



REGENERATION AND RESOURCES SCRUTINY SUB COMMITTEE

MINUTES of the meeting of the REGENERATION AND RESOURCES SCRUTINY SUB-COMMITTEE held on 16 MARCH 2005 at 6:30PM at the Town Hall, Peckham Road, London SE5 8UB

PRESENT: Councillor Toby Eckersley (Chair)
Councillor Jane Salmon (Vice Chair)
Councillors Jonathan Hunt, Billy Kayada, Eliza Mann, Michelle Pearce, Charlie Smith.

OFFICERS: Shelley Burke – Head of Overview and Scrutiny
Paul Evans – Strategic Director of Regeneration
Stephanie Fleck – Principal Lawyer, Contracts
Stuart Hoggan – Head of Corporate Strategy
Carina Kane – Scrutiny Project Manager
Karen O’Keeffe – Head of Economic Development and Strategic Partnerships

OTHERS: Ray Austin – Southwark Chamber of Commerce
Leke Dada – Elephant and Castle Traders Association
Lee Bartlett – Chair, Southwark Chamber of Commerce
Patrick Blunt – Business Extra
Ian Fraser – Chair, Elephant and Castle Traders Association
Valerie Stevens – Elephant and Castle Traders Association
Bernie Bartley – Elephant and Castle Traders Association

APOLOGIES FOR ABSENCE

Apologies for lateness were received from Councillors Eliza Mann and Jonathan Hunt.

CONFIRMATION OF VOTING MEMBERS

The Members listed as being present were confirmed as the Voting Members.

NOTIFICATION OF ANY OTHER ITEMS WHICH THE CHAIR DEEMS AS URGENT

None.

DISCLOSURE OF INTERESTS AND DISPENSATIONS

The Chair declared a non-prejudicial interest in item 1 as he was the Vice-President of the Chamber of Commerce.

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 was available for public inspection.

The Sub-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.

MINUTES

Members of the sub-committee commented on the inconsistent use of titles and first names in previous sub-committee minutes. The Scrutiny Project Manager undertook to address this.

RESOLVED:

That the Minutes of the Regeneration and Resources Scrutiny Sub-Committee meeting held on 2 February 2005 be agreed as a correct record of proceedings and signed by the Chair, subject to the following amendment:

Paragraph 1.23, sentence 1: Add "on Fairview/Imperial Gardens" after "the public interest report".

1 SMALL BUSINESSES/ELEPHANT AND CASTLE REGENERATION

- 1.1 The Chair introduced this item. The purpose was to set the scene for the scrutiny into the Elephant and Castle regeneration, rather than get drawn into the broader issues at this stage. It would be a low-key exploratory, listening session, and it may be that more general aspects of issues raised would be best dealt with by other bodies. He explained to those present that Executive was the body responsible for taking decisions, but that scrutiny could hear information in a measured way and make recommendations to Executive. The role of scrutiny was still being bedded down nationwide.
- 1.2 The Chair read out an extract from Stage 1, paragraph 9 of the Information Document that was made available to prospective tenderers for the Elephant and Castle regeneration in accordance with the notice issued in the EJEU on 9 March 2005. This outlined the various visions that the council expected of the partner, including requirements to work alongside Southwark for area action plan and to put in place arrangements to provide for and protect local enterprise.
- 1.3 The Chair then explained the approach to the evening. Representatives from the Elephant & Castle Traders Association, Southwark Chamber of Commerce and Business Extra would be given the opportunity to explain how they see the regeneration in Elephant and Castle, and what they suggest scrutiny focus on (general issues rather than individual issues). The Strategic Director of Regeneration, Mr Paul Evans, would then be invited to draw together the threads of discussion and was not expected to give a specific council response.
- 1.4 The Chair invited the Chair of Elephant & Castle Traders Association (E&CTA), Ian Fraser, to speak first.

