

Scrutiny Sub-Committee C

Wednesday 17 March 2010

7.00 pm

Town Hall, Peckham Road, London SE5 8UB

Supplemental Agenda

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Date: 12 March 2010

Agenda Item 5
 To: Cllr Tobey Eckersley
 Chair, Scrutiny Sub-Committee C

from Eileen Conn
 Peckham, London

March 2010

Planning Enforcement Review

Dear Toby

At the meeting on 3rd March you invited me to put in a short paper for the 17th March meeting as the last meeting on the Enforcement Review. Here are some comments. I will be happy to explain further as necessary or to answer any questions at the meeting on 17th March.

1. Importance of effective enforcement.

Local people put a lot of effort into helping to develop the borough planning policies through many consultation exercises. Without effective planning enforcement much of that is wasted effort. Noticing that there are planning breaches without effective enforcement increases alienation and cynicism about the authorities and the democratic process, on the part of local residents. From a resident's perspective, planning enforcement is an essential part of the whole planning process. So anything that can strengthen it is vital for good planning. Ensuring that the Enforcement Team is adequately resourced is essential. I hope the Scrutiny report can cover this point.

2. Residents as eyes & ears for planning enforcement

At the heart of good enforcement is information about planning breaches. People who are familiar with an area, and there frequently, are very well placed to notice changes. So there needs to be a clear and simple system for enabling them to report changes which are likely to be planning breaches. For this to work there has to be

- simple and accessible information on what is a planning breach and how to report it;
- an effective system for rapid responses when this is required to prevent breaches becoming established;
- clear and timely feedback to the person reporting.

3. Cross-departmental working

Controls and enforcement for planning, licensing, trading and environmental health often interlink in practice. So effective cross-departmental working can be critical to effective enforcement and timely outcomes on the ground. This can sometimes seem to be a long way off. For example, there are instances where traders believe that having an entertainment license overrides a planning permission. How can they go through full council procedures without understanding the relationship? Is there something inadequate about the process? Another example of lack of effective joint working is in Peckham town centre.

4. Peckham Town Centre

The feeling locally sometimes is that anything goes in terms of activities in the town centre, as if planning control did not exist. New uses seem to open frequently, changing the nature of the town centre very significantly without planning permissions. Shop fronts change without permission. Trading standards sometimes seem very questionable. All this time, the slow planning policy process of the Peckham & Nunhead Area Action Plan grinds on as if none of this is happening, its 'vision' adrift from reality. Now in the midst of all this, the Council has removed what appears to have been the last vestige of any hope of proactive internal council coordination on Peckham Town centre matters by the removal of the town centre manager post. Integrated enforcement is a key aspect of effective town centre management which is essential for revitalising the town centre. This revitalisation is at the heart of most of the Council's policies relating to Peckham and its residential hinterland with so many challenging social and economic issues. But now there seems to be a

noticeable vacuum where the possibilities for joined-up working have been reduced, appearing minimal. Can the Scrutiny report reinforce the importance of a focal point in the Council at both senior level and operational level to ensure integrated working really happens? This can only help the job of Planning Enforcement, and the outcome we all want of a revitalized Peckham town centre.

5. Reports to Community Councils

The innovation of regular reports to the Nunhead & Peckham Rye Community Council on all planning enforcement cases has been very welcome. It has helped to give a focus for progressing them, as well as kept residents and councillors informed and in the loop and able to help ensure relevant information continues to be communicated to the enforcement team. This reporting needs to be continued as a standard practice, and brought to the attention of other Community Councils.

6. Guidance & education for the public

The production last year of the new Guidance on planning and religious premises was a good effort to communicate better with the public and provide relevant and important information on enforcement matters including planning. This could be developed further, for other parts of the community as well. Residents need to know how all the enforcement systems work, including planning. The Council could do well to offer workshops in the different parts of the borough for local residents on how the various local authority enforcement systems work, including planning enforcement. This would help local people to know better how to work in partnership with the Council to the mutual benefit of both. Some pilot workshops could be held and if successful established on a regular basis. The Council could explore providing these in collaboration with the active residents' network and also the relevant parts of the voluntary sector, such as the Active Citizens Hub, the Willowbrook Centre, and local community hubs. These kinds of workshops may also be relevant for small businesses and traders, and similar collaboration with business and trade associations could be explored.

7. Partnership with active residents

Residents who are active on planning matters across the borough, in both the continuous planning policy process and the enforcement process, have a lot of experience about how the system actually works in detail. As a result they have a lot to offer on improvements that might be made but there is no easy way to make these suggestions. I suggest the Committee considers recommending two actions:

- that the scrutiny report on planning enforcement is publicised in voluntary sector, community sector and local business sector channels, and at Community Councils, and residents and others invited to write in with any ideas they have for improvement in the processes. This would compensate a bit for the lack of publicity for this scrutiny, and give the Development & Control Department access to what could be constructive suggestions from the public.
- that the Development & Control Department consider arranging an event to meet with residents who are active in planning control matters and seek their views in a facilitated discussion. This could be a natural follow on to the Scrutiny report and its publicity to residents and through the Community Councils, and the receipt of comments from residents and others. If successful, the event could be followed up at intervals maybe annually, and help to develop good communication between increasing numbers of active residents who would become more informed and able to support the work of the enforcement department to mutual benefit.

Such approaches clearly fit well with the Council's duty to involve residents and increase effective community engagement. It would, unlike some approaches under those labels, be potentially one that the community would really appreciate, when they can see it lead to definite improvements and a willingness to work in partnership, and a direct contribution to community empowerment. I would be very willing to discuss with officers the development of these ideas, and how they fit with other work in the borough by the active residents' network.

Eileen Conn

Borough Issue	Haringey	Brent	Merton	Lewisham	Lambeth	Bromley	Waltham Forest	Wandsworth
How many breaches are reported breaches per year?	2007-8 914, 2008-9 1051, 2009-10 c.820	09/10 - 796 (830 approx)	Between 700 and 800	200-230 a year	(2009) 610	Average approx. 950 - 1000 p.a	700 - 1000	1096
How many and what type of enforcement notices are served per year?	2007/8 - 127 Enforcement Notices and a large number of PCNs and s330 Notices. 2008/9 - 165 enforcement Notices (included two large scale projects) 2009/10 - c.75 to date	127 Enforcement Notices (140 estimated to year end), 1 Breach of Condition Notice, 4 S215 Notices (5 estimated to year end), 103 Planning Contravention Notices (120 estimated to year end)	EN - 37, S215 - 9, PCNs 6	It averages to about 13 - 15 per year and it will be a range of different breaches such as unauthorised conversions from single family dwelling units to self-contained flats, extensions and change of use.	EN x34, BCN x4, TRN x1, s10/s11 x3, s215 x1	Approx. 80 notices issued p.a in respect of approx. 100 - 120 contraventions. Most common types of alleged breach relate to operational development/material change of use/untidy sites/ breach of condition/adverts & not in accord with approved plans	60 - 100	8 PCNs, 35 Ens, unit cost of complaint investigation £287
How many of the following are undertaken per year?								
Temporary Stop Notices	5-8	0	10	There have been none in the past few years.	0	0		Not indicated
Prosecutions	40-50	52	4-5	Not indicated	15	Approx 30-40 prosecutions p.a. Only 3-4 other	20-40	Not indicated
Direct action	1 in 2008-9 1 in 2009-10	20 (22 estimated)	0	Not indicated	0	Not indicated		Not indicated
Injunctions	0	0	0	Not indicated	1	Not indicated		Not indicated
Appeals	50-60	Not indicated	17	Not indicated	Not indicated	Not indicated		Not indicated
How does the planning enforcement team deal with breaches of planning control by other Council's own departments and on Council owned property?	Usually through negotiation with Property Services where breaches occur on their land-there are a small but significant number of these per annum. We do enforce against the Council as an interested party . However often the leaseholder/tenant can have action taken against them through arrangements with property services. Where Enforcement Actions is considered against Council owned accommodation we have liaise with Homes for Haringey and Housing to advise them of what is allowed in Article 4/CA areas. This has ensured refurbishment work does not fall foul of planning restrictions.	It depends on the case and the circumstances. Sometimes we leave it to other departments to enforce or take action or sometimes we take action and then take direct action and bill the relevant department for it. We would always expect the other departments to resolve the breach – if they don't do it themselves, we would take action if harmful.	While we can't take action against ourself, if there is any problem such as a school breaching planning control, the matter is referred to the respective directors if the school is not responsive. But we take enforcement action against leaseholders on council land.	That is dealt with internally, we contact who ever is in charge of the property and get them to remedy the breach as you know that we cant enforce against ourselves.	Put pressure on other dept. eventually using our director to contact their director and draw in director of Legal if need be. Even then, doesn't always work	Report to committee	Negotiation	Not indicated

Borough Issue	Haringey	Brent	Merton	Lewisham	Lambeth	Bromley	Waltham Forest	Wandsworth
<p>How does the planning enforcement team monitor pre-commencement conditions? If it does, do you have an officer who specifically monitors compliance with planning conditions?</p>	<p>We are trying to improve the compliance role from this perspective. At present we are still represented with difficulties through poorly worded conditions and lack of conditions where PP is granted. It is not helped by the fact that we are managed under Frontline Services Not Planning. This is something I am working on with DM for now to develop in 2010-11. Monthly meetings between us and DM flag up these issues regularly but there is no-one dedicated to this role.</p>	<p>We don't routinely monitor pre-commencement conditions. We don't have a specific officer to deal with it - its just dealt with as another complaint etc.</p>	<p>No we don't - but will respond to a complaint by a member of the public. A subsequent investigation may result in appropriate remediation or enforcement action.</p>	<p>Unfortunately we rely on complaints from neighbours and planning officers at the moment we don't have the resources to have an officer to solely deal with these matters</p>	<p>Other than 1 or 2 high profile cases we have too many cases to be proactive therefore no specific officer.</p>	<p>No but has been considered</p>	<p>we don't have enough officers to do this.</p>	<p>Not indicated</p>
<p>(i) What is Member involvement in planning enforcement decision making?</p>	<p>Member involvement is mostly indirect- for a very large project or case this may go to committee for information. We report to planning and overview and scrutiny committee on a quarterly basis and send monthly reports to planning committee and attend Area Committees by request as well as other cross borough initiati</p>	<p>We brief members annually on the level of our enforcement activity and informally discuss it with our lead member on an adhoc basis. There is strong support for planning enforcement among members in Brent. They see our level on activity on the ground and they like it! they would always like more, but acknowledge it is difficult with current resources and appreciate that we are operating at maximum capacity.</p>	<p>No direct involvement - but could champion complaints from residents to help speed up enforcement action</p>	<p>we normally present all requests for enforcement action to members that does not fall within the Council's schedule of Delegation</p>	<p>no</p>	<p>Varies greatly - some can be very 'hands on'. Others prefer not to get directly involved</p>	<p>none</p>	<p>Not indicated</p>

Borough Issue	Haringey	Brent	Merton	Lewisham	Lambeth	Bromley	Waltham Forest	Wandsworth
(ii) What decisions are delegated to officers	The Team Leader has full delegated powers including prosecution although for very contentious cases head of Service approval would be required. Any contentious cases are discussed with the Head of DM for his advice.	All enforcement decisions are delegated to officers	All	Delegated decision are made in respect of unauthorised windows, doors, satellite dishes, walls, fence, gates, railings, shopfronts, roller shutters, canopies/blinds, ventilation flues/ducting, air conditioning/refrigeration units whether to not a property is in a conservation area. Also breach of condition notices and section 215 notices.	Not indicated	The majority (95%) are now delegated	All	Not indicated
(iii) To what extent are enforcement issues discussed/decided at a Community Council/area committee? Are any decisions taken locally?	No decision are taken locally.	No decisions are taken locally. I sometimes give presentations and speak to residents associations and Area Consultative Forums.	issues of concern to residents are discussed at local community forums and this may obviously involve enforcement issues. But decisions are left to investigation officers, the Team Manager and the DC manager	Not indicated	Not indicated	No	None	Not indicated
What is the structure/ How many staff are employed in the planning enforcement team.	A Team Leader, a Planning Enforcement monitoring officer and 4 planning enforcement officers. All PE officers and the TL are qualified town planners.	Team Manager, Deputy Team Manager, 3 Enforcement Planners, 1 Administrator.	There are currently 5 Enforcement Officers - one is retiring at the end of March and wont be replaced.	The Enforcement Team is only made up of three staff members including myself that covers the whole of the borough.	TL who also covers appeals and telecoms/Pt 24 – FOI/complaints/Ombudsman's etc for whole division, Deputy – who covers day to day enforcement, X3 Seniors [x1 due to leave in May], X2 Juniors [x1 agency at present], 0.5 admin, 0.5 telecoms	Enforcement – DC Manager, 3 Planning Investigation Officers plus technical support. Appeals - 2 planners plus 2 admin/technical support	x1 manager x1 Enforcement technician and 5 officers	Not indicated

Scrutiny Review of Planning Enforcement

Response from Richard Parkins, Southwark Health Safety & Licensing Manager

1. The relationship between licensing and planning is not a straightforward one. To help clarify this, I feel it would be best if I firstly set out the guidance provided to local licensing authorities by the Department of Culture Media and Sport (DCMS) under section 182 of the Licensing Act 2003 (consolidated version published 28 January 2010).

"13.64 The (council's) statement of licensing policy should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.

13.65 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

13.66 The granting by the licensing committee of any variation which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.

13.67 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

13.68 Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap. A planning authority may also make representations as a responsible authority as long as they relate to the licensing objectives."

Gary and Richard:

Are “regular reports” issued? Have the planners made any representations to licensing recently (eg last 2 years)? If so, any useful lessons to be learnt?

Response from Head of Development Management

Development management have been consulted and made representations on licensing applications. The process was reviewed and restructured in 2008. The planning enforcement team is now responsible for consultation responses. The important lesson learnt has been that responses should be based on licensing objectives rather than planning considerations. However responses provide information on whether the licensable activity or variation benefits from planning permission. A number of planning enforcement investigations has resulted from such consultation.

2. The position established by DCMS guidance is reflected within the Southwark Statement of Licensing Policy (November 2009 revision). Section 6 on “Other policies, objectives and guidance” sets out

“... Lastly, it should be made clear that the planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency.

Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. Licensing applications should not be a re-run of the planning application and should not cut-across decisions taken by the local authority planning committee or permissions granted on appeal. Similarly, the granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve of the need to apply for planning permission or building control where appropriate.

While the licensing authority is conscious that there is no legal basis for a licensing authority to refuse a licence application solely because it does not have planning permission, it may be inconsistent for the authority to give a licence for an activity when it has refused planning permission for the same activity to take place. In such cases the council would expect the applicant to address the reasons why planning permission had not been granted and provide reasons as to why licensing consent should be.

Gary and Richard:

How does the above operate in practice? Any examples to assist the scrutiny? See also para 4 below

Response from Head of Development Management

Development management has advised licensing where licensable activities do not benefit from planning permission. In turn, licensing notify applicants who then consult development management to address the planning issues. This has resulted in a number of retrospective planning applications for example, around a number of restaurants operating as night clubs without planning permission and other buildings being used without planning permission. In some cases, joint meetings have been held involving applicants, licensing officers, police and planning enforcement officers where applicants have clearly been advised to seek planning permission first before proceeding with their licensing application. The same applies to premises in breach of hours of operation imposed on planning permissions.

There may also be circumstances when as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes which carry different hours to the licensing hours. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to enforcement under planning law.

Borough-wide and area based planning guidance exists through the Southwark Plan and supplementary planning guidance. Where relevant representations are made on applications, the Licensing Authority will have regard to the appropriate relevant guidance.

Proper integration with the planning regime will therefore be assured. This will include, where appropriate, the provision of regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.”

Gary and Richard:

Same as para 13.68 of the guidance quoted in para 1 above?

3. A similar position exists with regard to the situation between licensing and planning in respect of gaming and betting premises under the Gambling Act 2005 and guidance from the Gambling Commission.
4. Crucial to the relationship between licensing and planning, however, is the inclusion of planning as one of the stated ‘responsible authorities’ under both Acts. Through this nomination as ‘responsible authority’ every applicant for a new or varied premises licence is required to provide a full copy of their application to the planning team and the team, in turn, is enabled to make representations to the licensing service about any particular application. Such representations must concern one or more of the four licensing objectives under the Act, which are
 - The prevention of crime and disorder;
 - Public safety;

- The prevention of nuisance; and
- The protection of children from harm

but there is cross-over around the issue of public nuisance which affects both amenity and the licensing objectives. Although, admittedly, there were teething problems with the system we do now have a process that works well. Planning receive and consider every premises licence application; representations are being made by the planning team as appropriate (and good evidence has been provided on occasions which have contributed toward the licence determinations reached by the licensing committee at public hearing - a case in example being that of premises at 5-7 Rockingham Street, SE1); and every licence application report in front of the sub-committee now contains information on the planning position, irrespective of whether a representation is considered necessary or not. This situation should ensure that planning are aware of and, if necessary, have contributed toward all licensing decisions.

Gary:

Any comments on the improved situation described above, eg any staffing/resource implications?

Response from Head of Development Management

As discussed above, the planning enforcement team is responsible for licensing consultation responses. The team manager is currently responding to all consultation responses. However, as part of a review of the roles and responsibilities within the team, there is a recommendation for area officers to respond to licensing consultations within their area in liaison with the relevant development management teams under the overall supervision of the team manager.

5. As per our policy, licensing officers will urge applicants to seek planning consent for their premises before they apply for a premises licence. **If applicants insist on applying for licences and consent simultaneously or the licence firstly**, the licensing officers will ensure that the applicant understands that both licence and consent must be obtained before lawful operation can commence. Similarly, if officers are aware that any application is granted without planning permission they will be reinforcing advice that the new licensing consent cannot be enacted until planning permission is obtained. By way of this system it should be rare that any premises commences operation without both licence and consent in place or without planning being ready and able to take action.

Richard:

Can you advise why applicants would wish to seek a licence prior to seeking planning consent? Any examples to assist the scrutiny?

6. Situations where a planning breach remains a possibility are

- a) Where a premises transferred into the new licensing regime back in 2007 under 'grandfather rights' without appropriate planning permission. During the 'conversion process' existing licence holders were entitled to transfer their existing justices, entertainments and night cafe licences into the new system as a paper exercise. If any premises was operating under the old system without appropriate planning consent the conversion process would not have identified this; and
 - b) Where a licensed premises evolves into a different entity without any amendment to its licence being necessary. The most likely situation here is where a bar or restaurant holding a licence allowing alcohol sales and music and dancing entertainment with a late licence moves incrementally toward providing what is effectively a night-club environment.
7. Licensing officers are mindful of planning issues and are directed to contact planning should they believe a planning breach is being committed. They are willing and able to provide evidence of operation if this should be required. However, in the case of a) this situation may not come to light unless the premises management decide to put in an application for a new or varied licence and, in the case of b), it is difficult to identify the point at which a premises operation may be deemed to have become something different to that which it originally was.
8. In all, I consider the working relationship between licensing and planning to be greatly improved and fairly effective (though I recognise there is always further room for improvement). The applications process works well and planning are contributing. Planning, as a responsible authority, are also consulted upon and have contributed toward licensing policy development (including on the council's saturation policies which deal with cumulative impact of licensed premises on the Southwark community). In turn the licensing service is consulted on local planning development and the environmental protection team has input into both licensing and planning applications around nuisance issues.
9. Some steps that could be taken that might further improve the working relationship are
 - a) A formal training session for licensing enforcement staff from planning on planning consent to be followed by discussion and agreement around when 'changing circumstances' should be drawn to the attention of the planning team;
 - b) Electronic access to planning registers for licensing staff (if possible) which might provide ready confirmation of planning status where concerns arise;

- c) Notification to licensing of planning applications enabling licensing officers to flag up current licence status, whether premises are situated in saturation areas, or other relevant information; and
- d) If this were to be helpful to the planning committee, the regular six-monthly partnership analysts reports received by the licensing committee on alcohol related violence against the person, crime and disorder and ambulance pick-ups which inform saturation policy development could be forwarded on for consideration. (At present while planning are included in all consultations on saturation policies the regular reports are not provided to both committees).

Richard:

What are the agencies which provide input into the above reports? Could the scrutiny see an example? Are the reports (redacted if necessary) provided to Safer Neighbourhood Team panels?

- 10. I hope that these comments are helpful. I am, of course, happy to provide further information if needed.

Richard Parkins
Health Safety & Licensing Manager
5 March 2010

**Environment and Housing Response to
SCRUTINY REVIEW OF PLANNING ENFORCEMENT – Grosvenor Estate; and
Northfield House, Peckham Park Road**

1. What processes are in place to check if there is a possible planning issue before works are undertaken?

Response:

For every major works refurbishment scheme where there are proposed changes to materials, layout, elevation or design, planning requirements are first discussed with the Planning Team before a formal planning application is submitted. Clear procedures are in place to ensure planning considerations are an intrinsic part of the scheme design and the feasibility stage of all new projects.

2. What lessons have been learnt from the planning breaches that have occurred on these occasions?

Response:

The two case studies mentioned, Grosvenor Estate and Northfield House date back to original works in circa 2001. In both instances it would appear the planning process was not fully followed as there was conflicting information as to whether planning permission was actually required. Internal procedures have since been tightened which now means that before any refurbishment scheme can proceed there must be evidence to show whether planning permission is needed and if so confirmation that it has been received. Planning requirements are integral to the scheme design and formal applications are systematically submitted in accordance with planning regulations. In addition for all completed schemes a lessons learnt or 'wrap-up' meetings are held which review the strengths and weaknesses of schemes including any learning from the planning process.

3. What changes have been made to the Department's approach to minimise incidents of this type in the future?

Response:

As mentioned above, procedures have been improved to ensure planning applications are made in good time and in every instance where they are required.

4. Any policies/ joint working arrangements you have in place to facilitate your work with the planning enforcement process and team.

Response:

Good working relationships have been developed with planning colleagues and it is proposed that quarterly meetings are established to review proposed schemes and to discuss planning issues, problems and new ideas.

5. Any ideas you have for how the policies and systems could be improved-

Response:

Quarterly meetings are to be established between Investment delivery and colleagues in Planning. This will lead to even earlier discussions of emerging schemes, for instance, the major works refurbishment programme has been agreed to 2012 and discussions can (and in many instances are already) take place about planning requirements. A subsequent five year programme is planned post 2012 so again this can be discussed and agreed at the earliest possible stage.

Gill Davies
Director of Environment and Housing

Environment and Housing Response to

SCRUTINY REVIEW OF PLANNING ENFORCEMENT – the Cross Over at 202-203 Grange Road, SE1

Context

Historically the Highways Maintenance team within the Asset Management Business Unit have processed requests for vehicle crossovers. These are almost entirely related to residential properties.

The assessment of whether an access would be permitted was based on reference to the '*Vehicle Access Policy*' (1993) prepared by the Development Section of Southwark Environmental Services and developed in collaboration with other units within the Council. It is understood that this document was approved by Committee and as such deemed to be Council policy.

No limitations were placed on the application of this policy e.g. the need to refer to other units within the Council or category of road or land use. However in the Introduction of the document it is recognised that '*local issues and policies together with Statutory requirements may result in changes and it is the intention of this Council as the responsible Highway and Traffic Authority to issue more detailed advice in a series of design guides.*' No such amendment(s) appear to have been received.

One such amendment would have been The Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 2, Minor Operations, Class B which provides permitted development rights to allow '*formation, laying out and the construction of means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (Other than by Class A of this Part).*' However, these permitted development rights do not extend to business premises even if the road is not a trunk or classified road

202-203 Grange Road

In response to a request for a cross over from the site owners inspections were carried out and by reference to the above policy document, a cross over was considered appropriate. This was paid for by BEW Electrical and constructed by the Council's term contractor.

As a result of a complaint made in 2007 by an immediate neighbour BEW Electrical were advised by Southwark that Planning Consent should have been obtained to permit the cross over. This was applied for retrospectively and a refusal given on 03/04/2009 citing the following as reasons:

- Vehicle access onto a classified road
- Harmful to conditions of pedestrian safety and vehicular safety and as such contrary to Policies 5.2 'Transport Impacts' and 5.3 'Walking and Cycling ' of the Southwark Plan (July 2007) and Transport Planning For Sustainable Development SPD (2008)

What processes are in place to check if there is a possible planning issue before works are undertaken?

Response:

- New processes that have been introduced are listed in the response to Q3 however this needs to be underpinned by good two way communications, information sharing and possible timely reviews.
- Within Asset Management all requests for cross-overs, regardless of road classification or land use are now copied to the Street Care Manager as a second tier review process.

What lessons have been learnt from the planning breaches that have occurred on these occasions?

Response:

- The need to establish and maintain communications with other units. This communication needs to be triggered by a formal process or policy document. Not to assume the validity of the dated policy documents
- The need for the Development Management (Planning) to advise other units of changes in policy / statutes and visa versa where applicable.

What changes have been made to the Department's approach to minimise incidents of this type in the future?

Response:

Following in depth discussions held between the Maintenance Team and the Group Manager – Planning Enforcement, the following process changes have been agreed:

- All requests for cross over's on classified roads are to be referred to Development Management (Planning).
- No action by Highways Maintenance team on any request that has been referred to Development Management (Planning) until a written confirmation to proceed is received
- Exchanged and agreed lists of classified roads in the borough.
- Agreement on the need for new policy documentation that encompasses planning and other relevant issues.

Any policies / joint arrangements you have in place to facilitate your work with the planning enforcement process and the team?

- Please see responses to other questions

Any ideas you have for how the policies and the systems could be improved?

- An agreed process, including key milestones, for Highways Development Management. (This process is in early draft form already and currently being developed further)
- Greater use of the intranet to:-
 - Library storage of Council policy documents, guidance, revisions and withdrawals
 - Advice of changes in policy / statute that might affect others
 - List of contacts / areas of responsibility
- Possible quarterly update / review process between necessary parties (as be as onerous as needed).

Gill Davies
Director of Environment and Housing

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<u>EXECUTIVE MEMBERS</u>		Fran Biggs, Electoral Services	1
Councillor Nicholas Stanton	1	Duncan Whitfield, Finance Director	1
		<u>TRADE UNIONS</u>	
<u>OTHER MEMBERS</u>		Roy Fielding, GMB/APEX Office, Manor Place Depot 30-34 Penrose Street, SE17 3DX	1
Councillor Fiona Colley	1	Mick Young, TGWU/ACTS, 177-179 Walworth Rd London SE17 1RW	1
		Euan Cameron, Unison, 177-179 Walworth Rd, London SE17 1RW	1
		TOTAL HARD COPY DISTRIBUTION	51

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