



MINUTES of the OPEN section of the meeting of the SPECIAL OVERVIEW and SCRUTINY Committee held on THURSDAY 29th APRIL 2004 at 6.00PM. at SOUTHWARK TOWN HALL, PECKHAM ROAD, LONDON SE5 8UB

PRESENT: Councillor Kim HUMPHREYS (Chair)
Councillors Linda MANCHESTER, Andy SIMMONS, William KAYADA, Lisa RAJAN, Gavin O'BRIEN.

OFFICER SUPPORT: Shelley Burke - Head of Overview & Scrutiny
Stephanie Dunstan – Scrutiny Project Manager
Sarah Naylor- Assistant Chief Executive
Glen Egan – Assistant Borough Solicitor
Fitzroy Williams- Scrutiny Team
Paul Evans – Strategic Director Regeneration
John East – Interim Manager Planning
Nadia Djilali – Labour Political Assistant
Gillian Connor – Liberal Political Assistant

OTHERS: Graham Beck – Independent Planning Consultant
John Bland
Michael Parker
Jon Durbin
Patrick Anderson – Black Planners Association
Raymond Stevenson – Black Awareness Group
Lucia Hinton – Black Awareness Group
F. Stevenson – Black Awareness Group
D. Gooch

APOLOGIES FOR ABSENCE

Apologies were received from Cllr Hargrove

NOTIFICATION OF ANY OTHER ITEMS WHICH THE CHAIR DEEMED URGENT

None.

DISCLOSURE OF INTERESTS AND DISPENSATIONS

RECORDING OF MEMBERS' VOTES

Council Procedure Rule 1.17(5) allows a Member to record her/his vote in respect of any motions and amendments. Such requests are detailed in the following Minutes. Should a Member's vote be recorded in respect to an amendment, a copy of the amendment may be found in the Minute File and is available for public inspection.

The Committee considered the items set out on the agenda, a copy of which has been incorporated in the Minute File. Each of the following paragraphs relates to the item bearing the same number on the agenda.

Cllr Humphreys opened the meeting at 6.20pm.

1. SCRUTINY; AWARD OF PLANNING PERMISSION AT 295-297 CAMBERWELL NEW ROAD AND 299 CAMBERWELL NEW ROAD.

The Chair [Cllr Humphreys] introduced the item and invited everyone at the table to introduce themselves

The Chair invited Mr. Paul Evans [Strategic Director Regeneration] to present.

Mr. Evans gave an overview of the items highlighted in the 'Report of action planned following District Audit and Ombudsman's reports on *Award of Planning at 295-297 Camberwell New Road and 299 Camberwell New Road*.

Mr. Evans stressed that the department response to the issues raised by the Audit Commission will form part of a longer-term process of improving development control.

Practice and Implementation of Consultation; (pg 44 Agenda papers)

On the issue of consultation, Mr. Evans highlighted that since the events concerning the premises on Camberwell New Road; the department has developed a new, best practice policy on consultation that takes advantage of new technology to assist in consultation. The new policy on consultation is referred to on pg 43, Para 4.5 of the agenda papers.

Mr. Evans commented that even though the policy on consultation existed it is very important quality control checks occur to ensure the policy is being implemented within the resources provided.

On the issue of quality control and assurance, Mr. Evans commented that prior to the District Auditors report he recognized that improvements needed to be made and completed an internal review on the existing consultation mechanisms and processes.

On the issue of new technology, Mr. Evans commented that new technology is able to record the consultees that have been identified and enable easier cross checking and referencing. He commented that his department are reviewing the implementation of Geographic Information Systems (GIS) technology. He also commented that he is reviewing alternatives to paper based filing systems, which currently the planning department uses.

Questions:

Cllr Rajan asked when new computer technology would be available to enable cross-referencing between planning applications?

Mr. Evans replied that he did not want to suggest that currently cross-referencing between planning applications could not be done. New GIS technology should be implemented within the Planning Department in the next couple of months that will enable searches to be done via a map. Currently searches can be done through geographical boundaries.

Mr. Stevenson commented that the internal enquiry appeared to focus on consultation issues, which the District Auditor's report did not. He commented that the issue was not about getting new computer systems as the existing system had cross referenced Imperial Gardens Nightclub and Fairview Homes, suggesting that the mistake rested with staff not computers.

Mr. Evans commented that at the point when Mr. Stevenson carried out his cross reference exercise a new computer system was already in place. He also commented that a new computer system was not the only solution but ensuring systems are in place to ensure staff follow the correct procedures.

Mr. Stevenson asked Mr. Evans why certain line managers had taken the actions they had in relation to Imperial Gardens.