- 1.5 Mr Fraser reported that tenants of premises in the shopping centre welcomed the regeneration in the area but had serious concerns about the timing and the speed of the developments in the background of the shopping centre being blighted. This was an era of considerable uncertainty and at this stage it was difficult to see any positive manifestation of the visions set down for the regeneration. The possible role of the landlord as a developer would raise issues; for example St Modwens, the landlord was reportedly not encouraging longer-term leases when leases were being renegotiated.
- 1.6 Mr Fraser also raised concern over what would happen to businesses between now and the regeneration, explaining that the shopping centre became blighted with expectations that it would be developed, even though this was not planned to take place for another four or five years. In this time, many traders may not be operating there anymore.
- 1.7 Further, there had been no confirmation from the council that it would make as much effort as possible to ensure that existing businesses would have preferential treatment in any new scheme. Mr Fraser explained that all of these concerns had been raised previously in a deputation to full Council Assembly.
- 1.8 Ms Valerie Stevens from the E&CTA added that there needed to be more focus on the council's role as promoter of the scheme. The blight would become worse, and the council was not promising the traders any support. She was concerned that the council's attitude was that problems were the landlord's responsibility, yet the council was responsible for the regeneration and it was the council that the traders would be looking to for compensation. The livelihoods of traders were at stake, and many businesses might not survive to the regeneration.
- 1.9 Mr Dada, also present as part of the E&CTA, was concerned that traders had effectively been told that their businesses would cease, yet support was non-existent. He added that due to common knowledge about the planned redevelopment, businesses were receiving further pressures from their banks.
- 1.10 Members were then invited to question the representatives from the E&CTA.
- 1.11 Councillor Kayada asked what the Traders Association expected from the council in its brokerage role, given issues with timing and uncertainties. Mr Fraser said there were two issues: leases were not being extended beyond five years and the landlord had imposed tough, unrealistic line about rents; and that the council needed to provide support for the transitional period as businesses continued to decline. The council was not delivering this support at the moment.
- 1.12 Councillor Pearce said there were parallels with Heygate Estate, whereby the estate could not be pulled down until there were homes for all the tenants to go to, and suggested that the same thinking should be applied in the Elephant & Castle situation. She identified a further issues in that there may be some tenants who were keen to opt out of their current lease and relocate sooner, but that if this happened it would add to the blight of those who remained in the shopping centre.
- 1.13 Ms Stevens said that relocation was a further issue. They were not aware of what was going to be a good, affordable location. Some tenants did want to leave early, but there was very little choice when they were contracted under the lease. And relocation would inevitably result in a loss of customers, given that people were used to going to a particular shop in a particular location. Some businesses had been established in the shopping centre for 40 years.

- 1.14 Councillor Pearce asked where traders would want to move to if they were given the opportunity to choose the relocation site. Mr Fraser said that everyone would have a different position. Mr Burtley stressed that it was important that the traders did have choices.
- 1.15 Councillor Salmon suggested that all traders would need to relocate at the same time. If the larger chain-operated businesses disappeared, then it would have serious consequences on the other traders.
- 1.16 The E&CTA representatives explained how over the last 12 months there had been a reduction in footfall through the shopping centre. There would also be further reductions in customer base when the Department of Health moved out of their premises at Hanibal House in June 2005. It was also reported that the leases for the larger businesses would be coming up for renewal in the next 18 months and it was feared they might not be renewed. There had also been an increase in car-parking fees for the shopping centre. No retail businesses would survive if they lost 20 percent of their business.
- 1.17 The E&CTA representatives also commented about the large service charges imposed on traders, which was often more than the rental charges. The landlord had confirmed that it had a policy of 'patch and mend' for the shopping centre which was covered by the service charge rather than the rent. The environment made it difficult for even tenants with long-leases to sell.
- 1.18 The E&CTA added that they were now at a stage where they needed to look to seek legal advice. This would be very costly. Ms Stevens queried whether council funding would be available for this and the Chair said this issue would be taken into account.
- 1.19 In response to questions from Councillor Hunt about how the council could help, the E&CTA representatives said that they had discussed whether the council could set up a trust to take over from the landlord and then negotiate sub-leases with the traders. The council had not offered rate relief.
- 1.20 During the course of discussion it became evident that there were different groups of traders involved in the elephant and castle regeneration. The Chair identified four groups – the larger nationally operated chain stores, independent traders who leased premises inside the shopping centre, traders operating from stalls inside the shopping centre, and traders operating from the outside area of the site. Mr Fraser said that there was also variation in the lease agreements, the stall traders inside the centre paid their rent weekly to St Modwen, the traders outside rented from Urban Space Management, and other traders were all on leases of different lengths. Mr Fraser also confirmed that he was not aware of any schedules of different types of occupancy produced by the council.
- 1.21 The Chair asked about the membership of the E&CTA. Mr Fraser responded that these were the independent traders who leased premises inside the shopping centre, and paid business rates and service charges. They had tried to encourage the larger chain stores to attend, however, everybody had different issues. They were not aware of the existence of any representative bodies for the other types of traders.

