

Proposed Residential Development adjacent to Pavilion Sports Club, Hurst Lane, East Molesey

**Public Meeting, Vine Hall, Vine Road
Tuesday 19th July 2010, 7.30pm
Minutes of the Meeting**

Molesey Residents Association Attendees; Ernest Mallett, Tony Popham, & Nigel Cooper
Resident attendees 200+
Representative from The Surrey Advertiser Newspaper

Meeting organised by; Neil & Sharon Bolton & Victoria Gibson, residents of Kings Chase and Hurst Lane. Petition signed by over 300 people on the night

Chair: Neil Bolton

MEETING OBJECTIVES

- 1) Establish facts surrounding proposed residential development
- 2) How to organise a united public front to oppose development

BACKGROUND

> Back in the 1980's Guardian Royal Exchange (GRE) Insurance Company owned a company sports ground in East Molesey which occupied an area bordering Hurst Lane, stretching from Hurst Road up to the rear of houses in Vine Road (about 18 acres). When GRE decided they no longer needed a company sports field they sold half the land for development. The Molesey Residents Association (MRA) resisted the application due to the loss of open space and as a result when planning permission was granted for the building for what is now is the King Chase development (133 houses) a legally binding condition was imposed (then called a section 52 agreement) that the area of land between the Pavilion and the rear of the Vine Road houses must remain open space.

> The section 52 agreement was signed on 15 March 1984 between the owners of the land and Elmbridge Borough Council. The agreement was signed to ensure that the land to the South of the Pavilion Sports Club building would remain as recreational land following the development of the residential estate known as Kings Chase.

> Statement from Section 52: 'As a condition precedent of the grant of the said planning permission the council require that the area retained for a sports field (herein after called the "sports field") hatched green on the plan annexed hereto to be maintained in a satisfactory manner and condition for that purpose.

> If the remaining land was to be sold within 20 years the local council was to be given first refusal. However, due to misunderstandings the offer was never put formally to council members for a decision and became time expired. The Council never formally received the offer. The price at the time was around £325,000. Consequently the Pavilion Club bought the land. At a later date when the council wanted to build a Swimming Pool in Molesey, it did offer around £1.4m to the

Pavilion Club for the whole site but this site was refused by the Pavilion Club owners.

> > The Pavilion and the open land was bought by the Pavilion club for gym/leisure use. The Section 52 agreement has since been marginally modified to allow two single story extensions to the front of the Sports Pavilion. These extensions have not been built at the present time and the change to the agreement although very minor and has not invalidated the agreement.

> The Pavilion Club has now made an arrangement (on about two thirds of the remaining land) with a developer (Bloor Homes) to build 63 houses and 13 flats.

> Section 52 legislation is not taken lightly by councils, within Elmbridge there were only a handful that had been granted by 1990, making this a very unique piece of land. (point made by MRA Councillor). Section 52 was granted on the understanding that the land was only ever to be used for leisure purposes only. This legal agreement holds whoever owns the land.

> Section 52 can only be changed if there has been a major change/modification to the land i.e. main road – the change would have to be drastic. No change has occurred on the planned development land.

> The developer clearly intends to seek a major revision of the Section 52 which will largely nullify the purpose and intention of the original legal agreement. Elmbridge Council has the power to alter the agreement but should only do so if the reasons for the original agreement have changed. Should the Council not agree to any change the developer can then appeal to a land tribunal. The Land Tribunal would investigate whether any major change had occurred and does have authority to amend or cancel the Section 52 agreement.

INFORMATION SINCE THE MEETING

Whilst Elmbridge Council is on written record of referring to the 1984 Section 52 as still being current controlling document, it has now become apparent that whilst the land restrictions inherent in the Section 52 are still being unchanged, these restrictions are not now controlled by the original Section 52 document. In 2003, The Pavilion Club applied for a modification of the Section 52 to allow 2 small single storey extensions to be built onto the protruding part of the old pavilion building plus, the use for temporary periods, of small tents in roughly the same location. Since the Section 52, by then, also contained irrelevant paragraphs about deposits and management arrangements with the original owner, Guardian Royal Exchange, the council decided to discharge (terminate) the Section 52 and replace it with the modern legal planning document which is in current use. This document is known as Section 106 and serves exactly the same purpose as the previous section 52. The paragraphs and restrictions restricting the open land for recreational (leisure) use are exactly the same as the original section 52.

To quote from the S106 'The Owner covenants with the council as follows: The land shall not be used other than for recreational purposes'.

The S106 also restricts all buildings on the site exactly as the S52 did after allowing the two small changes to the buildings as listed above.

COUNCIL SITUATION & MOTIVATIONS

The Labour government added to planning charges an infrastructure charge, which Elmbridge Council have led the way on in the UK. This means developers have to contribute funds towards local services, amenities or school projects. This has been rationalised to a 'Community Infrastructure Levy', which means a typical charge of between £20,000 up to £45,000 per planned dwelling can be levied by the council.

So in the proposed Pavilion development at the top end £45,000 x 76 units = £3,420,000 maximum levy or the minimum levy could be £20,000 x 76 units = £1,520,000) these could be the figures Elmbridge Council would receive from the developer (Bloor Homes) if the development was to go ahead.

This is a big motivational factor for the Council to over turn Section 52 on the land and let the development go ahead especially with the potential public sector budget cuts. (The Council could decide not to charge but this is unlikely).

NEW COALITION GOVERNMENT

The new government are currently in the process of changing the planning legislation and this may make it more difficult to levy infrastructure charges but the opportunity and principle are likely to remain.

OTHER BENEFITS TO THE COUNCIL

The Council has a policy of requiring 40% of any significant new housing to be built under government cost rules are handed over to the Council or to a Housing Trust for rent, known as 'Affordable Housing'. This is not necessarily very profitable for the developer but is a big motivation for the Council. Councils in the South-East generally have 2500 prospective tenants on their waiting lists for Social houses and the council is continually in difficulty in providing social houses. The calculation on this present application is that some 31 housing units could be taken over by the council. The council can vary the numbers but 31 aligns with the declared policy. The developer could be relieved of the infrastructure charges in relation to social housing.

THE DEVELOPERS (BLOOR HOMES)

> The Pavilion Sports Club sold the land in December 2009 to Bloor Homes at a cost of £160,000. 3 of the Directors of the Pavilion Club are also Directors of Bloor Homes.

> At the recent Bloor Homes Public Exhibition (27th May) the developers were openly discussing with a resident about the Infrastructure Levy from the development being given to refurbish Esher Rugby Club and pay for 5-6 new mini rugby pitches. (nb: Esher Rugby Club is in Hersham and therefore doesn't even benefit the local Molesey community). It can therefore be construed that the Council are openly in discussion with the developers around what the funds from the Infrastructure Levy would be put towards.

> At an estimated value of £250,000 per plot (conservative estimate based on house and land in this area) this development would *provide £19,000,000 to the developers* – the Directors would become multi-millionaires over night.

QUESTIONS FROM THE FLOOR:

- 3 Kings Chase: Where does the final decision rest and is it appealable?

If planning is refused the developer can appeal. Suggestion that residents write to their local MP as the council have a personal interest in the land being developed i.e. could receive up to £3,420,000, social housing etc. Planning application process: application decided or recommended by North Area committee, if recommended goes to full planning committee and would go to the full council. Yes residents can represent themselves at the planning meeting and need to as the developers will be in full attendance. 1 Speaker can talk for 3 minutes representing the residents objections.

Question from Floor > Are there any relevant dates we need to have objected by? Do the council have a review date and can we make a representation prior and at the planning meeting?

Date on the application to have received objections is 3rd August. It was pointed out that these 21 days are a farce as the council have to take note up to the planning meeting if objections arrive after this cut off date. The planned development is not shown at the local library and only residents in the immediate vicinity are aware of the proposal. The Council does say that the details are in the library and have a long list of roads in which they say they will send brief details.

Point from floor > Ian Donaldson (MRA Councillor) has a conflict of interest as was the acting architect for the Pavilion on the tennis court application, so will be unable to vote. He therefore needs to appoint another MRA representative to attend the planning committee in his place.

Point from floor > Section 52 applies to all the land even though the Pavilion has fenced off half the land and let it go to waste land.

Point from floor > Residents strength with new government; 'Total place' allows local community to have a greater say in our own community – raise this point with local MP AND David Cameron, we are stakeholders and this development could be construed as similar to building on 'school fields' which this government are completely against.

Point from floor > Tree report on planning application that only 2 trees will be kept and others are considered scrub or deceased. This is incorrect and there are Mature Oak and Horse Chestnut trees and these seem healthy. (*recent comment from diseased Ash tree felled on 29th July by the council is that the mature trees have preservation orders on them*).

Point from floor > Were residents aware of additional application to move tennis courts from sold land to within line with the 2 existing Pavilion tennis courts?

Point from floor > Include following points to cover within residents objection letters. Impact on; Traffic, Parking, Moral (Section 52), Environmental (flooding), Amenities (Schools, Doctor Surgeries) etc.

Point from MRA > A special MRA Newsletter will be coming out within the next few days addressing objections to the planned development. Visit Molesey residents association website to email and post objections.
(www.moleseyresidentsassociation.org.uk)

Point from floor > Letter sent to local MP from local resident directed them back to the local council. Flooding investment comment had met the bare minimum. Thames water had replied in their response that this development would cause sewerage flooding downstream of Hurst Lane.

Point from floor > North Area planning has to review each proposal based on its merit. That open areas should not be built on. Correction to earlier point that it was £50,000 towards Esher Rugby club and not specific rugby pitches but coaching and training (nb: another conflict of interest within the MRA planning committee?)

NEXT STEPS

- > All residents write to the following contacts;
- Martin Parker, Head of Planning, Elmbridge Borough Council
- Dominic Raab , Conservative MP for Esher & Walton (lives in Kingston)
- 9 Councillors (form the planning committee – North/West/East (East Molesey falls under the North area)
- > Discussed 2 representatives from each road to form a committee
- > On forms available please suggest any strengths you can bring to this fight i.e. legal etc, as well as would you be a representative from your road
- > Need people armed and ready at the planning meeting
- > Need to convince Tory councillors in surrounding areas and not just within local vicinity

Requested by floor;

- > List of names to write and email (hard copy for those unable to access internet) objections too.
- > Copy of the minutes – placed on MRA website

POST MEETING

The MRA has confirmed that neither Cllr. Ian Donaldson nor Cllr Tony Popham will be able to attend the eventual planning meetings as Elmbridge Planning committee members are deemed to have a 'Prejudicial Interest' even though both support the residents and the MRA objections. Therefore the MRA Chairman, Cllr. Nigel Cooper will appoint substitute MRA councillors once the date(s) of any meetings(s) are known. The MRA view is that the first hearing of the application will not be before the end of September and possibly not until October.