



SCRUTINY SUB-COMMITTEE C

MINUTES of the Scrutiny Sub-Committee C held on Wednesday 3 March 2010
7.00 pm at Town Hall, Peckham, London SE5 8UB

PRESENT: Councillor Toby Eckersley (Chair)
Councillor Richard Livingstone

OTHER MEMBERS PRESENT: Councillor Gordon Nardell

OFFICER SUPPORT: Amma Boateng, Acting Principal Lawyer
Rachel McKoy, Legal Services
Gary Rice, Head of Development Management
Dennis Sangweme, Group Manager, Planning Enforcement
Barbara Selby, Head of Transport Planning
Karen Harris, Scrutiny Project Manager

ALSO PRESENT: Eileen Conn
Jeremy Leach, Living Streets

1. APOLOGIES

1.1 Apologies were received from Councillors Anood Al-Samerai and Jane Salmon.

2. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

2.1 There were none.

3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

3.1 There were none

4. MINUTES

RESOLVED:

That, subject to the following amendments, the minutes of the meeting held on Wednesday 11 November 2009 be agreed as an accurate record:

Paragraph 6.3, delete the words “such as the main road into Kennington”

Delete paragraph 6.18 and replacee with, “A member pointed out that there is a gap in the cost-benefit analysis, in that increased journey times in 20mph zones has not been addressed in this MVA report”

5. 20MPH AND SPEEDING REVIEW

5.1 Councillor Eckersley reminded the sub-committee that at the last meeting it had been agreed to take up the recommendations made in the MVA consultants report. He referred to a paper prepared by the head of transport planning (distributed at the meeting and attached to these minutes as appendix 1 for information) which sets out the current position against each of the recommendations in the MVA report.

5.2 The sub-committee agreed to discuss each of the recommendations in turn (these minutes use the reference numbers in the paper from the Head of Transport Planning) and agree the recommendations to be included in the Scrutiny Report.

6.2.2 The sub-committee discussed that work is already underway against this recommendation, but that other measures should be considered in the context of the budget available in addition to the “predominant” use of bumps and humps. This use of a wider range of measures would ensure that the comfort of drivers and passengers in emergency vehicles is taken fully into account.

It was agreed that the recommendation from MVA should be amended to remove the word “predominantly”

6.2.3 The element of this recommendation on sinusoidal humps has already been accepted as a deign norm. This was welcomed by the sub-committee.

On the second element of this recommendation about the speed reduction benefits of informal traffic calming measures, the head of transport planning confirmed that the Council is participating in two 20mph speed camera

technology trials.

The first trial is in Salter Road, and is a test of a particular type of camera technology. These cameras are smaller and less intrusive, but have not yet been approved by the Government.

The sub-committee welcomed this trial and asked for further advice from the head of transport planning on what could be done to speed up the completion of the trial.

The second trial is in Albany Road and is part of a Transport for London (TfL) programme to evaluate the effectiveness of speed cameras as a speed calming measure.

The sub-committee welcomed the participation in these experiments but agreed that considerable caution would need to be used if there are plans to instal speed cameras with gantry requirements. In any instances where this is an option, there should be detailed consultation with local stakeholders

- 6.2.4 It was agreed that this recommendation should be accepted and that officers should be encouraged to make use of all available sources of research.
- 6.2.5 The sub-committee welcomed the advent of the design guide relating to street clutter. It was agreed that the wording of the recommendation should be altered from “considered” to “adopted”, so that the design guide will include the “quality audit” approach for older schemes.
- 6.2.6 This recommendation relates to the consideration of maintenance costs for 20mph zones. This will be covered in the design guide. The sub-committee welcomed this.
- 6.2.7 On the issue of the enforcement of 20mph zones and streets, the Head of Transport Planning reported that a proposal has gone forward to LGA for the establishment of a local camera safety partnership which would take the lead on this. The sub-committee welcomed this, along with the implementation of more local measures by safer neighbourhood teams which are appropriate to neighbourhood circumstances (e.g. speed guns in Dulwich).
- 6.2.8 The need to monitor the issue of displacement of traffic from 20mph zones is underway and will inform policy going forward. The sub-comittee welcomed this an emphasised that it will be an ongoing need.

6.2.9 As above

- 5.3 The sub-committee discussed forward plans for the roll out of 20mph zones in the borough. The head of transport planning advised that future schemes will be more holistic in nature, looking not only at speed and road safety but how the integration of other policy areas, e.g. parking, can assist in speed reduction.
- 5.4 The sub-committee welcomed the wider-ranging approach, and the need to look at whether roads are “fit for purpose” not just always use to speed humps as a default measure.
- 5.5 The sub-committee also re-emphasised the need for community consultation and economic impact assessments to be undertaken on future schemes to assess suitability.
- 5.6 Councillor Eckersley welcomed Jeremy Leach to the meeting from Living Streets, and thanked him for his written submission to the sub-committee (which is attached to these minutes as appendix 2). Mr Leach explained that Living Streets is a local branch of a national charity which is focused on improving road safety for pedestrians. Living Streets work closely with the council.
- 5.7 Mr Leach explained that his main interest is in town centres and would welcome the extension of the Walworth Road approach to other areas.
- 5.8 The sub-committee discussed with Mr Leach the distinction between areas with limits and areas which are zones. Mr Leach advocated the use of limits in town centres because they are enforceable.
- 5.9 To pursue this endeavour, which is in line with the MVA recommendations, would need the support both of the council and of TfL for red routes.
- 5.10 The sub-committee agreed to include a recommendation in the review report which would invite the executive to consider 20mph limits in appropriate town centre locations and invite TfL to do likewise on red routes.
- 5.11 The advice to both will recommend testing one scheme to begin with. If this is successful it will lead to natural pressure for more.
- 5.12 It was agreed that the recommendations on 20mph zones resulting from the review will be drafted, and circulated to the sub-committee members present at the meeting for agreement.

6. PLANNING ENFORCEMENT REVIEW

- 6.1 Councillor Eckersley welcomed Councillor Gordon Nardell to the meeting and reminded the sub-committee that it was Councillor Nardell who had originally requested this scrutiny. He referred to the supplemental agenda which contains the background papers produced by Councillor Nardell.
- 6.2 The Head of Development Management and Group Manager, Planning Enforcement were welcomed to the meeting. Councillor Eckersley thanked them for the paper distributed with the agenda.
- 6.3 The sub-committee invited Councillor Gordon Nardell to say a few words of introduction
- 6.4 Councillor Nardell suggested two or three core areas for evidence gathering
1. How does enforcement benefit from different approaches to pre-emptive strikes – in particular the use of
 - Stop Notices
 - Injunctions
 2. Joined Up working. Are there ways in which better joined up working between planning enforcement and the community, or planning enforcement and other departments could be developed?
 3. The Scheme of Delegation – Have we got the level of Member involvement right? We have none in planning enforcement, in some authorities Members operate as micro-managers. What should the balance be?

It may be a good idea to look at good practice from elsewhere

- 6.5 The sub-committee agreed that this topic based approach would be very helpful.
- 6.6 Councillor Eckersley welcomed Eileen Conn, an active member of the local community to the meeting, and invited her to say a few words.
- 6.7 Ms Conn felt there will be a lot of interest in the planning enforcement scrutiny. She was surprised it has not been better publicised.
- 6.8 She went on to say that the reports on enforcement to community councils are very welcome; they give feedback communication to local residents who are the eyes and the ears on the ground for the Department

- 6.9 In terms of joined up working, she feels there is a big vacuum in Peckham in terms of joined up working since the demise of the "Peckham Partnership"
- 6.10 Councillor Eckersley asked Eileen Conn to put her points in writing for the sub-committee including the issues around recent changes which may be making planning enforcement more difficult.
- 6.11 Councillor Richard Livingstone said we would welcome more information on good practice in terms of reporting to community councils, in particular are the community council reports routine?
- 6.12 Councillor Eckersley explained the tight timescale around the planning enforcement scrutiny was the reason why there has been no publicity. There is limited time before purdah so the scrutiny exercise has to be very narrowly focussed, but we wanted to make use of the scoping work done by Councillor Nardell, and if we don't go ahead now, we have to wait until the new overview and scrutiny committee is established after the election and at that time, the whole list of priority topics for scrutiny may change
- 6.13 Councillor Richard Livingstone explained that this tight process does not preclude people coming along to the meeting on 17 March to give their input
- 6.14 It was agreed that it would be helpful if Eileen Conn could help bring forward examples of good practice from a residents perspective and encourage other people to do so in writing before the next meeting.

Scheme of Delegation

- 6.11 Councillor Richard Livingstone asked if there were any examples that could be looked at on the scheme of delegation issue before 17 March 2010.
- 6.12 Councillor Gordon Nardell talked about barn conversion scheme in Macclesfield where the decision was taken by the planning committee. He suggested that such a role for the planning committee would not be appropriate in Southwark
- 6.13 He also suggested that enforcement on matters of strategic importance should be set by members and strategic priorities, principles and approaches for the enforcement year should be set by members in committee
- 6.14 Suggestion was that perhaps at the moment we have not got the balance quite right in Southwark Council.
- 6.15 The head of development management responded by confirming

that the team always welcome member input. Current priorities take into account the views of the executive member. If there is a way to formalise member input, it would be worth doing.

- 6.16 It was the general feeling of the sub-committee that routing all enforcement through community councils on every issue would very much slow things down.
- 6.17 Councillor Richard Livingstone asked for benchmarking on what other London Boroughs are doing in terms of delegation of powers.
- 6.18 Councillor Toby Eckersley added that it will be important in particular to look at more formal planning endorsement on priorities and practice in other Boroughs where there has been a degree of delegation and when this has been a good and bad thing.
- 6.19 Gordon Nardell was invited by Councillor Eckersley to submit further evidence on where further delegation might work.
- 6.20 It was agreed that the benchmarking exercise would be undertaken in relation to delegation with a look at other authorities. Gordon Nardell suggested that as well as looking at other authorities we should also be looking beyond London.
- 6.21 Councillor Livingstone referred to paragraph 42 in the report from the head of development management which has some case closure decisions based on "not expedient" criteria. He suggested that this is the category of decisions which could benefit from some Member input. If "not expedient" decisions are made on the basis of cost-effectiveness, that may not be best criteria, on that basis lots of small cases could get closed, but their cumulative effect on the whole community would be serious.
- 6.22 The sub-committee recognised the difficult issues about speed of response and balancing that with Member and community engagement.
- 6.23 The head of development management referred to paragraph 45 of the report and the fact the members may like briefing- on cases where it has been decided not to take action which may be high profile or controversial, and the reasons why. Councillor Eckersley mentioned that this is quite different to members taking the decisions.
- 6.24 It was agreed that the head of development management would provide some more information on the different categories of action and decision-making around case closure

Use of Temporary Stop Notices and Injunctions

- 6.25 The sub-committee discussed the issue of the use of Temporary Stop Notices and the approach that the council takes to the use of this tool.
- 6.26 There was discussion over the level of caution used with this approach, and whether the perceived risk of compensation claims is affecting the use of Temporary Stop Notices.
- 6.27 The Government guidance on Temporary Stop Notices allows the council to stop any activity for a short period in cases of serious harm to an amenity.
- 6.28 Before a Temporary Stop Notice is issued, a cost/benefit analysis must be undertaken. The council may be liable for compensation in some circumstances.
- 6.29 There is currently a lack of clarity over the circumstances of council liability. Some consider that the council could be liable if the activity is later approved through a planning application, whilst others feel that the risk lies with the developer alone if there has been “any time” during which the activity did not have permission to be undertaken.
- 6.30 The legal interpretation of the guidance has affected the use of Temporary Stop Notices by the planning enforcement team, although officers assured the sub-committee that if development activity is contrary to the development plan then a Temporary Stop Notice would be issued.
- 6.31 It was agreed that the sub-committee would seek independent legal counsel on this issue and consider this issue further once this has been received.
- 6.32 The evidence presented to the sub-committee shows that the use of Temporary Stop Notices between 2006 and 2009 had been low. The sub-committee discussed the use of Notices in cases when a retrospective planning application is expected, and is likely to be approved. It was agreed that it would be useful to receive further information from the planning enforcement officers on whether there were any borderline cases where Temporary Stop Notices had not been issued so that the policy approach can be further considered.
- 6.33 The sub-committee discussed the use of injunctions to prohibit activity. Again there are a broad spectrum of views on when the use of an injunction is appropriate, and whether the council’s approach is over cautious.
- 6.34 It was queried whether injunctions are more effective than Temporary Stop Notices. The key differences are that injunctions

can be used on an pre-emptive basis to prevent activities from going ahead and that the consequences for breaching an injunction can be custodial sentence, compared with fines for breaching a Temporary Stop Notice.

- 6.35 It was agreed that more information will be provided by Councillor Nardell on the use of injunctions, to enable the sub-committee to formulate recommendations on appropriate use of this power.
- 6.36 The sub-committee discussed the overall approach to enforcement taken by the council, and whether the pragmatism of “inviting” planning applications to resolve issues of infringement, whilst it may be good for specific cases, could lead to individual members of the community “taking a chance” by undertaking development without consent or assuming “a consent” allows them to stretch the rules once the development is underway.
- 6.37 It was acknowledged that these issues can only be addressed by effective monitoring and vigilance from planning enforcement officers, and that this is resource intensive.

Joined up Working

- 6.38 The sub-committee discussed the importance of joined up working across the council on planning issues, both in terms of passing information to the enforcement team, and in terms of ensuring compliance from the council’s own activities.
- 6.39 Unfortunately, there have been incidents of non-compliance with planning regulations from other council departments and the sub-committee were keen to understand what lessons could be learnt from experiences to date. Such incidents lead not only to risk to amenities, but can also reflect on the broad reputation of the council. It was agreed that the sub-committee would seek written evidence connected with known incidents of planning breach, for consideration at the next meeting, so that failures in the processes which have lead to this happening can be rectified.
- 6.40 It was agreed that written information on the cases of Grosvenor Park and Northfield House would be requested from the Housing Department, and on Grange Road from the Highways Department.
- 6.41 It was also agreed that is would be useful to gather information on how other authorities approach this issue, for presentation to the sub-committee.
- 6.42 The sub-committee went on to discuss broader issues around joined-up working between the planning department and other organisations, including other parts of the council, responsible for other elements of the regulatory regime. The value of a systematic

partnership based approach was discussed, and the feeling that this had considerable benefits. The example of the partnership work which used to be in place in Peckham was cited as an example of a helpful catalyst for partnership working. It was agreed that it would be helpful to ensure best use is made of the various fora available in the borough to facilitate a partnership based approach.

- 6.43 The sub-committee agreed to use the example of licensing to pursue this issue further, by requesting information from the Licensing Department on their connection with the planning system and processes and policies/ joint working arrangements they have in place to facilitate their work with the planning enforcement process and team. In addition they would be invited to put forward ideas they have for how the policies and systems could be improved.
- 6.44 The sub-committee turned its attention to the issue of resources to undertake planning enforcement work. The service in Southwark as suffered from staffing issues in the past, both in terms of recruitment and retention and the lack of continuity that can result from the heavy reliance on Agency staff. The head of development management explained that planning enforcement posts have historically been hard to fill across the planning profession. In Southwark work has been underway over the past three years to develop a departmental structure which is fit for purpose and progress and service improvements have been swift since new staff have come into post. Agency staff dependency has now dropped from 51% to 10%.
- 6.45 The sub-committee discussed the speed of progress on the recruitment and restructuring process, and it was agreed that the head of development management will provide an update for the next meeting.
- 6.46 The sub-committee discussed the issue of requests for enforcement investigations, and the processes and procedures in place for prioritising investigations and whether the complainant has information about this. It was agreed that the sub-committee will recommend that the Enforcement Protocol be sent to complainants and the pro-forma be amended to prompt those receiving complaints to do this.
- 6.47 The Chair thanked everyone for their contributions to the meeting and re-emphasised the need for prompt submission of additional evidence and information as requested, to facilitate the conclusion of the review by the close of the sub-committee's business on 17 March 2010.

The meeting ended at 10pm