- 1.22 The Chair also invited Mr Bartlett of the Southwark Chamber of Commerce and Mr Patrick Blunt from Business Extra to comment on discussions thus far. Mr Bartlett said in terms of the different types of traders, there was also the distinction of who was protected under legislation. He also made the point that, having built their business, owners should be in a position to sell the business on and therefore translate their investment and any good will that had developed into a tangible asset that would at least in part secure their financial future should they wish to retire. However blighting by the proposed development might discourage potential purchasers and getting returns on investment could be difficult in the short to medium term. In this regard, Mr Bartlett contended that the council, as sponsor of the changes that manifested these particular challenges, had a duty of care, especially as the uncertainties had become protracted as a consequence of previous development plans falling by the wayside.
- 1.23 The Strategic Director of Regeneration confirmed to the sub-committee that there was no point of inaccuracy about what had been heard at that stage that required clarification.
- 1.24 The Chair then invited Mr Bartlett to present to the sub-committee on behalf of the Southwark Chamber of Commerce (SCC). Mr Bartlett read an extract from the SCC's draft annual report which commented on the Elephant & Castle regeneration and the challenges facing small businesses. The extract made a number of points including the need for a net positive outcome from the regeneration; the need to ensure that impact from change were minimised; the importance of appreciating and promoting diversity within the area and the opportunities diversity created. It also commented on how many businesses from Southwark had felt let down by circumstances and processes, and that at while there was much to be proud of in Southwark, there were still some challenges yet to be overcome.
- 1.25 Mr Bartlett also commented that it was not possible to collectively negotiate the leases at Elephant & Castle because traders had different legal situations. He added that he believed there was a lack of franchise i.e. sense of empowerment, on the grounds that smaller tenants had less say. It was difficult to broker arrangements because there were so many different circumstances but effected trusted brokerage would help. More certainty of arrangements was needed, along with consideration of the costs involved in relocation. It seemed unreasonable for landlords to increase service charges as a means of increasing income. Mr Bartlett suggested that section106 money or similar should be put into helping people out, not just after the event but before and during, and not only in the shopping centre also surrounding areas to minimise blight. As the sponsor, the council was in a position of strength now for negotiating the contract and the up-front resources required to ease the process, particularly as the redevelopment provided an increasingly rare inner urban development opportunity. The strength of the negotiating position would diminish over time and the best outcomes should be defined and secured now.
- 1.26 Councillor Pearce said that in terms of duty of care, rather than taking the view that the council owed the traders, it was important that it reflected the council having a vested interest in getting things right and encouraging diversity. There were other interests involved: the owner, for example, stood to make considerably more money from the redevelopment than from rent over the next four to five years. A suitable relocation area could still be created; for example Borough Market did not rely on the bigger traders to get the footfall. What was missing was how to keep local businesses in the area, and where to locate them.

