viability report to be insufficient. He stated that developers never initially say that the scheme would be viable with affordable housing provision. He raised concern over the definition in the report of 45% of market value for affordable housing, and stated that this should not have been used.

JM stated that the figure has been based on the evidence available at the time the report was written, and that the location next to the main trunk road was potentially not comparable to the properties used in Councillor Smith's calculations. He stated that all the information had been reviewed and the conclusions in the viability report were reasonable.

RM reiterated that there would be review mechanisms in place to recoup any additional profits from the developer in a 60:40 split in favour of the Council, in accordance with the Mayor of London's Housing SPG.

CM expressed concern over the limits of the planning system, and asked the presenting officer and legal officer of whether CS had a point, and whether they should consider refusing or deferring the application again.

The legal officer (PY) stated that the current application is all that can be considered, and if thinking of refusal then clear and justifiable refusal reasons would be required.

Further deliberations regarding the viability, and standard of accommodation between members occurred, and CS moved to refuse the proposal on that basis, which was seconded by CSh. However, there were no robust reasons, so the Chair invited the applicants to answer some additional questions.

The applicant reiterate that it was not viable to provide affordable housing as part of this scheme. CS stated that 80% of market value definition of affordable housing should have been used, not 45%, as this was a ridiculous value. The applicant responded that even if at 100% of market value, the scheme would technically still be unviable based on the normal tests.

CS asked the applicant to clarify the profit deficit. The applicant responded that the profit margin was predicted at 10-14.5% where 17.5% is the usually accepted value.

Further deliberation regarding the lack of wheelchair units, and the rationale of the internal layout continued.

The presenting officer summarised the debate: the viability report has been assessed by the council's independent advisor as acceptable, and the scheme is technically unviable even if affordable units were at 100% of market value, so they cannot be considered. He stated that if the proposal was refused on viability grounds, then the

inspector would have the same information as our independent advisor, and could even use a higher profit margin value than 17.5%.

He stated that there would be difficulty finding a registered provider for a single affordable unit in the proposal, if just one were proposed. He stated that any refusal based on the viability information would be very difficult to defend at appeal, as evidenced by a recent appeal.

CS stated that this was a very difficult decision, and asked when the review mechanism would kick in. RM stated that it was after 75% of sales or lets.

Further deliberations regarding previously mentioned points continued until CS withdrew his previous refusal motion.

CSh stated that the proposal should be refused because good quality affordable family housing is required, and the 3 bed units did not include wheelchair accessibility provisions. She stated that the air quality issues persist, and that she did not agree with the applicants answers. CSh raised a motion to refuse the application on this basis, but this was not seconded.

CS stated that any refusal responses would need to be defensible, and that the information provided in the application now appeared to all stack up. He stated that appeals are an expensive procedure for the council, and on a balance the Council would be likely to lose.

Councillor Smith, with sympathies to Cllr Sheikh's and Mallory's concerns, moved to accept the officer's recommendation and approve planning permission. As an aside he said that the developers should amend the internal layout.

Councillor Mallory seconded.

Members voted as follows:

For: Councillors Brown, Ogunbadwa (Chair), Smith, Gibbons and Mallory.

Against: Councillor Sheikh

RESOLVED: Vote to accept officer's recommendation to grant planning permission and advertisement consent for DC/17/102792

The meeting ended at 22.20, 11th September 2018.