

<b>Item No.</b> 3.	<b>Classification:</b> Open	<b>Date:</b> 13 <sup>th</sup> January 2004	<b>Meeting Name:</b> Planning Committee
<b>Report title:</b>		Development Control	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Regeneration	

### **RECOMMENDATIONS**

1. That the determination of planning applications, or formal observations and comments, the instigation of enforcement action and the receipt of the reports included in the attached items be considered.
2. That the decisions made on the planning applications be subject to the conditions and/or made for the reasons set out in the attached reports unless otherwise stated.
3. That where reasons for decisions or conditions are not included or not as included in the reports relating to an individual item, they be clearly specified.

### **BACKGROUND INFORMATION**

4. The Council's powers to consider planning committee business detailed in Article 8 under Role and Functions of the Committee which were agreed by the Constitutional Meeting of the Council on 24<sup>th</sup> February 2003. This function was delegated to the Planning Committee.

### **KEY ISSUES FOR CONSIDERATION**

5. In respect of the attached planning committee items Members are asked, where appropriate -
6. To determine those applications in respect of site(s) within the borough, subject where applicable, to the consent of the Secretary of State for the Environment and any directions made by the Mayor of London.
7. To give observations on applications in respect of which the Council is not the Planning Authority in planning matters but which relate to site(s) within the borough, or where the site(s) is outside the borough but may affect the amenity of residents within the borough.
8. To receive for information any reports on the previous determination of applications, current activities on site, or other information relating to specific planning applications requested by Members.

9. Each of the following items are preceded by a map showing the location of the land/property to which the report relates. Following the report, there is a draft decision notice detailing the officer's recommendation indicating approval or refusal. Where a refusal is recommended the draft decision notice will detail the reasons for such refusal.
10. Applicants have the right to appeal to the Secretary of State for the Environment against a refusal of planning permission and against any condition imposed as part of permission. If the appeal is dealt with by public inquiry then fees may be incurred through employing Counsel to present the Council's case. The employment of Counsel is generally limited to complex inquiries or for very major proposals.
11. The sanctioning of enforcement action can also involve costs such as process serving, Court costs and of legal representation.
12. Where either party is felt to have acted unreasonably in an appeal involving a public inquiry or informal hearing the inspector can make an award of costs against the offending party.
13. All legal/Counsel fees and costs as well as awards of costs against the Council are borne by the Regeneration budget.

#### **EFFECT OF PROPOSED CHANGES ON THOSE AFFECTED**

14. Equal opportunities considerations are contained within each item.

#### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

##### **Borough Solicitor & Secretary**

15. A resolution to grant planning permission shall mean that the Development & Building Control Manager is authorised to grant planning permission. The resolution does not itself constitute the permission and only the formal document authorised by the Committee and issued under the signature of the Development & Building Control Manager shall constitute a planning permission.
16. A resolution to grant planning permission subject to legal agreement shall mean that the Development & Building Control Manager is authorised to issue a planning permission subject to the applicant and any other necessary party entering into a written agreement in a form of words prepared by the Borough Solicitor and Secretary, and which is satisfactory to the Development & Building Control Manager. Developers meet the Council's legal costs of such agreements. Such an agreement shall be entered into under section 106 of the Town and Country Planning Act 1990 or under another appropriate enactment as shall be determined by the Borough Solicitor and Secretary. The planning permission will not be issued unless such an agreement is completed.
17. Section 70 of the Town and Country Planning Act 1990 requires the Council to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations when dealing with applications for planning permission. Section 54A of the Town and Country

Planning Act 1990 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. The development plan is currently the Southwark Unitary Development Plan adopted by the Council in July 1995.

18. Section 106 of the Town and Country Planning Act 1990 introduced the concept of planning obligations. Planning obligations may take the form of planning agreements or unilateral undertakings and may be entered into by any person who has an interest in land in the area of a local planning authority. Planning obligations may only:
1. restrict the development or use of the land;
  2. require operations or activities to be carried out in, on, under or over the land;
  3. require the land to be used in any specified way; or
  4. require payments to be made to the local planning authority on a specified date or dates or periodically.

Planning obligations are enforceable by the planning authority against the person who gives the original obligation and/or their successor/s.

19. Government policy on planning obligations is contained in the Department of the Environment's circular 1/97. Provisions of legal agreements must fairly and reasonably relate to the provisions of the Development Plan and to planning considerations affecting the land. The obligation must also be such as a reasonable planning authority, duly appreciating its statutory duties, can properly impose, i.e. it must not be so unreasonable that no reasonable authority could have imposed it. Before resolving to grant planning permission subject to a legal agreement Members should therefore satisfy themselves that the subject matter of the proposed agreement will meet these tests.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Council Assembly Agenda 29 <sup>th</sup> May 2002	Constitutional Team, Southwark Town Hall, Peckham Road SE5 8UB	Beverley Olamijulo 020 7525 7222
Each Planning Committee item has a separate planning case file	Council Offices Chiltern Portland Street London SE27 3ES	The named case Officer as listed or Andrew Cook 020 7525 5437

#### **APPENDIX 1**

## Audit Trail

<b>Lead Officer</b>	Deborah Holmes, Borough Solicitor & Secretary	
<b>Report Author</b>	Lyn Meadows, Assistant Borough Solicitor Beverley Olamijulo, Constitutional Support Officer (Constitutional Team)	
<b>Version</b>	Final	
<b>Dated</b>	11/02/03	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Lyn Meadows Asst Borough Solicitor & Secretary	No	Yes
Paul Evans Strategic Director of Regeneration	No	No
Andy Cook Development & Building Control Manager	No	Yes