Mr. Evans said that he could not comment on the action of individual officers whilst disciplinary proceedings were occurring.

Mr. Stevenson commented that he did not believe systems were at fault but the actions of particular officers based on the agenda of the Council, which seemed to have overridden everything to do with quality control and improving processes.

Mr. Evans commented that 6 out of the 8 recommendations in the District Auditors action plan.

Mr. Stevenson asked what were the statutory obligations for consultation?

Mr. Evans commented that he did not have formal documentation, but would supply it. However he commented that sending letters was not a statutory requirement, but that Southwark aimed to do it where possible to improve consultation

Cllr Humphreys commented that there is a perception in the community that unless you receive a letter you cannot comment on the consultation process

Mr. Evans commented that letters cannot be sent to everyone, and so public notices in the press and site notices are used as a means of making people aware of planning applications. Sending letter was considered best practice.

Mr. Stevenson commented that in the case of Imperial Gardens a neighbour had written to Southwark Council asking them to consult Imperial Gardens, yet consultation still did not occur.

Mr. Evans replied that he could not comment on individual officers due to disciplinary proceedings, but his action plan seeks to improve systems so that such matters do not happen again.

Cllr. Simmons commented that the general public do not notice Site Notices or Public Notices and that notification by letter is what most people consider reasonable.

Mr. Evans commented that that is why Southwark makes very attempt to send letters but there is no guaranteed way of ensuring that letters meet the intended recipients.

Cllr Simmons asked if there were any quality control mechanisms to check whether letters being sent out are reaching the intended recipients?

Mr. Evans commented that determining what is a reasonable level of sampling would be important and to ensure it is efficient within the resources allocated. He commented that the new GIS technology may assist and suggested that even thorough sampling will never guarantee 100% delivery success.

Cllr Humphreys asked how the consultation area for each planning application is derived?

Mr. Evans replied that an address and map based system is used, combined with site inspection. Procedures for staff are written into a staff manual, however it is not rule based and leaves room for officer judgment.

Cllr Rajan asked when do Site Notices go up? Where do they go up? And when do they not go up?

Mr. Evans said he would supply at the next meeting what the statutory requirements for putting up site notices is.

Cllr Kayada asked if Mr. Evans was considering a review of consultation methods?

Mr. Evans replied that it is something his department is considering doing and would appreciate input from the Committee as to how to conduct that review.

Cllr Humphreys asked if there was an obligation for developers to conduct pre-application consultation?

Mr. Evans replied that it is a voluntary process that Southwark encourages developers to carry out. New legislation may make it compulsory. He commented that the large developers put significant effort and resources into conducting pre-application consultation, however development control officers have to work within the strict 8-week timetable. He also commented that the development of Community Councils had helped people become more aware of planning applications in their area, especially due to the maps highlighting planning applications, which is shown at Community Council meetings.

Cllr Simmons commented that in his experience developers were much better at conducting consultation compared with Council backed housing developments, and that these Council backed housing developments should meet the same standards of private developers.

Cllr Simmons asked what were the requirements for consultation for leaseholders compared to occupiers of property?

Mr. Evans commented that the District Auditor had raised this as a problem in the case of Imperial Gardens nightclub, and this is something that he wants to clarify. Mr. Evans said he would supply this information at the next meeting.

Mr. East commented that it was always policy to consult with the occupier.

Mr. Stevenson commented that in the situation of Imperial Gardens the District Auditor found that consultation had only occurred with the landlords of the Camberwell Railway Arches (RailTrack), not the occupiers. (p.g 20 Agenda Papers)

Mr. Evans said he would provide information on what consultation was conducted with the landlords of the Camberwell Railway Arches.

Mr. Stevenson asked what other processes were followed to ensure the right people were being consulted about planning applications.

Ms. Hinton commented that her own investigation had established that planning officers use rate payer information and ordnance survey maps to ensure that people are identified for consultation, and that this information is passed onto line managers. Imperial Gardens Is on the ordnance Survey maps, so why wasn't Imperial Gardens consulted?

Mr. Evans commented that he would check to see what process was used at the time of the Imperial Gardens and provide this information to the Committee. The District Auditor had already examined this question and that his role was to ensure that it does not happen again. Site visits were to remain a part of future consultation methods.

Cllr Simmons stated that there appeared to be an ongoing issue with complaints handling by the Regeneration department.

Mr. Anderson asked why it had taken the Regeneration Department 13 weeks to respond to Mr. Stevenson's complaint and why it had taken a small business four years to get a planning application processed as opposed to five months for a large business?

Mr. Evans responded that the District Auditor's report had recognized the problem and that no case should take four years. He commented that a new tracking system should 'flag' planning applications that are moving too slowly through the system.

Ms. Hinton asked how many other planning applications waited three years or more? What was the business of these premises and what was their location? Also, what did Mr. Evans think would be the impact of waiting for a planning decision?

Mr. Evans responded that the impact on a business would be great, especially if it a business waiting to enter the market, as opposed to a business that is already established. Mr. Evans said he would obtain statistical information regarding lengthy delays to planning applications, but needed to be aware of the legal privacy of applications and not disclose the name of the business or individuals.

Mr. Patrick Anderson expressed concerns about Mr. Evans approach which he thought had been flippant.

Mr. Evans responded that he was sorry that Mr. Anderson had misinterpreted the information he presented and the seriousness of his presentation. He was not being flippant about the planning issues at hand.

Linking Related issues: (pg 45 Agenda Papers)

On the issue of publicly available planning information, Mr. Evans commented that planning applications must be made public however the totality of information within the planning application may not all be open to the public. For example, pre-application information is confidential. Mr. Evans stressed the importance of striking a balance between what information is available for the public and protecting commercially sensitive information.

On the issue of training, Mr. Evans commented that through the introduction of Community Councils which consider planning applications, all members had received training on how to consider planning applications.

Questions:

Cllr. Rajan asked about the register of interests and if developers will be able to request certain officers to work with them?

Mr. Evans replied that the Planning Department determines the system of allocation of planning applications to planning officers. He did not expect developers to have any influence on what officers had been assigned to particular cases.

Cllr Humphreys asked if all Members received Planning training?

Mr. Evans replied that all Members did and he was interested in finding out if Members felt the training was worthwhile. The training was developed by a specialist planning consultancy.

Cllr. Humphreys replied that he felt the training was a little rushed and would be interested in finding out what other local authorities do for member training.

Cllr. Simmons commented that he felt the training needed to have a testing component to ensure knowledge was retained and understood.

Cllr. Kayada commented that for Cllrs not familiar with planning issues, it was difficult to process planning applications as the existence of Community Councils now required. He suggested that more through training is required.

Mr. John East commented that although he had only been to one Community Council meeting, it is important that all Cllrs are trained and engaged in planning issues. He commented that in his new role as Manager he is keen to design a training programme that meets members needs.

Cllr Kayada asked why hadn't issues of quality of staff, training for staff & development, work culture and leadership been addressed in the report?

Mr. Stevenson commented that better trained officers would not have changed the situation for Imperial Gardens.

Cllr Humphreys asked if there was any internal guidance on the way that officers handle pre-application planning discussion?

Mr. Evans said he would check if there were any internal guidance and at when pre-application planning information could be made available.

Cllr Simmons requested that Mr. Evans also provide any information in relation to developments near the Railway Arches.

Cllr Humphreys asked what handover procedures existed in the Planning department considering that the District Auditors report had suggested that there was a problem with handover procedures. He would like to know what is best practice for planning departments.

Equalities Impact Assessment Questions:

Mr. Anderson asked Mr. Evans about what considerations the Planning Department makes for consideration of racial equalities issues in processing planning applications?

Mr. Evans explained that recently the Planning Department had initiated an Equalities Impact Assessment (EIA) that is scheduled to be completed by end of Jun 2004. The EIA will be conducted by a small steering group consisting of a mix of relevant Officers and external and academic experts.

Ms. Sarah Naylor [Assistant Chief Executive] commented that the Council is required to conduct an EIA across the whole of the Council, and the process for doing this is determined by a statutory framework.

Mr. Stevenson and Mr. Anderson requested more information about the statutory basis for the EIA and the dates it was due to start.

Cllr Simmons asked what member oversight of the EIA process takes place.

Ms. Naylor agreed to supply this information for the next meeting.

Mr. Stevenson commented that he hadn't been informed about its development in relation to Imperial Gardens. He also commented that it appeared Cllrs didn't fully understand the process so how was the Black community in Southwark supposed to understand it.

General Questions:

Mr. Stevenson asked if Mr. Evans would be available at the next meeting of the Special OSC to address his questions?

Mr. Evans replied that if he were required by the Committee to attend the meeting, he would attend.

RESOLVED:

- a) That an explanation of the Statutory obligations for consultation on planning applications is provided for the OSC meeting 20th May
- b) That any internal guidance notes for Planning Officers with regard to pre-application procedures is provided for the OSC meeting 20th May
- c) That the Training Notes for Member on Planning is provided for the OSC meeting 20th May
- d) That the statutory obligations for consultation with freeholders and leaseholders is provided for the OSC meeting 20th May
- e) That the information on the consultation with regard to the Railway Arches in Camberwell is provided, and information regarding business development in Railway Arches in general is provided, for the OSC meeting 20th May
- f) That performance statistics on complaints handling for the Planning department are provided for the OSC meeting 20th May
- g) That statistics on how many other planning applications took three years or more to process are provided for the OSC meeting 20th May
- h) That background information regarding the Equalities Impact Assessment (EIA), including the history of the EIA legislation and dates it was developed, are provided for the OSC meeting 20th May.

At 20:50pm, Cllr Humphreys proposed a short refreshment break and the meeting adjourned.

RESOLVED: Meeting Adjourn for 10 minutes for a refreshment break.

Meeting reconvened at 9.00pm

Work Tasking Independent Planner:

Ms. Burke [Head Overview and Scrutiny] explained the process whereby the Independent Planner had been appointed to the Committee. Overview & Scrutiny Committee [1st March] resolved that an independent planner be appointed to the Committee and should:

- a) Be a member of a relevant professional body;
- b) Have particularly professional experience of the city planning environment;
- c) Have no connections with Southwark Council; and
- d) Have experience of working for/within a planning service rated as “excellent” under CPA.

The Royal Town Planning Institute had provided a list of planning consultants, whom were contacted verbally to assess if they were interested in the project, following which a letter inviting them to apply for work was sent. A number of applications were received, with Ms. Burke in consultation with Mr. Stevenson agreeing that Mr. Beck would be appointed.

The Chair, in agreement with the Committee, resolved the following Work Tasks for the Independent Planner:

RESOLVED:

- 1 Compare and contrast the Member Training on Planning provided by Southwark with that of other ‘best practice’ local, urban authorities.
- 2 Compare and contrast the planning consultation mechanisms and processes of Southwark with that of other ‘best practice’ local, urban authorities. The use of letters and methods of sampling to see if letters are reaching intended recipients should be considered.
- 3 Compare and contrast the Southwark process of determining consultation areas in planning applications with that of other ‘best practice’ local, urban authorities.
- 4 Compare and contrast staff handover procedures in Southwark with that of other ‘best practice’ local, urban authorities.
- 5 Compare and contrast Southwark pre planning application consultation procedures and mechanisms with of other ‘best practice’ local, urban authorities. Confidentiality standards should be considered.
- 6 Compare and contrast Southwark File Management with that of other ‘best practice’, local urban authorities. The use of paper filing systems and alternatives to paper filing systems should be considered
- 7 Compare and contrast Southwark ‘quality control’ procedures and practices with other ‘best practice’, local urban authorities. How

planning cases are allocated and how case officers develop recommendations should be considered.

- 8 Select six 'live' planning application from Southwark with similar characteristics to the 'Imperial Gardens' planning application and assess if:
 - Consultation was 'best practice';
 - All planning information was forwarded to Members;
 - Quality Control mechanisms and processes were utilised;
- 9 If needed receive briefings and obtain information from Mr. Paul Evans and/or Mr. John East .

Presentation to OSC: Glen Egan Assistant Borough Solicitor

The Chair invited Mr. Glen Egan Assistant Borough Solicitor to present to the Committee

Mr. Egan apologized for the delay in delivering the letter to the Bar Council requesting legal assistance. The delay had arisen because of a lack of resources within the legal team, and the problem had now been resolved.

Mr. Egan explained that since the agenda papers had been published, fruitful discussions between Mr. Stevenson's solicitors and himself had occurred.

Mr. Egan explained that the legal issue regarding compensation was regarding 'misfeasance in public office', whereby Council Officers may have misused powers against individuals.

As the compensation claim currently is in £1million it would require it to be tried in the High Court, which would be both costly and timely with the case to take at least one year. An alternative would be to use Alternative Dispute Resolution (ADR), which could include arbitration, where an independent arbitrator would arbitrate the claim.

The advantage of arbitration is that it is much cheaper and speedier in delivering a decision. The disadvantage is that both parties must fully consent to the process and accept the result, with no appeal except on the basis of an error of law or serious procedural inequity.

Mediation is another ADR method, whereby an independent person agreed to by both parties find the middle ground and do not apportion blame. The difficulty is that mediation is normally used for smaller cases involving small claims of money.

Mr. Egan commented that Mr. Stevenson's lawyers are still quantifying the claim, which could be over or under £1million.

The Meeting Closed at 9.30pm

CHAIR:

DATED: