



MINUTES of the OPEN section of the meeting of the SPECIAL OVERVIEW and SCRUTINY Committee held on THURSDAY 20th MAY 2004 at 7.00PM. at SOUTHWARK TOWN HALL, PECKHAM ROAD, LONDON SE5 8UB

PRESENT: Councillor Kim HUMPHREYS (Chair)
Councillors Linda MANCHESTER, Andy SIMMONS, William KAYADA,
Lisa RAJAN and Stephen FLANNERY

OTHER MEMBERS: Cllr Jonathan Hunt
Cllr Dr Abdur Rahman Olayiwola

OFFICER SUPPORT: Shelley Burke - Head of Overview & Scrutiny
Stephanie Dunstan – Scrutiny Project Manager
John East – Interim Manager Planning
Glen Egan – Assistant Borough Solicitor
Paul Evans – Strategic Director Regeneration
Debbi Gooch – Legal Team
Carina Kane – Scrutiny Project Manager
Sarah Naylor- Assistant Chief Executive

ALSO PRESENT: Patrick Anderson – Black Planners Network
Graham Beck – Independent Planning Consultant
Chanel Leoni Harris
John Paul Hoaral
Lucia Hinton – Black Awareness Group
Martin Huckerby
Kyla O’Riordan
Floyd Stevenson – Black Awareness Group
Raymond Stevenson – Black Awareness Group

APOLOGIES FOR ABSENCE

None received.

NOTIFICATION OF ANY OTHER ITEMS WHICH THE CHAIR DEEMED URGENT

There were 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 were 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 was 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 7.50pm.

MINUTES: A draft version of the Minutes of 13th May 2004 was distributed at the meeting. A copy of these minutes will be dispatched in the next agenda papers.

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

- 1.1 The Vice- Chair [Cllr Manchester] told the Committee that she had been told that the Chair of Overview and Scrutiny [Cllr Humphreys] would be arriving late and she had been asked to open the meeting. She proposed to open the meeting and adjourn it until Cllr Humphreys arrived.
- 1.2 Labour members objected to this proposal. The Vice Chair formally put the motion for adjournment to the meeting and it was upheld.
- 1.3 The Chair [Cllr Humphreys] arrived at 7.50pm and opened the meeting. The Chair apologised for being late.
- 1.4 The Chair asked officers to distribute 6 reports that had not been distributed with the agenda papers.
 - Information Report: The Committee members who considered the Imperial Gardens and Fairview New Homes Planning Applications;
 - Summary of Proposed responses to Audit Commission report on award of Planning Permissions at 295-297 Camberwell New Road and 299 Camberwell New Road in light of Overview and Scrutiny Committee's consideration of further work and information;
 - Information on Planning Consultation on Railway Arches in Camberwell;
 - A letter from Webster Dixon Solicitors to OSC;
 - Copies of Noise Abatement Orders served on Imperial Gardens;
 - Planning Information for Application Number 03-AP-1643;
- 1.5 The Chair then invited Mr. Graham Beck [Independent Planning Consultant] to report to the Committee.
- 1.6 Mr. Beck gave a summary of his report as presented in the Agenda Supplemental No. 1 [pg.1-20], and followed the headings in his report when presenting to the Committee.
- 1.7 **Methodology: [p.4]**

- 1.8 Mr. Beck explained that he had used the Audit Commission web site to select 'best practice' planning authorities, settling on London Borough of Camden and Portsmouth City Council to compare with Southwark Council.
- 1.9 **Member Training on Planning Issues: [p.5-7]**
- 1.10 Mr. Beck explained that Member training programs for each borough varied considerably, even amongst the Councils recognised as 'Best Practice'.
- 1.11 He explained that London Borough of Camden appeared to have the best Member Training programme requiring the Chair of the Planning Committee to attend the Royal Town Planning Institute 'Summer School'. Camden also monitor their member training.
- 1.12 Mr. Beck also felt that Portsmouth's 'Washup Sessions' should be incorporated in Southwark's Member Training. 'Washup Sessions' were feedback sessions conducted the planning committee had met to discuss any issues that had arisen during the meeting that Members had difficulty understanding or needed clarification. Mr. Beck commented that Portsmouth was the only Council he knew that used these sessions, making it an integral part of Planning Committee meetings.
- 1.13 **Consultation Mechanisms and processes & Consultation Areas: [p.7-9]**
- 1.14 On the issue of consultation, Mr. Beck highlighted that although Councils may have good consultation policies in place it was essential that these policies were being implemented effectively and monitored to ensure the system was working.
- 1.15 He commented that the London Borough of Camden appeared to have a system where there was a culture on accountability, transparency of decision making as well as striving for excellence.
- 1.16 He highlighted that London Borough of Camden used a number of different 'layers' of consultation techniques, including sending initial letters encouraging people to inform their neighbours and to get them involved in the consultation process. They used site notices as well as advertising in the local newspapers. Additionally, they employed a staff member to ensure that planning consultation was conducted with hard to reach groups.
- 1.17 He commented that all consultation records were kept on computer at London Borough of Camden and available to the public through the intranet. The case officer for each planning application was responsible for ensuring that consultation was taking place properly and for maintaining the files electronically.
- 1.18 Mr. Beck commented that at Camden a series of checks is carried out by another officer to ensure that consultation was being carried out appropriately. Camden also relied upon a GIS system, which was updated regularly.
- 1.19 Cllr Flannery & the Chair asked Mr. Beck how did the consultation procedures observed at Camden compare to consultation procedures at Southwark. Mr. Beck replied that he would be answering this question in another part of his presentation. (Refer to Paragraph 1.43)
- 1.20 Ms. Hinton asked Mr. Beck what he meant in section 4.12 of his report, and whether he agreed that the process of consultation Southwark Planning conducted in relation to Imperial Gardens was flawed. Mr. Beck replied that he had relied upon the evidence as written in the District Auditors report and had not been asked to review what the District Auditor had discovered.

- 1.21 Mr. Stevenson asked Mr. Beck whether Camden Council imported consultation lists from other planning applications. Mr. Beck replied that they did import lists, but these were always updated to ensure accuracy for the specific planning application.
- 1.22 Ms. Hinton commented that Southwark Planning Department appeared to have best practice in consultation, however the problem was that in the case of Imperial Gardens these were not carried out. Mr. Stevenson asked Mr. Beck if Southwark would be considered 'best practice' in terms of consultation on planning applications. Mr. Beck replied that if Southwark had its systems in place, then yes it would appear to be best practice. Mr. Stevenson stated that the situation would be the same in ten years time, and that someone needed to examine why policies were not being implemented effectively.
- 1.23 The Chair asked Mr. Beck whether moving to a computer based filing system would create improvements. Mr. Beck replied that it was important to remember that when planning departments made the transition from a paper based filing system to computer based, there were enormous risks and mistakes could occur. Once the computer system was established, it appeared to work for Camden Council as there was less room for human error. However computers could make mistakes.
- 1.24 Mr. Stevenson commented that a computer would not have solved the problems with consultation in regard to Imperial Gardens and that the main issue, as established in the District Auditor's report, was intentional fraudulent altering of documents.
- 1.25 Cllr Flannery asked whether consultation lists were transferred between planning applications at both Camden and Portsmouth. Mr. Beck responded that both Camden and Portsmouth transfer their consultation lists.
- 1.26 **Staff Handover Procedures: [pg 11- 13]**
- 1.27 Mr. Beck informed the Committee that both Camden and Portsmouth Councils, when questioned on the issue of Staff Handover Procedures, felt that if their files were kept up to date then any new person should be able to pick up the file and work. He commented that both Councils appeared to have a culture of assisting new staff and striving towards excellence. In difficult cases hand-over meetings would take place.
- 1.28 **Pre-Planning application procedures:**
- 1.29 Mr. Beck commented that Camden encouraged developers to conduct pre-application consultation, but they as a Council did not participate in this pre-application consultation.
- 1.30 With regard to confidentiality of information, Mr. Beck said that Camden encouraged developers to be very transparent and any confidential information that Camden kept was filed on a separate 'confidential' file.
- 1.31 With regard to what was contained on the 'planning register', both Camden and Portsmouth had interpreted the legislation similarly, believing in an open, transparent approach. Mr. Beck commented that staff often found it difficult to determine when to declare an interest in a specific planning application.

- 1.32 Cllr Rajan asked if there was any guidance for staff at either Camden or Portsmouth as to what constitutes an interest that should be declared. Mr. Beck replied that different authorities used individual criteria as to what constitutes an interest and that he had never come across a council with precisely the same criteria. Councillor Kayada suggested that planning officers should register any interests they may have in cases prior to work being allocated to them.
- 1.33 Ms. Hinton asked Mr. Beck if he thought an interest should be declared by officers – stating that in the case of Imperial Gardens planning application, the officer was friends with the Director of Fairview Homes. Mr. Beck replied that in the previous authorities where he worked no planning officer was allowed to accept any hospitality from developers.
- 1.34 Mr. Stevenson asked whether Mr. Beck thought it was appropriate that planning officers, in the case of Imperial Gardens, were giving advice that went against the Unitary Development Plan [UDP]. Mr. Beck replied that he did not think it was appropriate. The Chair commented it was not good practice for planning officers to give advice that went against the UDP, but that the Committee could not discuss disciplinary issues.
- 1.35 Cllr Simmons asked whether Officers had to declare interests in the same way that Members declared interests, and whether this information was made public. Mr. Beck replied that normally it varied between senior and junior officers, with more need to declare at a senior level. Mr. Beck commented that at the last authority where he worked, the staff interests were kept on personnel files and not made public. Ms. Naylor added that she thought officers had to make the same declarations as members, and that this information was not public but held on private personnel files. Mr. John East told the Committee that his department had recommended that a register be made for Southwark planning officers, including requirements for junior officers.
- 1.36 Mr. Anderson asked Mr. Beck whether he had found out anything regarding best practice in implementing the Racial Equalities Amendment Act in planning departments. Mr. Beck replied that this had not been part of his remit for work, but he was happy to comment. He said that in his opinion, local authorities had been traditionally strong at implementing equal opportunity policies.
- 1.37 **File Management: [pg. 13]**
- 1.38 Mr. Beck said that both Camden and Portsmouth Councils had different filing systems, but both ensured that each individual planning file was kept up to date. He added that because of the volume of information, most Council records only went back ten years.
- 1.39 **Quality Control: [pg. 14]**
- 1.40 Mr. Beck commented that with regard to quality it was important to examine the whole system, examining both the product and the service. Both Camden and Portsmouth felt that if the quality of the service was best practice, then it followed that the quality of the product would be best practice.
- 1.41 Mr. Stevenson asked whether these best practice councils had a system in place for addressing complaints. Mr. Beck explained that at his previous employment the Council used a Chief Officer from another department to investigate the complaint that was occurring, but that it had not been within his remit to investigate this.
- 1.42 **Spot Checking of Files:**

- 1.43 Mr. Beck explained that as was resolved by Overview and Scrutiny Committee [13th May 2004], he had examined five 'live' planning applications to assess if best practice was occurring. He commented that he would report verbally to the Committee, but that this information would be included in his final report to the Committee.
- 1.44 The Chair informed the Committee of the process by which Mr. Beck had been directed to the 'live' planning applications. He explained that he, with Ms. Burke, selected the twelve 'live' planning applications that were about to be considered by Members. Of these twelve, two were removed as they were being considered by Dulwich Community Councils. The Chair then aimed to select planning applications that had a commercial element, including two planning applications for pubs that were changing in use.
- 1.45 Mr. Beck's overall observation of the paper files was that it took a little time to understand how the paper filing system worked, and how it might interact with the electronic filing system. His other observations were:
- Files did not contain notes of any meetings;
 - Files did not contain records of any telephone conversations;
 - One of the files did not have any notes of site meetings;
 - Files demonstrated that every single consultation response had been responded to which was positive, and even returned post had been kept of file which was positive;
 - One file had a reference to 'see previous consultees', but he could not see where this information was listed and appeared to rely on what happened in a previous application;
 - Committee reports were very thorough, with case officers always named and the responsible senior officer;
 - All site notices and advertising were placed on file;
 - The 'Planning Application Worksheet' was filled in correctly, but the bottom half of this form could be used to record notes.
- 1.46 The Chair asked Mr. Beck whether it was surprising that the files did not contain notes of any meetings. Mr. Beck replied that it was.
- 1.47 Mr. Stevenson commented that the problem was that when Southwark wanted thorough consultation it occurred, but when they wanted it to fail they make it fail. Mr. Stevenson gave an example where consultation had occurred three times for one planning application.
- 1.48 The Chair asked Mr. Beck if consulting three times on one planning application was normal. Mr. Beck commented that it might be normal, depending upon the circumstances.
- 1.1.1 **Presentation: Mr. John East**
- 1.1.2 The Chair asked Mr. John East to respond to the presentation by Mr. Beck.
- 1.1.3 Mr. East commented that with regard to talking notes of meetings and telephone conversations, the culture of the planning department had been to not record these activities. However he was encouraging a change in this practice.
- 1.1.4 With regard to the one file included in the spot check that had a reference to 'see previous consultees', Mr. East could confirm that full consultation had occurred. He also commented that since the District Auditor's report the working practice to refer to different files had been stopped.

- 1.1.5 Mr. East welcomed Mr. Beck's suggestion that the 'Planning Application Worksheet' could be used more effectively to record notes, as the standard practice was not to use it for this purpose. He also commented that the Council would be changing its traditional site based filing system to an application based filing system.
- 1.1.6 The Chair asked Mr. East how they would deal with the issue of site history in a new filing system. Mr. East responded that the new filing system would not lose the site history, but with new planning applications being filed on an application based system rather than site based.
- 1.1.7 Cllr. Kayada asked if spot-checking on files could occur. Mr. East responded that it would be a good idea to do this.
- 1.1.8 Mr. Stevenson commented that he thought the Southwark Planning department filing system worked well, was easy to understand and all information available on file. For him, the issue was not about creating a better system or processes but addressing the fraudulent acts of staff.
- 1.1.9 **Equalities Impact Assessment & Monitoring:**
- 1.1.10 Mr. Beck reported to the Committee that Camden did not do any ethnic monitoring of planning applications, but was still considered 'best practice'.
- 1.1.11 Mr. Beck reported that Portsmouth used to send out a questionnaire to consultees/developers to assess if planning process had been fair, and that this questionnaire had included ethnic monitoring data to see if any trends were occurring. However, Portsmouth stopped the questionnaire due to lack of response. Currently Portsmouth have integrated ethnic monitoring into its customer care programme.
- 1.1.12 Mr. Beck also supplied information about Southampton Council that had done research with Warwick University on the issue of race and ethnicity, but that over time no trends were evident.
- 1.1.13 Mr. Stevenson asked Mr. Beck what he thought was the ethnic make up within Southampton. Mr. Beck replied he thought it would be 5-6% ethnic make up of population.
- 1.1.14 Mr. Anderson asked Mr. Beck if he was aware of a study completed in 1997, which contradicted the study Mr. Beck had quoted by Warwick University. Mr. Beck replied that he was not aware of this study.

RESOLUTION:

- 1.1.15 1. That Mr. Beck establishes what complaints mechanisms the London Borough of Camden and Portsmouth had.
- 1.1.16 2. That Mr. Beck establishes if Southampton Council currently did any ethnic monitoring.

Mr Martin Huckerby

- 1.2.1 The Chair invited Mr. Martin Huckerby to speak. Mr. Huckerby started by stating that he did not believe the planning processes in the Council were relevant to the scrutiny. He said there were a number of inaccuracies in the planning report, for example the height of the neighbouring buildings had been overstated.

