

Item No.	Classification	Date	MEETING NAME
1	Open	29 April	Overview and Scrutiny
Report Title:		Report of action planned following District Audit and Ombudsman's reports on <i>Award of Planning Permission at 295-297 Camberwell New Road and 299 Camberwell New Road</i>	
Ward (s) or groups affected:		All	
From:		Strategic Director of Regeneration	

1 Recommendation

- 1.1 Scrutiny considers the action already in hand to prepare a full response to the District Audit and Local Government Ombudsman and in particular comments on the questions outlined at the end of each section.

2 Background

- 2.1 Imperial Gardens is a club in the railway arches at 299 Camberwell New Road] for which temporary planning permission was sought in 1996 and full permission sought in 1999. This was finally granted in 2002. The site at 297 Camberwell New Road is adjacent to the club. Planning permission was sought by Fairview Homes in May 2001 for a housing scheme. This was granted in October 2001.
- 2.2 Raymond Stephenson and Lucia Hinton complained to the Council that he had not been consulted about the Fairview application and that the decision had been taken without reference to the impact on the club. Following a number of exchanges about the circumstances of the granting of the two applications the Council asked the District Auditor to undertake an investigation in November 2002.
- 2.3 The report of the District Auditor was published on 4 February. A preliminary report was submitted to Council on [18 February] and Council assembly resolved that Overview and Scrutiny should review various matters and that
- a. "...the Strategic Director of Regeneration be invited to present the Council's case at the first meeting of the review, this to include presentation of the Department's Action Plan in response to the reports of the Audit Commission and Local Ombudsman."

2.4 This report therefore presents that draft action plan

3 Key issues

3.1 The District Audit Report had several key findings about the specific cases and identified concerns about general procedural weaknesses.

Specific cases

3.2 On the specific cases:

- a. Consultation in respect of the residential development was flawed;
- b. Reports prepared by officers were inaccurate, inadequate and incomplete;
- c. The Committee should have made further inquiries.

3.3 On more general matters the concerns are:

- a. Procedures for ensuring members have an adequate understanding of the processes were not always followed;
- b. Training for members was inadequate and some members participating in decisions had no training.
- c. The results of consultation were not fully reported to members
- d. Mechanisms for the performance management of planning staff were inadequate;
- e. Documentation and files were incomplete
- f. There was no mechanism for ensuring that the policy on consultation was consistently followed
- g. There was no mechanism for ensuring that connections were made between related applications
- h. Arrangements for ensuring compliance were poor.

3.4 Two officers were personally criticised about the handling of the case.

3.5 As a result of those findings the District Auditor recommended that the Council should:

- a. consider disciplinary action against the individuals
- b. improve the quality of reports to Committee
- c. institute a quality control process
- d. Ensure that consultation procedures are followed
- e. Provide training to officers about their responsibilities and the need for documentation

- f. Introduce a register of interests for all staff involved in planning applications
 - g. Introduce a system of tracking applications and any conflict between related sites.
- 3.6 A separate investigation has been conducted by the Local Government Ombudsman. His report concluded that there had been maladministration, that a payment should be made to the complainants, that the Council should review its procedures for neighbour notification, the conduct and recording of visits and meetings with developers and its record keeping.

4 Factors for consideration

- 4.1 Consideration of the implications arising from the Imperial Gardens case began before the publication of the District Auditor's report: a brief independent review of our consultation processes and the handling of files was undertaken. An independent planning consultant has also been commissioned to examine the consultation procedures in those cases where complaints have been received by the Council. His report will seek to identify both deficiencies in existing processes as well as possible improvements which could be made. The introduction of the new software support system has also provided a better basis for dealing with consultation.
- 4.2 We have therefore considered five issues:
- a. Is our policy on consultation appropriate and in line with best practice?
 - b. Do we implement that policy effectively and with proper levels of quality control and assurance?
 - c. How do we ensure that related planning cases and issues are identified and considered?
 - d. What other improvements in administrative processes are required, including a register of interests?
 - e. What training or other support is needed for officers and members?
- 4.3 In considering these issues we have taken into account:
- a. The conclusions of the District Audit report and the Local Ombudsman's report about the Imperial Gardens and Fairview cases.
 - b. The more general points raised by the District Auditor on a number of other cases.
 - c. Other recent queries raised by members and others.

- d. The continuing requirement to meet demanding targets for the processing of cases, including the remit agreed with the Executive to consider the handling of major cases.
- e. The implications for Community Councils as well as Planning Committee.

Policy on consultation

- 4.4 There are statutory requirements for consultation (which vary between the differing categories of planning application) and established best practice. These involve a combination of direct notification to owners and residents likely to be affected by any application and public notices, either adjacent to the site or published in newspapers.
- 4.5 Our policy, as confirmed by the Planning Committee on 1 July 2002, consists of:
 - a. Site notices, which are placed in a prominent position on or adjacent to the application site.
 - b. Letters sent to a set of adjacent residents inviting comments. The list of consultees is defined by inspection of the plans. It includes some bodies who have asked to be consulted about all schemes in a particular area. The Council already exceeds the statutory requirements, as well as the practice of most authorities, by acknowledging the receipt of consultation responses, albeit at some financial and administrative cost.
 - b. Notices in newspapers where required.
- 4.6 In addition information about applications:
 - a. Is sent to members who have requested “weekly lists”;
 - b. Is available on the website;
 - c. Is now displayed monthly at community council meetings.
- 4.7 We also strongly encourage any applicants with schemes of significance to conduct their own consultation before making a formal application.
- 4.8 A key consideration is that a planning decision is ***not*** an arbitration between the interests of the applicant and the views of any or all of those who might claim to be affected by the scheme. The determination of an application rests on whether it conforms with planning policy as expressed in national, regional and local planning documents. A number of those policies will require consideration of local amenity and other factors; consultees’ views therefore inform that consideration. However it does not require any submission of a consultation response for those issues to be properly part of the decision making and it is the responsibility of the planning officers to identify and offer recommendations on those factors.

4.9 Our present conclusion is that the policy on consultation remains appropriate and in line with best practice. However we will document it fully and present it for endorsement by Planning Committee, particularly in the light of the expected obligation under the new legislation to provide a Statement of Community Involvement.

4.10 ***Does Scrutiny wish us to consider any changes to the policy on consultation?***

Practice and Implementation of consultation

4.11 The key lessons from the District Auditor report are:

- a. That the policy on consultation needs to be effectively implemented (i.e. letters written and the site notices posted);
- b. That we need to be able to document and demonstrate that the consultation has been undertaken;
- c. That subsequent reporting of the results of consultation needs to be full and accurate.

4.12 Procedures have already been improved with the introduction of the Acolaid software, which records the consultees identified. We also intend to implement a Geographic Information System method of identifying consultees. This should be completed within about two months.

4.13 These improved procedures will substantially lessen the likelihood of consultees being missed from the initial identification. However we remain dependent on the accuracy of our data sources about property and ownership and we cannot guarantee that letters despatched are received. There is no realistic option in which we can secure a positive confirmation that neighbours and others have seen any notification (e.g. by requiring them to respond). We have therefore concentrated on:

- a. Clarifying the administrative processes and assessing the required level of checking. Development Control case officers will be required to confirm that all due procedures have been carried out in the consideration of the application and the preparation of the report for Committee, Community Council or delegated decision;
- b. Confirming the requirement for a site visit by the case officer. This will include confirmation by the case officer that the appropriateness of the consultations has been checked on the ground;
- c. Checking the accuracy of the list of individuals and local organisations who have expressed a wish to be consulted on planning applications within a particular area. Various Council Departments keep databases of organisations, whose officers change from time to time. It is therefore suggested that a definitive list be kept centrally [by the Corporate Communications

Team] and that all organisations in the Borough be invited to notify any changes to this Team.

4.14 Together with the other points below these procedural improvements are now being discussed with the planning team. In particular, the new Head of Planning and Transport, John East, is undertaking a general review of the Development Control Service, and is being assisted in this by the various interim managers who have been appointed to assist the Council in the absence of certain members of staff. A final report, including any resource consequences, will be prepared when the present investigative processes have been completed and the report received from the independent consultant.

4.15 ***Are there any other issues that Scrutiny wishes to see considered in the practice of consulting on planning application?***

Linking related issues

4.16 Key issues that arise are:

- a. Ensuring that papers are filed so that linked issues can be identified. This also raises issues about how to cross-reference issues which are not linked by site or applicant;
- b. Maintaining information about applications in a way that permits cross referencing. At present the Council operates a system of filing which bundles planning application information on parcels of land together, rather than separating the individual planning applications. While this can assist in researching the planning history of a site or locality, it can also lead to difficulties if the file is lost or misplaced. If the system is revised to require separate files for planning applications (which constitutes best practice), ways will need to be found to ensure co-ordination of information. When the Development Control filing system is fully computerised, of course, this should solve all such problems.
- c. Clarifying when information remains confidential. There are occasions when it is necessary to maintain confidentiality for commercial or other reasons over certain documents. At present, such documents may find themselves filed on public files simply for ease of administration.
- d. Explaining to members of the public what service they can expect from Development Control, especially in the submission of planning applications and when responding to consultations.

4.17 The Development and Building Control Services already publish Service Charters, which indicate the levels of service which the public can expect. These, together with numerous Guidance and Information Notes, were prepared in 2002, and it would seem prudent to revisit them now.

Other procedural issues

- 4.18 The Audit Commission report recommends the creation of a register of staff interests. The Council has accepted the recommendation and plans are in hand to set up a register.
- 4.19 As has previously been stated, the new Head of Planning and Transport is currently reviewing structures and procedures throughout the Planning Service and will be bringing forward proposals for changes where appropriate in due course. These changes will, in turn, inform the Strategic Business Plan and Forward Plan.

Training and implementation

- 4.20 Another issue identified in the Audit Commission report was the need for additional Member training. Member training has, of course, taken place since the time when the Fairview planning application at Camberwell New Road was first submitted. It is nevertheless suggested that additional training needs should be reviewed, and a programme devised in association with Planning Aid for London. At the same time, once the necessary revisions to the internal processes have been determined, additional training can also be provided for Development Control staff.

Next Steps

- 4.18 Subject to the views expressed by Scrutiny we propose:
- a. A comprehensive review of internal procedures and practice, including record keeping and consultation, within the Development Control Service;
 - b. A review and update of the Development Control Service Charter, Guidance and Information Notes;
 - c. The establishment of additional training programmes for Members and Development Control staff;
 - d. The establishment of a register of staff interests.

5 Legal and Financial Issues

- 5.1 In implementing elements of the action plan legal and financial issues may arise, particularly on the overall resources available to the development control service. These will be presented to Planning Committee and Executive when final conclusions are reached.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
District Auditor's and Ombudsman's Report	Regeneration dept	Paul Evans

Appendix A Audit Trail

Lead officer	Paul Evans	
Report Author	Paul Evans	
Version	Draft	
Dated	20.04.04	
Key Decision		
CONSULTATION WITH OTHER OFFICERS/DIRECTORATES/EXECUTIVE MEMBER		
<i>Officer Title</i>	<i>Comments sought</i>	<i>Comments included</i>
Borough Solicitor & Secretary	Yes	
Chief Finance Officer	No	
Chief Officers	No	
Executive Member	No	
Date sent to Constitutional Support		