- 1.27 There was some discussion about whether the Elephant & Castle was in the unusual situation of having a high number of independent retailers within a shopping centre. Mr Bartlett said it was common for modern developments to include local interests.
- 1.28 Councillor Hunt asked about whether the council should have become a freeholder or alternatively set in place a charter regarding how to treat such businesses – e.g. bear the cost of carrying business during blighted years. Mr Bartlett replied that support for smaller businesses had improved significantly during the past few years. However, while agencies were prepared to invest as much as £35,000 to enable a new business to start, few if any provided resources to enable existing businesses to retain or develop their position under external challenging forces. It was regrettable that the emphasis was always on ‘start-ups’ as opposed to retention. There were huge collective costs, social and economic, involved in the termination and relocation of businesses.
- 1.29 Councillor Kayada questioned whether the demographics and customer base for Elephant & Castle was expected to change, and whether the master plan for the area included building on local assets and the distinctive character of the area. The Strategic Director of Regeneration said that these considerations were recognised. Realistically, what was in place now would not survive and the management of the transition was a very important issue. The Chair added that there was flexibility to meet Councillor Kayada’s concerns in the master plan.
- 1.30 Mr Bartlett concluded his presentation by saying that he believed the Elephant & Castle shopping centre should be replaced with something which meant the most to the most people. It would be a complete shopping experience that encouraged traders which added value, met the needs of the multiples, and had universal appeal. The developer would need to provide this mix to encourage footfall not only from within the area but from further afield also.
- 1.31 Mr Patrick Blunt, from Business Extra, was invited to speak. Mr Blunt explained the role of Business Extra, which was a Southwark based enterprise agency which provided support to traders on a confidential basis. It had expanded its coverage from its original focus of Elephant & Castle, but was advising about 70 businesses located in the master plan area.
- 1.32 Business Extra had also been engaged by the council to carry out a business check to inform development of business needs, both now, and at the end of the process. This business check was two-fold: it provided individual reports to each business, and it also was providing a report to council the following week which summarised outcomes of discussions with traders.
- 1.33 In terms of feedback which Business Extra had from traders, Mr Blunt reported that traders wanted to trade at Elephant & Castle as long as it was economically possible and to be relocated to the same area. Traders from smaller ethnic communities felt they needed to remain at the same location in order to survive.

- 1.34 Mr Blunt added that advice had been taken from transport consultants on the effect of trams in the context of work being carried out by Cross River Partnership. He had been advised that transport infrastructure had serious implications for businesses and that trams blighted trading. He therefore cautioned about this when considering any sites for relocation. However, Karen O’Keeffe, the Head of Economic Development and Strategic Partnerships, contended that the issue with the cross-river partnerships was that there was disruption to businesses, and they had needed to get their accounting books in order in order to claim compensation. Mr Blunt disagreed, stating that in building a tram line the street needed to be closed off which meant that customers could not access the businesses.
- 1.35 Councillor Pearce queried whether Business Extra was in a position to assist in providing legal advice for Elephant & Castle traders. Mr Blunt said that in September 2003 Business Extra had arranged for a number of traders to have a free group consultation session with lawyers. A paper proposing a package of legal advice was subsequently put forward to the Elephant & Castle Town Centre Liaison Group, but the paper had been rejected by the council. Mr Fraser added that that E&CTA were meeting with solicitors in the next couple of weeks because they needed to get a better idea of firm costs.
- 1.36 There was some discussion about the role of the Elephant & Castle Town Centre Liaison Group. The original intention for the group had been for it to represent everyone in the master plan area, but after a year of its operation a resolution had been passed that it would only represent those inside the shopping centre. There was no replacement group for the other traders. The Liaison Group brought the council and shopping centre traders together, and was also attended by Urban Space Management, the Southwark Chamber of Commerce, and the Landlord.
- 1.37 The Chair asked about the restructuring of the Single Regeneration Budget (SRB) Board. The Strategic Director of Regeneration explained that this Board still existed because the project was still a SRB project. However, there would be restructuring of the successor board as the project became widened. The E&CTA representatives advised the Chair that they were unable to comment on this issue because they were not aware of the implications of the restructuring of the board. The Strategic Director of Regeneration added that there needed to be processes for engaging everybody, and while representative structures were useful there needed to be mechanisms in place which accounted for individual circumstances and dealt with these individuals as directly as possibly.
- 1.38 The Chair invited the Strategic Director of Regeneration to comment on issues which had been raised during the meeting. Overall, the Strategic Director of Regeneration said that the discussions indicated that in general the council was not moving anywhere intrinsically wrong. The council would ensure that the commercial partner shared the same vision for the development of Elephant and Castle.
- 1.39 The current situation with Elephant and Castle was not sustainable in the long term and some change would undoubtedly have taken place. He commented that the analogy with the Heygate Estate was interesting, and redevelopment projects were often closely related to housing change. Relocation of businesses was more complicated than with housing because businesses relied on footfall and activity. Retention of communities remained a key issue.

- 1.40 In terms of the concept of “duty of care”, the Strategic Director of Regeneration said the council demonstrated this generally in a variety of ways. For example, the council tried to manage change so that the consequences of the change would have more local benefit than the status quo. Further examples included supporting Business Extra, and taking the decision to shape and change the Elephant and Castle area in a beneficial way.
- 1.41 Further work was needed on explicitly demonstrating that lessons from the experiences of regeneration schemes elsewhere had been taken into account. There would be no straightforward comparisons as the Elephant and Castle situation was unique, involving the removal of a single retail centre within a diverse street-based model.
- 1.42 The Strategic Director of Regeneration also made the point that it was important to know what traders wanted before you could establish how to get there. There was no simple answer to this due to the variety of trading interests. The issue was further complicated as the council was several layers removed from the traders. However, a better understanding was needed in order to increase the level of certainty with regards to the timing of the regeneration phases (from trading in a healthy way to the transitional way to the new model), and to identify what made the trading environment successful. Individuals needed to be made aware of the likely impacts. The council was lacking the substantial resources for this and the partnership approach would better utilise the resources for this.
- 1.43 The Strategic Director of Regeneration added that the ‘patch and mend’ position of the shopping centre owner was interesting. Whoever owned the shopping centre, at whatever stage, would still need to address at which point it was and was not viable, and how to manage this.
- 1.44 The Strategic Director of Regeneration identified two further policy issues as a result of the discussions. The first was around the issue of affordable business, and how the market could be used for diversity of businesses offered in the area achieving balance between rent cost and an improved area. The second issue revolved around means of providing complete packages of legal advice for small businesses. However, the core issue remained the management of the transition. This involved managing uncertainties and determining a clear sequence.
- 1.45 Councillor Pearce asked about the council’s relationship with the shopping centre owner and its tenants, and how to negotiate for a more predictable period prior to commencement of the regeneration. The Strategic Director of Regeneration said that the council was engaging in the process of securing a partner, and the owners could currently involve themselves in this process, though he agreed their interests as owners and developers would be an important point to consider.
- 1.46 The Chair suggested some recommendations relating to next steps for the sub-committee. He was keen for further information about experience from other authorities, a schedule identifying groupings of traders at the shopping centre, information on compulsory purchase orders (CPOs) and compensation, and the nature of the new board structures to replace the SRB Board. A fourth recommendation related to how members could further consider how blight could be minimised.

- 1.47 There was some discussion around these suggested recommendations. The Strategic Director of Regeneration warned that it was important to know more about the 'what' before more work could be done on how to minimise blight. There were some sensitivity around the CPOs but he was able to provide the sub-committee with information on the work that had been carried out in relation to the CPO regime for the regeneration. He was happy to report back to the sub-committee in May on when the information would be ready for the sub-committee.
- 1.48 A member of the E&CTA party made a request to the Strategic Director of Regeneration to ensure that Southwark media articles did not talk negatively about the Elephant and Castle area. This contributed to blight. The Strategic Director of Regeneration undertook to look into this.
- 1.49 The Chair thanked all those attending for their contributions and expressed hope that they would continue to be involved in further scrutiny discussions. Mr Bartlett also expressed his thanks to the sub-committee for their consideration of the issues.