- 1.2.2 Mr. Huckerby said he had become convinced that the situation was wrong-doing rather than error. While he had been consulted about the Fairview New Homes planning application, he was unhappy to discover that the nightclub and the only other business in the area were not consulted. He had written letters to the Council, and eventually an independent advisor had been appointed by the Leader.
- 1.2.3 Mr. Huckerby raised the following concerns:
- that no officers had noticed any of the several entrances into the Imperial Gardens Nightclub when they conducted site visits;
 - that the developers had spent £2.2m to buy the land, even though there had been no guarantee that housing could be built there;
 - That the noise abatement orders had been served on Imperial Gardens after the wall had been knocked down by the developers.
- 1.2.4 The Chair noted that there had been evidence that noise abatement orders had been issued prior to the wall getting knocked down.
- 1.2.5 In terms of the cost of the land, Mr. Stevenson said that they had been told by Pendragon that the land was worth £350,000 when they had enquired about it for use as car parking for the nightclub. The developers had paid £2.1m for it.
- 1.2.6 Mr. Stevenson added that surely if the Council had served Imperial Gardens with noise abatement orders, they would have known of their existence for consultation purposes.
- 1.3.1 **Councillor Jonathan Hunt**
- 1.3.2 Councillor Jonathan Hunt was invited to speak by the Chair. Cllr. Hunt said he had drawn up issues to which he believed the Committee should be seeking answers. He predicted that the situation had potential to become high profile within local government, and represented a serious act of injustice.
- 1.3.3 Cllr. Hunt raised the following issues that he found concerning:
- Land zoned for commercial purposes, worth £350,000, had changed hands for £2.1m by Fairview New Homes (FNH) without guarantee of changing use for residential purposes;
 - Viability of FNH due to behaviour such as overbuilding and giving up football hospitality boxes prior to the season end;
 - Sound insulation standards in reports provided by FNH consultants for planning purposes were later shown to be unsuitable by independent consultants due to the proximity of the development to the railway line;
 - Camberwell Afterschool Project in Medlar Street had also not been consulted and had complained in August 2002 about the potential for people to overlook children in the school yard, and loss of light;
 - The owner of the scrap-yard on Medlar Street had been told by the Council that the land was contaminated and therefore unsuitable for building on (evidenced in the Sainsbury's document);
 - The undercover raids on Imperial Gardens were motivated to revoke their liquor licence
 - Mr. Stevenson and Ms. Hinton had been offered £500,000 compensation by Mr. Bob Coomber (Assistant Chief Executive) and Councillor Stanton prior to their deputation;

- 1.3.4 Mr. Stevenson added that he believed the District Auditor's enquiry had been deliberately extended because the Council knew that Imperial Gardens was having financial difficulties. The report had been released one month after the company went into liquidation.
- 1.3.5 Cllr. Hunt contended that high quality legal advice was needed to address issues such as who the claimant actually was and to quantify the claim. He suggested the committee establish how much the claimants should be advanced from compensation for this advice.
- 1.3.6 Mr. Egan explained the point where the legal process had reached. Parties had agreed to ask the Bar Council to nominate an adjudicator at the Council's expense. There will be a meeting on Monday between solicitors from the two parties to go through the documentation. This meeting had been scheduled for the previous week but the documents had not been available. The documents had originally been requested 2-3 weeks ago, but additional information had been requested.
- 1.3.7 The Chair asked officers for a detailed timetable of legal requests for information since the first decision.
- 1.3.8 Cllr. Hunt raised the issue about the role of Railtrack and queried whether it should also be liable for losses. Mr. Stevenson referred to previous agenda papers which said that Harriet Harman MP also did not know about the existence of the Camberwell Train Station. Cllr. Simmons clarified that Ms. Harman MP did know about the station but had thought the location was on Station Road. Mr. Stevenson contended that Harriet Harman MP had also been misled.
- 1.3.9 Cllr. Hunt also asked whether there were grounds for institutional racism and referred to breaches of the Race Relations Act. He offered to provide evidence to the committee but Mr. Stevenson said that he held the document and it could not be disclosed. Mr. Stevenson argued that discussion of institutional racism was not relevant to the current forum, there were more appropriate forums for it to be raised. Cllr. Hunt also made mention of the Black Planners Network's claim of 9 cases where officers had left the planning department for discrimination, in some cases taking the Council to tribunals.
- 1.3.10 Cllr Hunt also queried whether action was being taken to determine whether whistleblowing allegations that £750,000 had been misallocated to Railtrack were well-founded.
- 1.3.11 In his summary, Cllr Hunt suggested the Council:
- accept the District Auditor's report and its findings;
 - accept the guidance about how much to advance for legal costs;
 - arrange a meeting to negotiate settlement at an early date.
- 1.3.12 Cllr Simmons said there were a number of interpretations of the situation: incompetence, corruption, racism or a mix of each. Cllr Hunt said that there was evidence of racism in the District Auditor's report and instances of council officers leaving because of discrimination. He could not say if it would have happened to a white nightclub. Mr. Stevenson said that it was an important question but not how racism was judged anymore – better to look at businesses like Imperial Gardens.
- 1.3.13 Cllr Hunt suggested it was more appropriate to ask whether they received equal treatment from Council officers. Mr. Stevenson explained his view of what racism was, giving examples from his experiences. In reference to Councillor Simmons' question, Cllr Hunt said that it may not be corruption, but there was definitely incompetence. The Chair reminded the meeting not to jeopardise disciplinary proceedings.

1.3.14 **RESOLUTION:**

1. That Mr. Paul Evans provides a copy of the reports by FNH consultants regarding sound installation standards
2. The Cllr Hunt provides the dates on which meetings occurred between Southwark Chief Executive and Mr. Stevenson and Ms. Hinton discussing settlement.
3. That Mr. Glen Egan provides a detailed timetable of the legal requests for information regarding Imperial Gardens
4. That Mr. Paul Evans respond to Cllr Hunt's correspondence regarding Medlar St.

1.4.1 **Mr. Paul Evans**

1.4.2 The Chair invited Mr. Paul Evans [Strategic Director of Regeneration] to present evidence to the Committee. Mr. Evans submitted two papers to the Committee.

1.4.3 Mr. Evans commented on Mr. Graham Beck's presentation, stating that he thought the policies of Southwark Planning department would be considered best practice, but the implementation of the policies needed perfecting. He thought Southwark Planning department consultation policies were reasonable, having a similar methodology to Camden Council with Southwark soon to be implementing GIS technology. He commented that the 'wash up' procedures at Portsmouth would be useful to implement at Southwark Planning Committees, as would specifically tailoring consultation for hard to reach groups.

1.4.4 Mr. Evans commented that with regard to Racial Equalities issues, the Equalities Impact Assessment for the planning department had begun. He also commented that the planning UDP fits within the London Plan and therefore the Mayors Plan for Diversity.

1.4.5 Mr. Evans told the Committee that he would like to address the points raised in the Supplemental submission of the Black Planners Association that was presented to the Committee last week. The points below relate to the paragraph numbers presented in the Black Planner Association Supplemental Submission;

1.4.6 Paragraph 10: Mr. Evans pointed out that the information as presented in the sentence "...has stated whilst working at LB Southwark he took the Council to employment tribunal for race discrimination and was successful", was incorrect. There had been no successful employment tribunal based on race discrimination. Additionally, the sentence "He further stated that when he resigned from the Council he was asked at his exit interview why he was leaving and he told the interviewers that it was because of racism", was incorrect. Mr. Evans told the Committee that the notes of the exit interview indicate the concerns raised in the exit interview were Pay Scales, the lack of black managers in the department, and a comparison between the leaving employee's home country and the UK.

1.4.7 Paragraph 11: Mr. Evans also pointed out that the information as presented in paragraph 11 was incorrect. Mr. Evans told the Committee that there were six cases of employee complaints that had gone to tribunal, and none had been upheld. Only one of these cases dealt with staff that were in the Development Control department and only one involved a planner. One case involved an out of court settlement.

- 1.4.8 Mr. Stevenson stated to the Committee that he disagreed with much of what Mr. Evans had presented. He commented that Mr. Evans did not appear to understand what constituted racism, and provided his own definition of racism. In particular, Mr. Stevenson was concerned with the figures Mr. Evans presented regarding 'successful' employment tribunals and that Mr. Evans did not think the notes of the exit interview were regarding racism. Mr. Stevenson commented that he found it very difficult to understand that the Committee were not examining the issue of institutional racism.
- 1.4.9 The Chair commented that this scrutiny was not set up to examine the issues around institutional racism.
- 1.4.10 The Chair asked Mr. Evans whether it was possible to change zones within the UDP. Mr. Evans replied that it was a long, difficult process but could be done. He commented that often developers were prepared to take the financial risk that zones will change.
- 1.4.11 Mr. Stevenson commented that he did not believe Mr. Evans, as the financial risk was very high in the case of the Fairview Homes property (£2m). Mr. Stevenson stated that Fairview Homes would not have done this unless they had prior knowledge that they would be granted planning approval.
- 1.4.12 Mr. Evans disagreed, citing an example of a case s going to Planning Committee in the following week where the developers had a significant amount of money in invested (more than £2m) even though planning permission had not been granted.
- 1.4.13 **RESOLUTION:**
That Mr. Paul Evans submits detailed information regarding the outcomes from employment tribunals.
- 1.5.1 **Mr. Glen Egan Presentation: Assistant Borough Solicitor [pg. 263]**
- 1.5.2 The Chair invited the Assistant Borough Solicitor, Mr. Glen Egan, to present his report. Mr. Egan's recommendation to the committee, with regard to the method for compensation, was arbitration. The case was outlined in his report. He acknowledged that he had received a letter from Webster Dixon (Mr Stevenson and Ms Hinton's lawyers).
- 1.5.3 Councillor Andy Simmons asked Mr. Egan what he would recommend if arbitration was not supported. Mr. Egan responded that arbitration could only go ahead if both parties agree, other than that, court was the way to proceed. He would not recommend mediation.
- 1.5.4 Mr. Stevenson interjected and said that he was looking forward to having his day in court and there was no point in discussing arbitration. He commented that arbitration would suit the Council because only limited documents could be submitted to the arbitrator. He contended that the District Auditor's report showed that the Council was to blame and he did not agree with going to arbitration in order to decide whether to go to court.
- 1.5.5 Mr. Egan responded that the arbitrator would make the decision about the documents that would be provided, in agreement with both parties. The arbitrator's aim was to reach a fair decision carefully at minimum cost. Mr. Egan explained that in particular circumstances the arbitrator's decision could be appealed.

- 1.5.6 Mr. Stevenson and Ms. Hinton said they did not want arbitration or mediation, they wanted the Council to accept the blame and the District Auditor's report. The Chair sought clarification by asking if it would be acceptable to Mr. Stevenson if the Council accepted the District Auditor's report and apologised. Mr. Stevenson said that there was the monetary issue but this was simple: they were after money for the losses incurred.
- 1.5.7 The meeting then turned to the issue of the disciplinary hearings for the Senior Officers who had been suspended as a result of the District Auditor's report. Mr. Paul Evans briefly explained the disciplinary process and said that he expected the process to be completed in a couple of months. He did not think that Mr. Stevenson or Ms. Hinton would be invited to provide evidence, although they may be required to provide clarification if it was sought during the hearings.
- 1.5.8 Cllr. Simmons commented that if the Council had accepted the District Auditor's report in full, there needed to be a process of working out how much the Council owed (e.g. takings from business). Mr. Stevenson again stated that he did not want to use arbitration to prove his case and said that negotiated settlement, using accountants and solicitors would prove how much the business was worth.
- 1.5.9 The Chair explained the process by which the Council would respond to the District Auditor's report. The Council had noted the report but were concerned at its findings and had asked the Overview and Scrutiny Committee (OSC) to look into the issue, including the mechanism for compensation, and report back to full Council. Full Council would make a decision, OSC may only make recommendations. The Chair added that they had to be careful not to prejudice other enquiries.
- 1.5.10 Mr. Stevenson expressed frustration that he felt Southwark's legal team had seemed to be regurgitating the same reports for the 3-week duration of the scrutiny.
- 1.5.11 Councillor Billy Kayada said that he recognised Mr. Stevenson's concerns but was unsure why Mr. Stevenson was opposed to arbitration. Mr. Stevenson said arbitration was a limited process and the arbitrator was unlikely to recognise the complexity of the case. They had received legal advice against arbitration. Mr. Egan said he agreed that the identity of the arbitrator was crucial, as was the terms of reference for the arbitration.
- 1.5.12 The Chair asked Mr. Stevenson and Ms. Hinton what they wanted. Mr. Stevenson replied that they wanted the Council to:
- accept the District Auditor's report
 - accept the findings in the District Auditor's report
 - accept that they were responsible for the demise of Imperial Gardens.
- 1.5.13 The Chair asked whether the third point had been included in the District Auditor's report. Ms. Hinton said that it was, and quoted a sentence from the report: "deliberate and willful wrongdoing".
- 1.5.14 Cllr. Simmons suggested that it would be helpful to have Mr. Egan's thoughts and recommendations on the three points that Mr Stevenson had suggested. He also asked for Mr. Egan to respond to why he would or would not recommend a negotiated settlement approach.
- 1.5.15 Mr. Egan said that in respect of THK Entertainments Ltd. He had looked at the records at Companies House and that these showed that the company was trading at a loss.

- 1.5.16 Mr. Stevenson started directing accusations at Mr. Egan. The Chair warned Mr. Stevenson that unless he calmed down, the meeting would have to be adjourned. Mr. Stevenson continued to direct accusations at Mr. Egan.

The meeting closed at 12.27am.

CHAIR'S SIGNATURE:

DATED: