

**COUNCIL ASSEMBLY
(ORDINARY)**

WEDNESDAY 21st JULY 2004

PUBLIC QUESTION TIME

QUESTION TO THE CHAIR OF THE PLANNING COMMITTEE FROM MR. DEREK KINRADE

Whether he considers that the present arrangements for free inspection of the register of planning applications satisfies subsection 69 (5) of the Town and Country Planning Act 1990, given that access is available only from Monday to Friday during office hours, thus precluding those at work during those hours?

RESPONSE

The Town and Country Planning Act requires the register of planning applications to be made available, free of charge, during "reasonable" hours. This Council, along with most others, has always considered this to be compatible with normal office hours. However, details of all planning applications received since 1996 are now available through the Council's website, and we are taking steps to make fuller details of such applications, including access to drawings, available in the near future.

SUPPLEMENTAL QUESTION FROM MR KINRADE

Bearing in mind that a great number of people are at work during normal office hours and bearing in mind that 50% of the UK population does not have access to the internet and bearing in mind that over one third of the population has never accessed the web, would the Planning Committee consider whether access to planning applications could be granted outside normal hours on request and by appointment for people who cannot attend during normal hours?

RESPONSE FROM THE VICE-CHAIR

In the absence of the Chair, I will try and answer as best I can. Later on this year the Council is reviewing the opening times of the Planning Department and hopefully, we will get back to you with a more positive response later on.

2. QUESTION TO THE LEADER OF THE COUNCIL FROM MR. J KELLAND

In a written response to me at the Council meeting on 29th October 2003 you advised regarding Potters Field park ' Any future events would be subject to detailed consultation amongst local residents before permission was given.'

Could you define your understanding of 'detailed consultation'?

RESPONSE

Any application to host an event on Potters' Field is emailed to a group of appropriate Council officers comprising representatives from amongst others Parks & Sport, Licensing, Building Control and Property but not Members in order that an initial view may be taken. Any potentially contentious matters would also be referred to the Head of Parks & Sport and the Area Park Manager. If this group agrees that the application be deemed reasonable, the matter then goes for public consultation.

Public consultation involves a copy of the application being forwarded to Ward Councillors, known Tenants and Residents Associations, and the Police together with any individuals who have previously raised objections regarding events on the site. The timescale for receipt of responses is usually twenty-eight days although for smaller events this may be reduced.

In the case of an Entertainments Licence application, the Licensing Unit consult the same list of external bodies and individuals giving 28 days for responses to be made.

The council recently received two major 2 major applications for use of the park, a tennis event sponsored by American express and an application to turn the park into a beach sponsored by o2. The former applicant consulted with the local TMO and the proposal was brought to Bermondsey Community Council. The latter applicant organized its own public meeting but the Council had already refused permission.

3. QUESTION TO THE LEADER OF THE COUNCIL FROM MR. SIMON WHATLEY

Would a decision to change the use of the East Dulwich Community Centre Association site without first carrying out a sustainability appraisal and consultation with the local community be in breach of both the UDP and the Southwark Compact?

RESPONSE

The current UDP does not set out statutory consultation standards as it has not been considered appropriate in such a document. However, Policy 3.3 of the recently published second draft Southwark Unitary Development Plan requires sustainability appraisals to be submitted with applications for planning permission in certain circumstances (set out in the policy). This plan has not been adopted as yet and policies contained in it do not yet have the full force of an adopted plan. It would, however, be good practice to request such an appraisal in appropriate cases.

The Council has a duty to consult on applications for planning permission. The Council goes beyond its statutory minimum duties and applies its own standards of practice which seek to ensure that all properties affected by a proposal are consulted. If an application for planning permission for this property were made, it would lead to letters being sent to a neighbouring properties and the placing of a site notice.

The Southwark Compact sets out broad principles for public consultation in all areas of decision making. More detailed standards for consultation on planning matters are as set out above and are in line with these broad principles.

SUPPLEMENTAL QUESTION FROM MR WHATLEY

To the Leader of the Council, can you give us a full commitment that a proper sustainability appraisal and full consultation of the local community will be undertaken in regard to the East Dulwich Community Centre re-development?

Secondly, can you guarantee the council Officers are currently and will continue to act within council guidelines and in line with agreed council policy and various statements such as your Community Strategy, because I don't think they are?

RESPONSE

Madame Mayor the answer to the first question was will there be a sustainability appraisal. As is clear from the text of the answer; that rather depends on the nature of the application that is made.

On the second question, will there be proper consultation with the local community about any planning application, the answer is yes, both within the statutory guidelines and our own best practice.

The third question, will officers follow council decisions and strategies, yes they will.

4. QUESTION TO THE LEADER OF THE COUNCIL FROM MS LUCIA HINTON

The council state they accept the DA's findings, Ombudsman findings and most recently the revelations in regards to their obligations to canvass on the train station. Does the council accept the following points from the DA's findings:

1. District Audit (DA) accepts there are specific concerns beyond Imperial Gardens case.
2. The council accepts serious deficiencies that have not been satisfactorily explained.
3. The council accepts that proper planning processes were not followed and statutory requirements were not observed.
4. The council accepts the four-year delay in processing the permanent planning consent.
5. The council accepts that council documentation was incomplete
6. The conduct of officers and some members has not met the standards expected of public servants.
7. Council officers and members are not in a position to rebut conclusively allegations of corrupt or improper practises.
8. The council accepts there were failures in the decision making process.
9. The council accepts consultation in respect of the residential development was fundamentally flawed.
10. The council accepts that reports prepared by officers for consideration by embers were inaccurate, inadequate and incomplete.
11. The committee considering the planning application for Fairview New Homes site failed to make further inquiries when questions were raised regarding the proximity of the Imperial Gardens. In the DAs view, these questions should have alerted the officers and members to deficiencies I the Recommendation Report put before them.
12. Mark Dennett's evidence has been unsatisfactorily and contradicted by both oral and written evidence from multiple sources.
13. The council failed to issue any notice of consultation to the Imperial Gardens nightclub notwithstanding that notices had been sent previously.
14. The council accepts that they did not take in regard the business of Imperial Gardens when granting Fairview permission.
15. The council accepts there was an apparent failure to consult
16. The council accepts that the DA's report may have significant and reputational consequences against the council.
17. DA identified serious weaknesses in planning processes ad procedures
18. Council accepts point 12 of DA's report
19. The council's action expose them to litigation by complaints, compensation to third parties.
20. The council accepts the whole of page 5
21. The council accepts that they failed to issue any notice of consultation.
22. The council confirmed in writing that they failed to consult Imperial Gardens and mention Imperial Gardens in the Development Contol Committee report.
23. The council accepts that the Fairview report to Development Contol Committee was flawed, as there was no mention to Imperial Gardens.

24. The council accepts that the Imperial Gardens report to committee was flawed because there was no mention of Fairview Homes.
25. The DA confirms that Dennett dealt with the initial Fairview application
26. Fairview contacted the council and were initially and Janet Thomas gave an unfavourable response. Fairview wrote to Chambers with draft proposals and sketches.
27. Dennett advised Fairview of the proposed Railway station and retail store and suggested that they should apply for a residential scheme with no commercial element.
28. The DA confirms that the council's files in relation to correspondence in relation to Mark Dennett are incomplete. Council file has a letter, which makes reference to the Mark Dennett meeting.
29. Fairview application submitted and address to Dennett
30. Dennett confirms he carried out validation process and original consultation list
31. Accepts point 45 of the DA's report
32. The DA states that it is very clear when you walk the site that the arches are occupied.
33. Clear evidence that Imperial Gardens were consulted in regards to other applications in regards to Mark Dennett.
34. The DA states that it is contradictory that when a more substantive application for a major housing development within 3metres of its boundary that Imperial Gardens were not consulted.
35. Chambers confirms to DA that it is inconceivable that that anyone dealing with the application at 295 not to have know of the Imperial Gardens.
36. Chambers further states that it is normal practise to import consultees from any previous planning applications, which was clearly not done.
37. DA confirms significant errors, omission and inconsistencies in the council files in regards to Fairview.
38. It is important to note that the council failed or ignored Mr Huckerby's comments relating to the presence of the nightclub.
39. Imperial Gardens was mentioned to Sainsbury's in meetings held by officers of the council.
40. The photographs for the Fairview application did not show any existence of Imperial Gardens nightclub.
41. Mark Dennett 100% certain that Imperial Gardens had not been mentioned at the Development Control Committee.
42. Cllr Ritchie states to Ombudsman that he not recall any mention of the nightclub at the Development Control Committee. Contradicting what he told DA.
43. Some of the officers who have been interviewed have agreed that the decision to place a housing development immediately adjacent to a nightclub is incongruous and that complaints from residents may well lead to the revocation of the Imperial Gardens night-club's operating license, the grant of which is a completely separate matter from any planning consent.
44. Fairview noise report does not mention Imperial Gardens
45. The council's independent sound report highlights defects in the original Fairview sound report.
46. The council accepts point 73 of the DA's report.
47. In internal memorandum which related to planning permission for Fairview flats from Mark Dennett addressed to Mr Cook and DR Roy Turner (transport planner) clearly shows it was evident that Mark Dennett was involved in the council's railway station proposal. The occupation of these arches by Imperial gardens should also be apparent.

48. Dennett supplied copies of the Railtrack feasibility study, which identified Imperial Gardens to representatives of Sainsbury's plc. Sainsbury employees confirm existence of Imperial Gardens was mentioned at meetings.

RESPONSE

The District Auditor conducted a thorough and impartial investigation and his report has been considered at length by the special scrutiny sub-committee. The sub-committee took a great deal of evidence in the course of its inquiry, including many submissions from the directors of THK Entertainments Ltd, of which this question was one. The recommendation of the sub-committee is that we accept the findings of the report and act on them, and that we apologise to the directors of THK Entertainments Ltd for the failings identified there and in the report of the Local Government Ombudsman; I am more than happy to endorse their recommendation.

SUPPLEMENTAL QUESTION FROM MS LUCIA HINTON

My supplementary question; there are two points and they are yes/no answers Nick. In your answer to me you said "we accept the findings of the report". In my question I listed points 1 – 48 which are all contained in the DA's report. Do you accept the points 1 – 48 of my question, yes or no?

RESPONSE

It's not that simple Madam Mayor. With respect, it is for the Council Assembly to decide whether to accept the District Auditor's report later tonight and the council's response to it. I believe we all will be. I don't think there is anything particular to be gained by going through it and extracting little bits, we accept the report in its entirety. It speaks for itself.