RESOLVED

1. That the Strategic Director for Regeneration provide the following information for the Regeneration & Resources Scrutiny Sub-Committee:
 - a) National and international precedents and experience of regeneration schemes with similarities to the Elephant and Castle regeneration;
 - b) A report on proposals to restructure and replace the Single Regeneration Budget Board for Elephant and Castle; and the consultation that would be undertaken with the traders about the structures.
 - c) Schedule identifying the various trader groups within the Elephant and Castle Shopping Centre, and information about the Compulsory Purchase Order regime and compensation rules that would apply to the regeneration;
 - d) Options for minimising and managing the blight which is likely to arise in respect of the Elephant and Castle Shopping Centre regeneration and suggestions as to how Members can assist in this process;
2. That the Strategic Director of Regeneration report back at the May 2005 sub-committee meeting about when this information is likely to be available for the sub-committee's consideration.

2 WHISTLE-BLOWING [Pages 3-4]

- 2.1 This item sought to address issues raised at the sub-committee meeting held on 2 February 2005 regarding in terms of staff confidentiality for whistleblowing and its application to Members. The Principal Lawyer (Contracts), Stephanie Fleck, was invited to introduce the item.

- 2.2 The Principal Lawyer reported that the council's whistleblowing policy and procedure, and the Fraud Response Plan both contained assurances that staff confidentiality would be protected if staff requested it, so far as this is possible. This may not be possible where there was criminal fraud reported to the police. The Audit Commission had also confirmed that there was no need to change the Council's policy or Fraud Response Plan.
- 2.3 The Principal Lawyer also stated that the Public Interest Disclosure Act did not apply to elected Members. However the Standards Board were consulting on the code of conduct for Members and this included a question about whether the code should have a specific public interest defence for Members.
- 2.4 Councillor Smith spoke of a situation in another council where an elected member had been taken to the Standards Board by the Chief Executive for disclosing information. The councillor was the first to be allowed to use defence of 'in the public interest'. The case was still to be heard by the full Adjudication Panel.
- 2.5 There was discussion about the Standards Board consultation and the involvement of the scrutiny in this. Councillor Pearce suggested that there would be more weight given to the issue if comments were made by a collective body. The Head of Overview and Scrutiny commented that it would be worth checking whether the Standards Committee were planning to prepare a response to the consultation document.
- 2.6 The approach agreed was for Councillors Pearce and Smith to take responsibility for considering the consultation document and circulating suggested recommendations to the sub-committee members. Members would then consider the suggested recommendations, and make any recommendations to Overview and Scrutiny as appropriate.
- 2.7 The sub-committee returned to the issue of staff confidentiality and expressed the opinion that there should be a presumption of confidentiality unless the staff member agreed otherwise. The Scrutiny Project Manager agreed to convey this message directly to the Head of Human Resources.

3 WORK PROGRAMME [Pages 1-2]

- 3.1 The sub-committee discussed the meeting schedule. The Chair contended that there needed to be more meetings of the scrutiny sub-committee in order to get through the work programme. Other members expressed concerns about the effect of general elections on the meeting schedule.
- 3.2 Members agreed to have a meeting in May 2005. The next meeting was scheduled to be held on 20 April 2005 and would interview the Executive Member for Regeneration and Economic Development, and look at issues raised at the February scrutiny meeting in relation to the Annual Audit Letter.

RESOLVED: That the Regeneration & Resources Scrutiny Sub-Committee would meet in May 2005.

The meeting closed at 10:45pm.

CHAIR:

DATE: