



MINUTES of the OPEN section of the meeting of the SPECIAL SCRUTINY SUB-COMMITTEE TO COMPLETE THE INQUIRY INTO AWARD OF PLANNING PERMISSION AT 295-297 CAMBERWELL NEW ROAD held on FRIDAY 2<sup>ND</sup> JULY 2004 at 7.30PM. at SOUTHWARK TOWN HALL, PECKHAM ROAD, LONDON SE5 8UB

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**PRESENT:** Councillor Kim HUMPHREYS (Chair)  
Councillors Linda MANCHESTER (Vice-Chair), Barrie HARGROVE, Andy SIMMONS, Billy KAYADA, and Lisa RAJAN

**OFFICER SUPPORT:** Chris Bull – Director of Social Services  
Shelley Burke – Head of Overview & Scrutiny  
John East – Interim Manager Planning  
Debbi Gooch – Senior Legal Officer  
Graeme Gordon – Corporate Strategy Officer  
Lucas Lundgren – Scrutiny Project Manager  
Sarah Naylor – Assistant Chief Executive [Performance & Strategy]  
Fitzroy Williams – Scrutiny Project officer

**ALSO PRESENT:** Patrick Anderson – Black Planners Network  
Nadia Djilali – P.A. to Southwark Labour Group  
Lucia Hinton – Black Awareness Group  
Martin Huckerby  
Paul Kaliso  
Councillor Abdul Mohamed  
Councillor Dr. Abdur Rahman Olayiwola  
Helen Randall – Nabarro Nathanson Solicitors  
James Snape – Nabarro Nathanson Solicitors  
Floyd Stevenson – Black Awareness Group  
Raymond Stevenson – Black Awareness Group  
Professor O. Siyde

**APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Stephen Flannery. Apologies for lateness were received from the Chair, Councillor Kim Humphreys.

**NOTIFICATION OF ANY OTHER ITEMS WHICH THE CHAIR DEEMED URGENT**

The Chair [Vice-Chair in the Chair] agreed to accept the following late items, which were not available for circulation with the main Agenda, i.e.

#### Supplemental Agenda no. 1:

- Draft scrutiny report
- Information on meetings/correspondence between Bob Coomber and the Commission for Racial Equality

#### Supplemental Agenda no. 2:

- Draft scrutiny report [*previously circulated*]
- Information on meetings/correspondence between Bob Coomber and the Commission for Racial Equality [*previously circulated*]
- Independent legal advice to OSC [Nabarro Nathanson]
- Draft response to District Auditor's report
- Additional information from Strategic Director of Regeneration – requested by Sub-Committee

#### Other late OPEN papers:

Comments received on draft Minutes

- Response from District Auditor to Chief Executive's request for clarification
- Open letters to OSC from Chief Executive & Cllr Nick Stanton and from Chief Executive in respect of CRE

Comments received on draft scrutiny report, i.e.

- Table of general comments received from Raymond Stevenson & Lucia Hinton
- Letter: Raymond Stevenson & Lucia Hinton to OSC – 2<sup>nd</sup> July 2004
- Email: Raymond Stevenson & Lucia Hinton to Shelley Burke – 1<sup>st</sup> July 2004
- Email: Martin Huckerby to Stephanie Dunstan – 1<sup>st</sup> July 2004
- Correspondence between Webster Dixon solicitors and Debbi Gooch/Deborah Holmes – 5<sup>th</sup> April, 1<sup>st</sup> & 2<sup>nd</sup> July 2004

#### Late CLOSED paper:

- Letter: Raymond Stevenson & Lucia Hinton to Shelley Burke - 30<sup>th</sup> June 2004  
[Comments received on Nabarro Nathansons legal advice report]

### **DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were no disclosures made nor interests declared.

### **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.

Councillor Humphreys having sent apologies for lateness, the Vice-Chair took the Chair and opened the meeting.

At 7.45 p.m. it was proposed, seconded and

**RESOLVED:** That the meeting stand adjourned for ten minutes to enable all present to read late submitted papers.

At 7.55 p.m. the meeting reconvened with Councillor Manchester [Vice-Chair] in the Chair.

At 8.05 p.m. Councillor Humphreys arrived and it was proposed, seconded and

**RESOLVED:** That the meeting stand adjourned for a further five minutes.

At 8.10 p.m. the meeting reconvened with Councillor Humphreys in the Chair.

### **MINUTES:**

The Chair invited Members to consider the draft Minutes of the meetings of OSC on 13<sup>th</sup> & 20<sup>th</sup> May 2004.

- RESOLVED:**
1. The Minutes of the open meeting of OSC held on 13<sup>th</sup> May 2004 were agreed as a correct record and signed by the Chair.
  2. The Minutes of the open meeting of OSC held on 20<sup>th</sup> May 2004 were agreed as a correct record, subject to the following amendments, i.e.

**Para 1.32:**

Add following sentence to end of paragraph, i.e. *“Councillor Kayada suggested that planning officers should register any interests they may have in cases prior to work being allocated to them”.*

**Para 1.38:**

Add following sentence at end of paragraph, i.e. *“Members were advised that Portsmouth Council operates an effective paper-based system”.*

**Para 1.48:**

Add following sentence at end of paragraph, i.e. *“In response to a direct question from Raymond Stevenson, Graham Beck commented that in all his experience he had not seen or heard of a case in which procedures had collapsed in the way they appeared to have done at Southwark”.*

**Para 1.5.15:**

Replace previous paragraph with *“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”.*

Raymond Stevenson advised Members that he had come from the meeting having spent five hours that afternoon being interviewed by the Police in respect of assault allegations being brought by the Council against him. He advised that he would be taking action against the Council on this matter.

The Chair advised the meeting that correspondence received from Raymond Stevenson relating to this matter, together with advice on this correspondence from Nabarro Nathanson's would be considered later in the meeting in closed session. Councillor Dr. Abdur Rahman Olayiwola stated that he believed he was able to demonstrate a "right to know" and to be allowed to stay for consideration of this matter in closed session.

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

Councillor Simmons asked whether information in response to outstanding matters raised requested at previous meetings had yet been received, namely:

- (a) a reply from Network Rail to the Council's invitation to comment;
- (b) an update on the timescale for completion of disciplinary proceedings against Council officers; and
- (c) an officer response to allegations that officer Roy Turner misled Raymond Stevenson and Lucia Hinton.

In respect of (a), the Head of Overview & Scrutiny confirmed that to date no reply had been received from Network Rail to OSC's request of 25<sup>th</sup> June 2004 for comments. In respect of (b) no answer was yet available. In respect of (c) John East confirmed that a meeting with Roy Turner had been requested and a response would subsequently be given to OSC.

In respect of whether tenants of the Arches were consulted, John East responded that in respect of the application made in 2001 in respect of 39-59 Brayards Road, the occupiers of the Arches were not consulted as it was felt they were not significantly affected.

**RESOLVED:** That John East provide information for OSC about why occupiers of the Arches had not been consulted in respect of planning application for 39-59 Brayards Road.

Councillor Simmons felt this to be another example of a situation in which the Council did not notify business occupiers in the Arches, although he believed that legally this should have been done. Consultation on the application for 44-75 Consort Road made in 2004 had been undertaken with occupiers of the Arches, however.

Discussion ensued about additional comments submitted by Paul Evans in response to points raised at the meetings of 13<sup>th</sup> and 20<sup>th</sup> May 2004, specifically the paragraph dealing with whether there had been inconsistency of or change in approach between the Fairview and Imperial Gardens applications. Raymond Stevenson stated that Paul Evan's explanation contradicted Council policy in that he had been advised at the time that the Council's formula had been to be "cautious", but to nonetheless oppose the application. When Imperial Gardens nightclub moved to the Arches the site was classified as a commercial zone. Southwark needed to be consistent in approach. The Chair asked officers whether advancements in technology had given rise to any change in approach. Raymond Stevenson noted that noise limitation measures had been around for at least twenty years, and asked the Chair to accept that there had been inconsistency of approach. The proximity of the development would mean that noise readings would be taken only 2 metres from the front door of the club. The Chair said it was hard to understand how approval was given for flats being built so close to the club, and stated that he did not believe this to have been a good planning decision.

In respect of the difference in approach between 1996 and 2004, John East responded that by 2002 the Council had experience of the operation of IGN for seven years. The Noise Team reportedly had made no objection to IGN's continued operation but did recommend noise limiting devices. He noted that in 1995 IGN had carried out its own noise measurement exercise. RS confirmed that between 1996-2004 Noise Abatement Orders had been served on the club by the Council, and also stated that John East's comments were inconsistent with themselves. He quoted directly from the DA report references to failures in the decision-making processes in relation to both planning applications [DA report, page 4].

Councillor Simmons noted that previous discussion had been about whether noise insulation standards were the same in older and newer buildings, and asked officers whether there had been any advancement in respect of sound insulation ? Raymond Stevenson responded that there had not been.

Councillor Kayada believed that if the comments discussed were included in the scrutiny report, then comments from Raymond Stevenson and Lucia Hinton should also be included.

Councillor Simmons then asked the Chair whether the meeting might discuss correspondence allegedly sent by Andy Cook to Paul Evans in closed session. The Chair acknowledged that Andy Cook had written to him and Paul Evans offering to attend scrutiny to give evidence to the inquiry, and making other comments in relation to the situation giving rise to the current inquiry. He stated that it was made very clear to Mr Cook that approaching officers and Members on this matter was inappropriate, and that he had personally had no contact nor correspondence with Andy Cook on this matter. The Chair stated that the issues raised by Andy Cook represented Mr Cook's interpretation of the situation only.

Raymond Stevenson asked why he had not been advised of this contact by Andy Cook, and asked how he could now be sure that additional evidence had not been given to Paul Evans by Andy Cook. He believed that Andy Cook might have prompted other officers.

John East confirmed that Andy Cook had written to Paul Evans on two occasions. Neither of which letters reportedly received a response, following which Mr Cook then wrote to Councillor Humphreys. Finally, Paul Evans [with input from Human Resources] wrote to Andy Cook advising him that it was not appropriate for him to attend the inquiry. John East had not had sight of Mr Cook's letter however. Councillor Kayada also confirmed that he had received a letter from Mr Cook.

**RESOLVED:** That Raymond Stevenson be provided with copies of correspondence from Mr Andy Cook to Councillor Humphreys and Paul Evans.

At 9.05 p.m. it was proposed, seconded and

**RESOLVED:** That the meeting stand adjourned for two minutes.

At 9.25 p.m. the meeting reconvened.

Raymond Stevenson and Lucia Hinton stated that they had not expected this matter to be raised at the meeting and had no legal representation present. They felt that their legal representatives should have been advised of Mr Andy Cook's approach to Council officers and Members, and also asked whether the DA had been advised of the letters.

Helen Randall [Nabarro Nathanson] advised that correspondence from Mr Andy Cook was not a relevant consideration, being neither relevant to the Sub-Committee, nor appropriate for circulation to those beyond the original recipients.

Raymond Stevenson stated that if that was the advice then the meeting ended at this point for himself and Lucia Hinton. They felt that they should have been advised that Mr Cook was trying to give his opinion to officers. The disciplinary and scrutiny processes were running parallel to each other and the fact that Mr Cook had written to officers left doubt in Raymond Stevenson and Lucia Hinton's minds about whether officers had corresponded with Mr Cook or colluded with him in some way. Mr Stevenson was happy to make the existence of this correspondence known to the press, he stated.

The Chair stated that he felt the fact that Andy Cook had contacted Members and officers had no impact on the scrutiny report, and noted that in any case it was not helpful to Mr Cook's disciplinary proceedings for him to make approaches to either officers or Members in this way.

**RESOLVED:** That Members disregard paragraph 2, page 94 of the Agenda.

#### **EXCLUSION OF PRESS AND PUBLIC**

At 9.45 p.m. it was proposed, seconded and

**RESOLVED:** That the public be excluded from the meeting for consideration of business on the grounds that it involves the likely disclosure of exempt information that falls within category 12 as defined in paragraph 10.4 of the Council's Access to Information Procedure Rules.

The meeting went into closed session to discuss correspondence received from Raymond Stevenson and Lucia Hinton [dated 30<sup>th</sup> June 2004] and legal advice on consideration of this letter from Nabarro Nathansons. Following consideration of this matter, at 10.03 p.m. it was proposed, seconded and

**RESOLVED:** That the meeting return to open session.

Discussion arose in respect of the Executive Summary [page 3, paragraph 5 of the report], in particular the sentence *“There appears to have been a disconnect between those officers responsible for developing the scheme, in partnership with Railtrack, and officers processing planning applications in the area”*, with which Raymond Stevenson took particular issue as he maintained collusion was indicated in the DA report. The Chair explained that the report intended to refer to what appeared to be silo operation within the regeneration department involving failure of units/parties to communicate with each other. The Chair advised that the Executive Summary section reflected the content of the main sections of the report, and that it would be more productive to return to it once full discussion of the relevant report sections had been undertaken, specifically section 3 “Camberwell train station” to which this paragraph within the Executive Summary referred.

In respect of Member training, John East confirmed that two sessions had been arranged on Wednesday 30<sup>th</sup> June 2004, with all Members being invited to attend, but turnout being very low. A comprehensive training programme for Members was being developed, and this would include looking at why attendance had been so poor, and the issue of whether Members could be compelled to attend. It was important that the continued operation of the planning function was not halted due to training or lack of.

In respect of section 4 : Institutional Racism, paragraph 8 [pages 24-25 of the Agenda], the Chair reminded Members that whilst those matters referred to in the District Audit report were in the public domain, the actual content of named officers’ exit interviews was not. It was acknowledged that communication between the Council and the Commission for Racial Equality had been with various officers within that organization and that this may have led to slightly differing perspectives being given on the situation.

Mr Huckerby stated that in respect of the draft scrutiny report he was concerned that as it stood it risked giving the impression that only Council officers actions had led to the situation giving rise to the DA and LO reports, when in fact Members were also responsible for part of the situation, in particular where change of land use was involved. Delivery of any solutions to developers seeking change of land use must be effected by Members and not officers. John East confirmed that such change of use would have required notification to the [then] Department for Environment, Transport and the Regions – now the Office for the Deputy Prime Minister [ODPM], within whose power it was to call any such request in.

The Chair reminded those present of the constraints on discussion of Member conduct, a matter properly for the Standards Board for England.

Councillor Simmons suggested that the report in its entirety did not perhaps answer the large questions, and suggested that in respect of the report the Committee consider recommending:

- That work be carried out looking at the way in which equalities monitoring is carried out corporately and whether the information and statistics are being gathered to facilitate the production of reports necessary to address allegations relating to equalities performance. Councillor Simmons noted previous Council work to improve on IT systems;
- The report should be more explicit about what the next steps are in this process [i.e. whether this may be taken to the Commission for Racial Equality, or other remaining avenues for resolution];
- That a copy of this scrutiny report once it has been finalised by Full Council, be sent to the CRE and this body be invited to consider the report and make a response.

Councillor Kayada agreed that the Council needed to demonstrate how it has learned from this situation.

Members considered the draft scrutiny report as circulated at Agenda pages 1-71 and resolved

**RESOLVED:** 1. That the following changes and amendments be made to the draft scrutiny report as circulated at Agenda pages 1-71, and the revised version be circulated for consideration at the next meeting.

Throughout the report references to the “directors” should read “directors of THK Entertainments Ltd”, meaning Raymond Stevenson, Lucia Hinton and Michael Taylor.

### **Executive Summary**

#### **“Strategic Director’s Action Plan”**

Add the following new paragraph, i.e.

*“Overview & Scrutiny Committee will conduct its own follow-up review, which will:*

- a) act as an extra layer of challenge to the authority’s existing Equalities Impact Assessment process;*
- b) involve receiving the District Auditor’s follow-up report and undertaking further scrutiny at that time;*
- c) provide an opportunity for OSC to examine certain issues which cannot be examined during the current scrutiny review;*
- d) enable OSC to look at the planning department’s overall performance”.*

#### **“Strategic Director’s Action Plan” paragraph 2**

Add the following sentence at end of paragraph, i.e.

*“However, this was the timescale set by both Council Assembly and that required in law in respect of the District Audit report. It would have been preferable to have completed this scrutiny report on conclusion of staff disciplinary proceedings, and also for these to be concluded more swiftly”.*

#### **“Camberwell Train Station” paragraph 1**

Amend last sentence to read *“The documentation directors of THK Entertainments Ltd obtained from Southwark Council, [rest of sentence as before]”*

Add the following new paragraph entitled **“Corporate Governance”**, i.e.



- *“The Council as a whole, including elected Members, should accept its own share of responsibility for the events that have led to the DA and LO’s reports.*
- *Training of Members for the planning function should be sufficiently rigorous to ensure that the necessary competencies are achieved and applied.*
- *Committee recommends that the issue of compulsion for Member training be investigated”.*

Add the following new paragraph entitled “Small Businesses”, i.e.

- *“The Committee heard evidence provided during the scrutiny that Southwark Council’s actions, especially in respect of delays to THK’s planning application, affected the company’s position in terms of its ability to secure long-term finance. The Council should be mindful of the impact of its actions on small businesses.*
- *The Committee will ask Regeneration & Resources Scrutiny Sub-Committee to carry out work on the way in which the authority deals with small businesses.*
- *The Committee asks the Executive to investigate ways to expedite the planning process and look at ways in which the interests of small businesses are not prejudiced by the planning process”.*

### **Introduction [report page 6]**

Paragraph 7, second sentence amended to read:

*“...with many members of the public attending to show support for the directors of THK Entertainments Ltd and greatly assisted the Council in identifying the key issues needing to be addressed”..[remainder of sentence unchanged]*

### **Scrutiny – Evidence [report page 8]**

List of individuals who gave evidence to be amended as follows:

“John Durbin” should read “*Jon Durbin*”

“*Patrick Anderson – Black Planners Network*” to be included in list

Correct title for Lee Jasper is “*Policy Director [Equalities & Policing], Mayor’s Office - Greater London Authority*”

“Lois Act” should read “*Lois Acton*”

### **Background information – Local Government Ombudsman Report [report page 9-10]**

Officers to confirm the position as to whether the Local Government Ombudsman in his investigation of complaints may consider historical information reaching back over 12 months prior to the complaint date.

### **Background information – Imperial Gardens Nightclub [report page 11]**

Second paragraph to be amended to read:

*“The directors of THK Entertainments Ltd stated during the scrutiny process that they wanted the Council, assisted through the scrutiny process, to:*

- *Accept the Audit Commission report;*
- *Accept all the findings in the Audit Commission report;*
- *Accept that the Council’s actions were either reckless, deliberate or wilful and led to the demise of Imperial Gardens”.*

### **1. Southwark Planning Procedures, Policy and Practice**

Recommendation 4 – paragraph 2: Add following sentence at end of paragraph, i.e. *“It is recommended that occupiers are sent consultation letters, in line with Southwark procedure”.*

Recommendation 6 – paragraph 1: Start the paragraph with following new sentence, i.e. *“The Committee suggests that planning officers register any interests they may have in cases prior to work being allocated to them”.*

Under heading “Training for Members in planning issues was inadequate...” – paragraph 1: second sentence amended to read: *“The department will develop a comprehensive training programme for Members in conjunction with Members services and review whether this training be made compulsory for Members considering planning applications”.*

Under heading “Training for Members in planning issues was inadequate....” – add new final paragraph: *“The Committee recommends that Member training for the planning function must be sufficiently rigorous to ensure that the necessary competencies are achieved and to enable sufficient understanding of their application”.*

Under heading 1.2.2 Independent Planning Expert, paragraph 2: include reference to Portsmouth Council operating an effective paper-based system.

Under heading 1.2.2 Independent Planning Expert: include comments by Graham Beck in response to questioning by Raymond Stevenson that in all his experience he had not seen nor heard of a case in which procedures had collapsed in the way they appeared to have done at Southwark.

Under heading 1.2.3 Other Evidence, paragraph 2: second paragraph amended to read:

*“Mr. Durbin told the Committee that Imperial Gardens nightclub had been consulted on two previous planning applications with regard to the Fairview New Homes site, And that there were a number of occasions when reference to Imperial Gardens nightclub were ignored by the planning department”.*

Fourth paragraph amended to read:

*“Mr. Huckerby, addressed the Committee at its third meeting [20<sup>th</sup> May], explaining that he was a nearby resident to the Imperial Gardens nightclub and that he had been involved in recommending that the Council invite the Audit Commission to complete an investigation. Mr. Huckerby told the Committee that he had written to inform the planning department of the need to consult Imperial Gardens nightclub on the Fairview New Homes planning application and that the planning department had acted on other points raised in his letter, but had ignored reference to Imperial Gardens nightclub. He also urged the Committee to take into account the injustices the owners of Imperial Gardens nightclub had experienced when considering compensation”.*

#### **Section 4 – Allegations of Institutional Racism**

First paragraph – use Lee Jasper’s correct title.

Second paragraph starts with amended words *“Institutional Racism, as defined in the McPherson report is: [definition remains unchanged].*

Eighth paragraph, third and fourth sentences amend to read:  
*“He quoted from the summarised exit interview of a member of the planning department whose case been raised. 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.”*

Ninth paragraph, first sentence amend to read:  
*“Mr. Lee Jasper (Policy Director [Equalities and Policing], Mayor’s Office - Greater London Authority) informed the Committee [13<sup>th</sup> May] that in his view Southwark Council was guilty of institutional racism and could not counter claims of Institutional Racism as it was unable to positively demonstrate otherwise”.*

Eleventh paragraph, third sentence amend to read:  
*“We also note that the Equalities Impact Assessment is under way”.*

2. The Committee agreed to continue deliberation on the draft report at another meeting, date to be arranged in July prior to the Council Assembly meeting on 21<sup>st</sup> July 2004. This meeting would focus on the “Camberwell Train Station” section of the report, an additional anticipated submission from Raymond Stevenson and Lucia Hinton responding to points in the DA report, the Nabarro Nathanson legal advice paper, and the final draft of the scrutiny report.

The meeting closed at 11:50 p.m.

**CHAIR'S SIGNATURE:**

**DATED:**