

# Housing, Environment, Transport and Community Safety Scrutiny Sub- Committee

Wednesday 1 May 2013

7.00 pm

Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

## Membership

Councillor Gavin Edwards (Chair)  
Councillor Graham Neale (Vice-Chair)  
Councillor Chris Brown  
Councillor Michael Bukola  
Councillor Lorraine Lauder MBE  
Councillor Tim McNally  
Councillor Martin Seaton  
Cris Claridge  
Miriam Facey  
David Monaghan  
John Nosworthy

## Reserves

Councillor James Barber  
Councillor Patrick Diamond  
Councillor Darren Merrill  
Councillor Michael Situ  
Councillor Geoffrey Thornton

---

## INFORMATION FOR MEMBERS OF THE PUBLIC

---

### Access to information

You have the right to request to inspect copies of minutes and reports on this agenda as well as the background documents used in the preparation of these reports.

### Babysitting/Carers allowances

If you are a resident of the borough and have paid someone to look after your children, an elderly dependant or a dependant with disabilities so that you could attend this meeting, you may claim an allowance from the council. Please collect a claim form at the meeting.

### Access

The council is committed to making its meetings accessible. Further details on building access, translation, provision of signers etc for this meeting are on the council's web site: [www.southwark.gov.uk](http://www.southwark.gov.uk) or please contact the person below.

**Contact Fitzroy Williams** on 020 7525 7102 or email: [fitzroy.williams@southwark.gov.uk](mailto:fitzroy.williams@southwark.gov.uk)

---

Members of the committee are summoned to attend this meeting

**Eleanor Kelly**

Acting Chief Executive

Date: 23 April 2013



Item No.

Title

# Housing, Environment, Transport and Community Safety Scrutiny Sub-Committee

Wednesday 1 May 2013

7.00 pm

Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

## Order of Business

Item No. Title Page No.

### PART A - OPEN BUSINESS

1. APOLOGIES

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

In special circumstances, an item of business may be added to an agenda within five clear working days of the meeting.

3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

Members to declare any personal interests and dispensation in respect of any item of business to be considered at this meeting.

4. MINUTES

1 - 10

To approve as a correct record the Minutes of the open section of the meeting held on Monday 25<sup>th</sup> March 2013.

5. DRAPER HOUSE - REPORT

11 - 22

DISCUSSION OF ANY OTHER OPEN ITEMS AS NOTIFIED AT THE  
START OF THE MEETING.

### PART B - CLOSED BUSINESS

6. CLOSED MINUTES

23 - 27

DISCUSSION OF ANY CLOSED ITEMS AS NOTIFIED AT THE START  
OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.

**Item No.**

**Title**

**Page No.**

**BLANK PAGE**

Date: 23 April 2013



## Housing, Environment, Transport and Community Safety Scrutiny Sub-Committee

MINUTES of the OPEN section of the Housing, Environment, Transport and Community Safety Scrutiny Sub-Committee held on Monday 25 March 2013 at 7.00 pm at Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

---

**PRESENT:** Councillor Gavin Edwards (Chair)  
Councillor Graham Neale  
Councillor Chris Brown  
Councillor Michael Bukola  
Councillor Lorraine Lauder MBE  
Cris Claridge  
David Monaghan

**OTHER MEMBERS PRESENT:** Councillor Geoffrey Thornton (Reserve)  
Councillor Richard Livingstone

**OFFICER SUPPORT:** Shelley Burke – Head of Overview & Scrutiny  
Norman Coombe – Head of Corporate Team  
Debbie Gooch – Head of Litigation  
Dave Lewis – Head of Maintenance and Compliance  
David Markham – Head of Major Works  
Ferenc Morath – Investment Manager  
Gerri Scott – Strategic Director of Housing & Community Services  
Jonathan Toy - Head of Community Safety & Enforcement  
Fitzroy Williams – Scrutiny Project Asst

### 1. APOLOGIES

1.1 Apologies for absence were received from Councillors Tim McNally and Martin Seaton.

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

2.1 There were no late items.

### 3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

- 3.1 Councillor Graham Neale, vice-chair made a disclosure of interest as a council tenant and a resident of Draper House.

### 4. MINUTES

#### RESOLVED:

That the minutes of the meeting of the sub-committee held on 25 February 2013 be agreed as a true and accurate record.

### 5. CABINET MEMBER INTERVIEW: COUNCILLOR RICHARD LIVINGSTONE, COMMUNITY SAFETY

- 5.1 The cabinet member councillor Richard Livingstone updated the sub-committee on the fire that had taken place in the old Walworth Town Hall today and stated that he hoped to receive updates during the course of the meeting. Substantial damage to the roof and old council chamber had been reported and cumming archive may have been lost.
- 5.2 The sub-committee were also informed that the fire was still burning inside the building and the roof had collapsed. Some artefacts have been saved and as yet there was no idea of how the fire started.
- 5.3 The chair thanked the cabinet member for the update and started the interview by opening the meeting with questions for the cabinet member.
- 5.4 A member asked about Southwark Anti-social Behaviour Unit (SASBU) performance and anti-social behaviour on estates as well as what the future was for SASBU.
- 5.5 The Cabinet members reported that the overall number of Anti-social Behaviour cases (ASB) the council was dealing with has increased from 1474 in 2011/12 to 1884 in 2012/13, he also explained that cases were being dealt with effectively. There had also been an increase in injunctions and number of evictions for ASB.
- 5.6 He further reported that even though smaller resources were available they were used far more effectively and the outcomes were pleasing, work had been up-skilled and joined up e.g. Anti-social team working together with Housing and Police resulting in the closure of a number of drug dens.
- 5.7 A member asked how have the cuts impacted on performance over the last 3 years?

- 5.8 The cabinet member said there had been a increase in cases and better outcomes, improved partnership work between the police and council e.g. the work on Manor Estate, and the need to continue to get smarter about partnership working and think about the use of capital e.g. using CCTV effectively on the estate.
- 5.9 A member asked how the performance of the noise team and number of staff been affected and are they meeting their targets?
- 5.10 The cabinet member reported that Southwark offers a more substantial service than other boroughs. 95% of time scale for non-essential and 75% for essential (attending within an hour). The service consists of 16 staff and provide 135 working hours per week, the gap in service was presently 2% outside working hours.
- 5.11 The chair asked who collected the performance data?
- 5.12 The sub-committee were informed that noise reports to CSC and the team then produce reports which provides robust data they are backed up by the courts and tracked. The cabinet member explained that only 2% of calls come outside operating hours but agreed it will never hit 100%.
- 5.13 The chair asked why the team was only managing 75% in cases of essential attendance?
- 5.14 Members were informed it could be for all sorts of reason e.g. someone who didn't want to wait up in the early hours for a call out.
- 5.15 The cabinet member was asked what is essential and non-essential? He explained that low level noise e.g. construction would be non-essential, noisy party would be essential. Some builders start work earlier than they should and it is more effective for the noise team to go round during the day when the site management will be present to address questions.
- 5.16 The chair asked about domestic abuse and the issue regarding the scale of workload for the domestic abuse caseworkers. He had met during the scrutiny and had been informed that one extra caseworker could make a big difference to the quality of service they are able to provide. Was there any progress on that?
- 5.17 The sub-committee were informed that the strain on the team had been recognised and a bid had been submitted to MOPAC with the hope to get some additional resources. The cabinet member also confirmed that the domestic abuse support worker had been placed with the police since November 2012. The SOLACE worker basing themselves once a fortnight with the police.
- 5.18 A sub-committee member asked whether the council had received a formal response from Southwark police to the Sapphire report?
- 5.19 It was stated that no formal response had been received as yet, but the cabinet member reported to have met with the Borough Commander and local MPs and was concerned that they had not heard about it till the IPCC report came out. He undertook to share the letter from the Borough Commander and stated there were

2 encouraging signs: the method of compiling statistics had changed and the police no longer counted % clear up rate but overall successful conclusion of cases so the incentive is to clear up more and more cases.

- 5.20 Sapphire is now dealt with at a London wide basis rather than within local CID so there is more capacity for training and staff are moved around according to need. Local MPs were very critical of the police and told them they need to work at rebuilding confidence and looking at Harriet Harman's suggestion of getting in an independent person to review the cases.
- 5.21 A sub-committee member asked how does Southwark compare to other boroughs and are there any trends?
- 5.22 The problem was across the Metropolitan area, but especially at Walworth because of the individual who was trying to manage the statistics, this situation is now improving.
- 5.23 The Head of Community Safety emphasised the focus needs to be on the victims. These cases are very complex. The Safer Southwark Partnership (SSP) attention has concentrated on looking at the quality of support services.
- 5.24 The chair requested that the cabinet member give a big picture of statistics and trends for Southwark?
- 5.25 The cabinet member reported that the total notifiable offences were down around 5.8% in the last year. He was especially pleased with the drop in violent crime (25%) from 8,007 to 5,992 (2,015 fewer offences), but this is still one of the highest in London.
- 5.26 Domestic violence decreased by 25%, youth violence down 24%, violence with injury down 27%, violence without injury down 25% and serious youth violence is down 6%.
- 5.27 Personal robbery up 43%, knife crime increased by 8% and residential burglary is up 4%. Knife crime is still a massive concern in Southwark and has the worse statistics in London. The new Borough Commander talks about tackling the trinity of knife crime, youth crime and violent crimes in the borough. The partnerships are working well to tackle some of this e.g. voluntary organisations who are called in if a youth turns up at Kings College Hospital with injuries apparently from gang violence.
- 5.28 A sub-committee member asked what was the reaction to the Mayor's crime plan? And why are we not getting more officers to tackle violent crime given it is a mayoral priority.
- 5.29 Members were informed that the mayor had not taken onboard any of our points. It was also reported that the ward based Safer Neighbourhood Teams (SNTs) were disappearing and being replaced with sectorial teams. A good example of excellent work done in the ward by SNT was to tackle drug dealing based on concentrated work in one road. We will need to work with the Borough Commander

to see what can be replicated in the new structure.

- 5.30 The cabinet member expressed his disappointment that the mayor had not kept his promise on front counters. It was reported that officers were currently working to get some spare space in Seven Islands to provide for police when they vacate Rotherithe police station. Officers were also working with victim support to see what can be done with victim support contact centres to provide a more appropriate environment than a generic counter.
- 5.31 Members were also informed that although 1,200 more police officers were being brought into London, Southwark would only be receiving 2 officers.
- 5.32 A member asked what was happening with the community wardens?
- 5.33 It was reported that the community wardens service had been downsized since 2011 and were now down to three town centre teams, which were Camberwell, Peckham and Elephant & Castle, though they work beyond the town centres and in the estates nearby. There was also a response team that could be deployed according to need. The expectation is that the service intends to retain this structure, although there is an awareness of the next massive wave of cuts coming from the government. Assurances cannot be given beyond the current year.
- 5.34 The cabinet member reported that money had been put into the night time economy team which have done good work around Bankside and Borough High Street.
- 5.35 A member stated that people that she worked with did not understand the role of community wardens, she felt that their image does the service no favours. There is a need for more publicity about what they do and how to request their services.
- 5.36 The cabinet member agreed that he used to get very different messages even in his own ward about their value. They have refocused their efforts and believe they are more effective now they have concentrated e.g. they have been providing community assurances on the Aylesbury following the 2 murders on the estate.
- 5.37 A member requested a update on the alcohol saturation zones?
- 5.38 It was reported that Southwark currently had 3 special saturation or cumulative impact policies in place and these were Borough and Bankside, Camberwell and Peckham.
- 5.39 The saturation areas apply to the following categories of premises, Borough and Bankside – night-clubs, public houses & bars, restaurants & cafes, off-licences, supermarkets, grocers and convenience stores.
- 5.40 Camberwell and Peckham - night-clubs, public houses & bars, restaurants & cafes, off-licences, supermarkets, grocers and convenience stores.
- 5.41 The other three areas that area currently under ongoing monitoring are Elephant & Castle, Old Kent Road and Walworth Road and East Street. Other areas that have



previously been monitored but never progressed to saturation policies have included Shad Thames and Herne Hill.

5.42 Cumulative impact is considered in terms of the partnership analysis of :-

- Alcohol related violence against the person (VAP)
- Alcohol related crime and disorder call to the police (CAD)
- Alcohol related ambulance pick-ups (LAS)

5.43 The partnership analysis for 2012 has just been published but has not yet been reported to the council's licensing committee. It is due to go to the next meeting likely to be scheduled for June 2013. Until then the analysis is not public. The 2012 analysis reports the following position in the saturation areas.

5.44 Borough and Bankside

- Evening/ night-time alcohol related VAP (between 1800 and 0559) fell in 2012 to its lowest level across the last six years. There were 105 alcohol related offences in this time period, down from 144 in 2011. Alcohol related VAP accounted for 51% of total VAP in this time period.
- Daytime alcohol related VAP (between 0600 and 1759) rose in 2012 by 9 offences (35 to 44) bringing the figure to a corresponding level to 2010. Alcohol related VAP in the time period accounted for 27.3% of total VAP
- Alcohol related CAD fell for the second year running (2010 – 1040 offences; 2011 – 689 offences; 2012 – 615 offences).
- Conversely alcohol related LAS rose by 21.5% from 2011 equating to an additional 95 calls (this may be partly attributable to improving recording).

5.45 Camberwell

- Evening/ night-time alcohol related VAP (between 1800 and 0559) reduced for the fourth consecutive year (though by only 1 offence in 2012 from 2011). There were 55 alcohol related offences in this time period equating to 41.4% of total VAP.
- Daytime alcohol related VAP (between 0600 and 1759) fell for the third consecutive year (co-incidentally though again only by 1 offence from 2011). There were 22 alcohol related offences in this time period equating to 51.2% of total VAP.
- Alcohol related CAD fell to its lowest level across the six years of the monitor, with a 17.3% decrease from 2011. There were 525 offences in 2012 in this area.
- Alcohol related LAS fell by 26.8% in 2012 from 2011 with a reduction of 70 calls.

5.46 Peckham

- Evening/ night-time alcohol related VAP (between 1800 and 0559) fell in 2012 to its lowest level across the last six years. There were 83 alcohol related offences in this time period, down from 107 in 2011. Alcohol related VAP accounted for 40.7% of total VAP in this time period.
- Daytime alcohol related VAP (between 0600 and 1759) fell in 2012 to its lowest level across the last six years. There were 58 alcohol related offences in this time period, down from 60 in 2011. Alcohol related VAP in this time period accounted

for 18.5% of total VAP.

- Alcohol related CAD fell for the third consecutive year and now stands at the lowest level across the six years of the monitor. There were 719 alcohol related offences in this time period, down from 816 in 2011.
  - Conversely alcohol related LAS rose by over a third from 2011 to 66 calls (this may be partly attributable to improving recording).
- 5.47 The sub-committee were informed that within the areas under current monitor there are some increases in crime figures in both the Elephant & Castle and Old Kent Road areas which the committee will look at in June 2012.
- 5.48 A member asked how is street drinking on rough sleeping impacted by the policy?
- 5.49 The sub-committee were informed that street drinking and off licenses were the origin of the saturation zones, there were fewer cases of street drinking in Camberwell Green, but there had been an increase in cases in Peckham Square along with prostitution and other issues.
- 5.50 The chair requested an update on protection of minors – alcohol and tobacco?
- 5.51 It was reported that police cadets were used for the purpose of test purchases which continued to be carried out covering the number of incidents :-
- Alcohol - 105
  - Tabacco - 55
  - Knives - 10
  - Fireworks - 6
- It was confirmed that about 32% of premises fail.
- 5.52 A member requested a update on CCTV installation?
- 5.53 It was reported that all street cameras were fully digital now and send pictures to the control rooms at Southwark police station. The current programme is to upgrade all cameras on estates to a similar quality.
- 5.54 The key problem with cameras on estates is they were put in on a bespoke basis and were monitored in different ways or just recorded and not monitored. All will now send pictures to the control room so they can be monitored live. A schedule is in place for all systems to be replaced we also have 32 redeployable cameras and we are making use of 7 of them on the Aylesbury at the present time.
- 5.55 It was noted that the SASBU's assessment was used as the criteria for replacement cameras in a number of estates located throughout the borough and this information will be circulated to members.
- 5.56 The chair thanked councillor Livingstone for attending the meeting and for providing the information requested.

The chair suggested a 10 minutes break in the meeting at 8.15 p.m. to recommence at 8.25 p.m.

## **6. REPAIRS AND CUSTOMER SERVICE CONTRACTS - UPDATE**

- 6.1 The Strategic Director of Housing & Community Services and the Head of Maintenance and Compliance introduced the item and informed members that the report describes all the work streams involved in the major project of moving the contract in-house and reported that transition generally was going very well. It was also reported that all customer contracts were being moved from the Cotton Centre to Queens Road.
- 6.2 Members were informed that some apprentices had been appointed and we would have to wait and see the impact this would have but generally it was going very well.
- 6.3 The chair opened this item of business for members questions.
- 6.4 A member asked where will the One Stop Shop (OSS) staff be located following the fire?
- 6.5 The officer informed members that staff from Walworth will work from the 2 other OSS in the first instance as part of the business continuity plan, officers will be seeking other premises as soon as possible. Communication and information to residents is core to the business continuity plan.
- 6.6 The chair asked what sort of improvement would the service user see?
- 6.7 It was reported that the services was now speedier. Staff can flick to different parts of the system more quickly and this would help manage call waiting times.
- 6.8 Members were informed that there had been a lot of investment in IT hardware, there was now more capacity and backup being designed into Queens Road infrastructure which provides great improvement.
- 6.9 The Head of Maintenance and Compliance introduced the updated paper on repairs service and reported that Mears had performed well so far and were building on it. Good feedback had been received back from residents. The Mears improvement had raised expectations around the rate and pace of the repairs service and Mears would be recommended to the Cabinet for the long term contract.
- 6.10 Members were also informed that Southwark Building Service (SBS) had its own improvement agenda. A change team had been working with SBS since November to achieve the same level of service improvement. The workforce has been downsized by a third and key staff recruited, new IT is in place and performance is improving.
- 6.11 A member asked how the service intends to close the performance gap between

Mears and SBS?

- 6.12 Both were working to the improvement plan and was showing signs of improvement. The relationship with Mears was making a big difference, knowledge sharing and the new contract brought new ideas and energy. Mears brought in their own computer system the IT.
- 6.13 The sub-committee asked what sort of attitude were Mears bringing?
- 6.14 The officer responded that there has been a willingness to work with the council to provide the service required, they have come to the table as true partners, the council had set the tone from the very beginning with Mears contributing positively and working with us to get the best for residents. We also need to be commercially aware to get the best from them so our customer service objectives are met.
- 6.15 The chair asked how was the contract regime working so they are not incentivised to carry out work repeatedly?
- 6.16 The sub-committee were informed that the council's approach to strong clienting was now well embedded. In contrast, Morrison had sub-contracted to the point where recovering their costs became more important than the customer focus.
- 6.17 Mears only sub-contracted at a peak in 21% of jobs, resident satisfaction was delivered by asking the resident and not via the contractor's data. The council have learned from these experiences, and what the resident say is more important than the contractor.
- 6.18 The sub-committee were informed that Mears were expected to meet the final 3 promises which were to provide external independent validation of performance data, customer satisfaction greatly improved and exceeding target levels and consistent reaching upper quartile levels by the end of year. An independent auditor will be used to measure delivery on the 16 points.
- 6.19 A co-opted member asked is SBS also expected to learn lessons and show performance improvement above Morrison's?
- 6.20 The officer reported that yes they were improving but not as quickly as Mears. Work was ongoing about how to improve their performance.

## **7. DOMESTIC ABUSE SERVICES - FURTHER WORK FOLLOWING SCRUTINY REPORT**

- 7.1 The cabinet member reported that he had written to the home office, the 3 local MPs his equivalent in Lambeth and was lobbying for domestic violence court. He undertook to provide the Overview & Scrutiny Committee with a updated report.
- 7.2 It was reported that member training would be discussed in April and group whips would work out what training could be provided for members. Officers would be provided with a 3 day course which members could attend if they so wished.

7.3 The sub-committee were informed that 42 tenants and leaseholders had been referred to perpetrators course by the end of December. This information would be sent through to members via a report.

**8. PROJECT MANAGEMENT OF DRAPER HOUSE WORKS PRIOR TO SUSPENSION OF CONTRACT WITH BREYER**

The chair moved to closed session at 8.55 p.m.

Members of the sub-committee asked questions of the Strategic Director of Housing and Community Services and the legal advisor from Sharpe Pritchard with regards to formulating recommendations for the report to the cabinet.

The meeting ended at 9.45 p.m.

**CHAIR:**

**DATED:**

# Major Works at Draper House

Report of the Housing, Environment, Transport &  
Community Safety Scrutiny Sub-committee

Draft May 2013



## Introduction

1. The Chair of the Housing, Environment, Transport and Community Safety Scrutiny Sub-Committee undertook to carry out a scrutiny of recent major works at Draper House after the issue came before the Overview and Scrutiny Committee (OSC) on 4 February 2013. The Chair of OSC specifically requested that the report be as swift as possible and focus on the most important aspects of the major works.
2. The primary reasons for the scrutiny arise from the extremely poor quality of the work carried out by the contractor (Breyer) and poor contract management by Southwark Council. These factors have led to significant distress and inconvenience for residents of Draper House and long delays in getting the works completed. In addition, the failures have led to additional costs being incurred by the council and the Housing revenue Account (HRA). At the end of November 2012, a serious and life-threatening incident occurred as a result of works being carried out by the contractor.
3. The aim of this scrutiny report is to demonstrate how this situation was allowed to develop and to make recommendations which, if implemented, will ensure this kind of thing never happens again. It is the very strong view of the scrutiny sub-committee, reflected in this report, that a line must now be drawn between the failures of some major works projects in the past, and their future management and implementation. The Draper House works have been complicated by numerous factors, but the council must not let that complexity blind it to the fact that entirely avoidable failures have occurred.
4. The sub-committee would like it to be noted from the outset that it finds it to be completely unacceptable that Breyer, the contractor at the heart of so many of these failures, refused to fully engage in the scrutiny process, despite engagement with the scrutiny functions of the council being specifically stipulated in the original contract. Their only contribution has been a single written report. Senior managers at Breyer refused to attend a session of the scrutiny sub-committee to explain their behaviour. By contrast, the sub-committee appreciates the open and honest engagement with the scrutiny process demonstrated by residents of Draper House, senior officers at Southwark Council and the Cabinet Member for Housing.
5. Draper House is situated at the Elephant and Castle. It is a twenty-four storey block consisting of one hundred and forty homes and three commercial retail units. The property was built in approximately 1965 and transferred to the London Borough of Southwark following the demise of the GLC in 1986.
6. Over the years, residents of the block have been promised major works, but a series of delays has meant that Draper House had not had any major works carried out for several years. Draper House was identified for works through the

previous Decent Homes programme which was the forerunner to the current Warm, Dry and Safe programme. The project was one of the first schemes to be commissioned using the new partnering arrangements, which were set up in 2010 to deliver decent homes through a framework of five partnering contractors.

### **Methods used in this Scrutiny**

7. In order to investigate this issue, the Housing, Environment, Transport and Community Safety Scrutiny Sub-Committee used the following sources of information:
  - Contributions to the sub-committee from residents of Draper House
  - Informal conversations between the Chair of the Sub-Committee and ward councillors (Cllr Neil Coyle, Cllr Patrick Diamond and Cllr Cathy Bowman)
  - Two separate sessions, including a closed session, taking contributions from senior officers and officers directly involved in the delivery of the project
  - Contributions to the sub-committee from the Cabinet Member for Housing
  - Two written reports from officers on the Draper House Major Work
  - Closed reports containing details of the contract signed between Breyer and Southwark Council
  - Contributions from legal officers regarding the details of the contracts
  - Copies of emails between Cllr Cathy Bowman and the Strategic Director for Housing

### **Chronology**

8. **2006 - 2010** - Draper House was identified for works through the Decent Homes programme which was the forerunner to the current Warm, Dry and Safe programme. The project was one of the first schemes to be commissioned using the new partnering arrangements, which were set up in early 2010 to deliver decent homes through a framework of five partnering contractors.
9. **March - June 2010** – A decision was made by the Council’s Executive (now re-named the Cabinet) in March 2010 to devolve authority to award the partnering contracts to the then Strategic Director for Environment and Housing. The major works partnering contracts were awarded by the Strategic Director of Environment and Housing in June 2010. The Lot 1 contract was awarded to Breyer Group plc for a period of five years with an option to extend by a further



five years. Lot 1 encompasses the whole of Borough, Bankside and Walworth Areas in the north west of the borough.

10. **July 2010 - July 2011** – There was a significant delay in works commencing on site as a result of a Leasehold Valuation Tribunal decision in 2010, which was successfully challenged by the council at the Lands Tribunal. As a result, there were limited opportunities for works to progress until early 2012. The delay was exacerbated by the development of the Strata Building on the adjoining site to Draper House. It is accepted by officers that communications with residents over these delays were poor in quality and irregular.
11. **July 2011** - Contract commencement by Breyer plc for “Contract Area 1” was eventually made on 4 July 2011 when temporary site accommodation and welfare facilities were established. The works programme included; concrete cleaning and repairs, new asphalt roofs, fire risk assessment works, asbestos removal, kitchen and window installation, new front entrance doors, upgrade of electrics, refurbishment of the main entrance to Draper House, decoration to the external of the building, timber repairs and glass replacement and internal decoration to communal areas. The Agreed Maximum Price of £5,186,769 covered the cost of the full programme of works.
12. **July - August 2011** – Pre-contract works are managed by the original project management team.
13. **1 September 2011** – Following a restructure, an entirely new project management team was appointed. The new structure established project teams responsible for specific contract areas and one individual partnering contractor. On handover the new project team identified a number of issues that had not been properly addressed at pre-contract works stage. These included:
  - No full appraisal of the legal ownership issues around and inside Draper House had been carried out
  - Negotiation of a licence agreement with the owners of the Strata building on land previously owned by the council had not been carried out
  - The scaffolding needed to be redesigned to accommodate the flying freeholds on the ground floor commercial units
  - There had been virtually no communication with residents about the reasons for delay and the complexity of the negotiations required to enable the major works to begin
14. **September 2011 – early October 2012** - During the stand down period, and at the start of the major works, the new project team identified potential issues

regarding Breyer's delivery of the programme and compliance with the spirit of the partnering agreement. Concerns included:

- Breyer's ability to properly resource the schemes on site
  - The adequacy of Breyer's management on site
  - Issues raised by Breyer's sub-contractors about delays receiving payment for work carried out beyond acceptable timescales
  - Breyer's approach to working in partnership and providing solutions to difficult problems encountered on schemes
  - Breyer's intransigence around taking instructions or looking for alternative solutions - this was especially relevant around the issue of netting that surrounded the scaffolding
15. Council officers held three meetings where the Managing Director of Breyer was asked to explain and justify the issues arising on the project. Officers specifically pointed out that a number of the issues arose from Breyer's policy of paying suppliers late and reducing payments to sub-contractors.
16. During this period there was an understandable groundswell of concern and discontent from residents. The day to day delivery of works and dissatisfaction with the quality and performance of the contractor had compounded an already difficult relationship. Complaints from leaseholders in particular, facing very large bills for the costs of the major works, were becoming a regular occurrence. Residents contacted local councillors and council officers on numerous occasions. On an ongoing basis, all three ward councillors (Councillors Coyle, Diamond and Bowman) raised these concerns with officers.
17. During this period onsite problems which caused huge inconvenience and distress included, but were not limited to:
- Serious problems with the lifts not working and being left in a filthy condition
  - Snagging problems with the newly installed fire doors (so serious as to result in sacking of staff by the contractor). Some fire doors were not securely fit into their frames
  - New windows not properly matching the dimensions of the original windows. This necessitated the addition of a large section of plastic to the edge of the new windows in order to fill the gap

- Long delays in making good damage caused by the removal of asbestos from each flat. A case by case compensation scheme operated which took approximately six weeks for residents to be reimbursed for damage caused
18. **8 October 2012** - Ward Councillor Cathy Bowman meets with council officers and representatives from Breyer to raise a number of residents' concerns. In subsequent emails to the Strategic Director for Housing she explains that she experienced "the frankly surly attitude of some...staff". She went on:
 

*"One of the Southwark officers was making a real effort last night - I don't know his name but he was the only one of the three present who stayed until the end of the meeting. One of his colleagues - the clerk of works - looked thunderous throughout & his only contribution was to mutter asides to the contractor. All told, not a fine performance."*
  19. The Strategic Director of Housing responded promptly and in detail, putting in place a number of actions to address concerns raised by Councillor Bowman.
  20. **October to November 2012** - The council added additional project management resources. This included the appointment of a new project manager. A door-to-door survey was carried out on the 15 November 2012. The results suggested that the residents surveyed felt the situation was improving.
  21. **26 November 2012** - A dangerous occurrence took place on 26 November 2012 when the window sub contractor appointed by Breyer removed a flue when installing new windows and did not replace it. The resident suffered carbon monoxide poisoning. They have since fully recovered. Breyer became aware of this on the early afternoon of the 27 November but did not inform the council. Breyer put the resident in hotel accommodation, also without immediately advising the council.
  22. When the council became aware of the situation on 28 November, Breyer were told to stop work on site immediately except for any urgent works required to enable residents to live in their homes. Checks were made to all Breyer's work to ensure no similar incidents had occurred elsewhere. Some residents were left with windows installed in only half their flats and basic kitchen facilities.
  23. **December 2012** - An investigation by the council's gas and water compliance team was carried out and a full report was prepared for the Strategic Director of Housing. In light of the findings of this report, Breyer were served with a material breach notice on 6 December 2012 and, as required by the contract, were given five working days to respond, which they did.
  24. A meeting was held on 19 December 2012 with Breyer to discuss the response. Following consideration of Breyer's reply, the council made it clear it was not

satisfied. There was an underlying issue of trust and confidence in Breyer's ability to deliver the remainder of the contract.

25. Legal advice was obtained from Sharpe Pritchard, one of the council's panel solicitors. In addition, the council also consulted counsel on the council's ability to terminate the contract in this instance.
26. According to council officers, they were concerned that by operating the material breach provisions to terminate:
 

*"... an immediate adversarial relationship would arise between the council and Breyer, which would cause difficulties for transition of the works to a new provider. Following this legal advice, officers therefore began discussions with Breyer to consider how a mutual conclusion of the contract might be achieved. This was felt to be in the council's and residents' best interest as it would enable works to restart quickly on Draper House and ensure contractors could be in place that both the council and residents trust."*
27. **February 2013** - The Strategic Director of Housing and Community Services approved the mutual conclusion of the contract with Breyer. The council was contractually committed to the payment of £1,731,619 to Breyer for programmed works and surveys already undertaken or in progress, and not directly consequent upon contract conclusion. In addition, the council also paid a sum towards loss of overhead and profit arising from an early conclusion.
28. Following negotiation with the contractor as part of the mutual settlement agreement, the council committed to pay £314,000. Officers considered this to be *"the most economically beneficial settlement achievable in the circumstances. This ensured the minimum disruption to the works programme for residents going forward."*
29. **March 2013** - Draper House residents voted for the use of the back-up contractor A&E Elkins with over 90% of those voting in favour of the use of the back-up contractor. In order to ensure the quality and health and safety of work on site a full time contract manager and clerk of works are being brought in specifically for Draper to support the current project management team.

## **Outstanding issues**

### **Leaseholder costs**

30. It is the council's intention to cap leaseholder costs for current works in the contract to those in their original notices, unless there are additional works above those in the original contract, there will be no need for additional formal leaseholder consultation.

## Compensation

31. Both the council and the contractor have complaints procedures in place. Complaints received regarding damage or missed appointments caused by the contractor whilst works are on site are the contractor's responsibility.
32. Under Southwark's Complaints Resolution Policy, those residents whose appointments had been cancelled the week the works were suspended have been awarded £50 for missed appointments.
33. All residents will be compensated for the delay and distress. The amounts are prescribed in the Southwark's complaints resolution policy. Payments will be calculated from 4 December 2012 to 1 April 2013 (the estimated start date for the physical re-commencement of the works).
34. All residents will be awarded a payment for delay and those residents that have works which were suspended in their properties will also be awarded a payment for distress. These would normally have been assessed at a medium impact of distress.
35. Council officers also state *"...it is recognised that there may be some cases where the circumstances are such that additional considerations will need to be taken into account and these will be looked at on their individual merits."*

## What went wrong?

### Investment programme

36. The absence of a coherent, planned and costed major works programme prior to the current Warm, Safe and Dry programme meant that residents of Draper house spent years in uncertainty about when works would be carried out on their homes. This built up a justifiable level of mistrust on behalf of residents regarding Southwark Council's ability to keep its promises.

### Breyer

37. On numerous fronts Breyer repeatedly failed to meet the commitments given to Southwark Council and let down residents of Draper House with the low quality of the their work. Their 'policy' of paying suppliers late and reducing payments to sub-contractors in relation to Draper House was highly irresponsible and led directly to many of the problems set out above. Breyer's abject failure to respond to concerns repeatedly raised directly with their senior management by Southwark Council shows a level of contempt for partnership working which should make any potential future customers extremely cautious in engaging their

services. Breyer's response to the serious health and safety incident on 6 December 2012 (not immediately informing the council of the incident and then accommodating the person who had been put at risk in a hotel) speaks for itself.

### **The original project management team:**

38. It is clear and undisputed that the way in which the original project management team managed the project up to September 2011 was seriously flawed. It is incredible that there was no appraisal of ownership issues around Draper House, no negotiation of a licence agreement with the owners of the Strata building and no accommodation of the flying freeholds in the scaffolding design. The scrutiny sub-committee has been informed that none of the original project management team is any longer employed by Southwark Council, though clearly there are outstanding issues which need to be addressed over why they were appointed to work on this project in the first place.

### **Communications**

39. The sub-committee has been informed that, particularly during these early stages of the major works, there was virtually no communication with residents about the reasons for delay and the complexity of the negotiations required to enable the major works to begin. This is totally unacceptable and was key in exacerbating the frustration and mistrust between residents and the council. Evidence given to the sub-committee by residents of Draper House makes it clear that communications were poor over long periods of the project.

### **The attitude and behaviour of some council officers in the meeting held on 8 October 2012 with Councillor Bowman**

40. It is clear that the behaviour and attitude of some council officers in the meeting held with Breyer and Cllr Bowman on 8 October 2012 is unacceptable. This behaviour suggests to the sub-committee that one partial cause of the poor contract management was that some council officers working on the contract did not see it as their role to champion the interests of residents of Draper House, but instead saw themselves as an ally of the contractor. This is unacceptable and the sub-committee was pleased to hear evidence that a new, far more stringent attitude towards contract management is now encouraged within the Housing Department. It is also unacceptable for officers to behave in a rude or surly manner in such meetings.

### **The absence of a "termination at will" clause in the council's partnering contract with Breyer**

41. Some public authorities issuing large-scale contracts to construction companies include within them a clause which allows the public authority to cancel works at will and simply pay for work that has been carried out. No further compensation

payments are required. The sub-committee received evidence that no such clause was included in the Breyer partnering contract. The reason given for this was that such clauses reduce the potential for a collaborative and constructive partnership between the council and the contractor. The sub-committee was also informed that such clauses are 'priced in' when contractors bid for work. (i.e. they are seen as higher risk contracts by the bidders and so they increase the amount they ask to be paid). There was some difference of opinion in the evidence given by officers over whether or not a termination at will clause is advisable.

42. The sub-committee was told that if such a clause had been present in the Breyer contract, the council could have simply cancelled further works when it became clear that Breyer were not working constructively with the council or certainly when Breyer's work lead to a serious and life-threatening incident. The fact that the clause was not included meant that Breyer knew the council could not simply walk away without paying a price. It also meant that when Breyer's work endangered the life of one of our residents they could not simply be sacked. Instead the contract meant that Breyer were required to submit a report explaining how they would improve and remedy the situation. Officers stated to the sub-committee that they knew that the commitments given in the report would not be delivered upon, but were powerless to cancel the contract because of the absence of a termination at will clause.
43. The final outcome of not having such a clause was that the council had to negotiate a further very significant payment to Breyer in order to 'mutually conclude' the contract and get the works completed by other means. To say that this is an unsatisfactory state of affairs would be a huge understatement. It is as if the contractor is being rewarded for its poor work. It is also clear to the sub-committee that Breyer's attitude to "partnership working" might have been somewhat more constructive if they had known that the council had an inexpensive way of sacking them.

#### **A failure by the council to actively enforce default notices**

44. Irrespective of the absence of a termination at will clause, the council did have at its disposal "default notices" which it can issue to the contractor to formally record breaches in its obligations under the contract. Council officers gave evidence that these default notices were not issued often or early enough. As a result issues were not escalated to senior management as quickly as they otherwise would have been. Officers state that under new contract management arrangements the council is much more pro-active in issuing default notices.

#### **Shorter payment periods for sub-contractors**

45. One of the primary reasons for poor quality and delayed work carried out by sub-contractors on Draper House was that Breyer delayed payments to them. As a

result sub-contractors sometimes simply walked away from works unfinished. The sub-committee believes it would be advisable for the council to insist (contractually if this is possible) on contractors paying sub-contractors within a shorter period of time. Officers also stated that the process of approving sub-contracting arrangements with Breyer was far from ideal during the major works.

### **The transmission of information within the 'free market' of public sector contracting**

46. It occurs to the sub-committee that there is a fundamental problem with the way in which information about the poor (or excellent or mediocre) performance of contractors circulates to public sector authorities. In the case of Draper House, Breyer's behaviour has been nothing short of outrageous. Yet, because of a conservative interpretation of the law, the council is forced to place almost all critical information about their performance on confidential pink papers and say little or nothing in public about what has really happened. The end result is that companies such as Breyer are then free to move on to the next lucrative contract with their 'partner' aware only of a very partial view of their actual track-record. The sub-committee believes this is wrong and would like to see Southwark Council being more pro-active in co-operating with other councils, particularly those in London, to share information about the performance of contractors.

### **Logging complaints from residents**

47. Residents made persistent and frequent complaints, often to different audiences. The use of issue logging to take on residents' feedback would have funnelled these complaints to the correct recipient and would have enabled more efficient use of officers' time. A regular review of the issues log may have resolved some issues.

### **Recommendations**

1. **Termination at will clauses:** All major works contracts issued by Southwark council should contain termination at will clauses.
2. **Default notices:** Default notices should be considered a primary tool for escalating poor performance at the earliest opportunity. Project managers should be encouraged to use them as a matter of course as soon as sub-standard performance becomes apparent.
3. **Payment of sub-contractors:** In all future contracts the council should stipulate an acceptable period within which the primary contractor must pay sub-contractors for completed work.
4. **Breyer:** The sub-committee is aware that, due to EU Procurement law, the council must consider all future bids from Breyer Group Plc for work in Southwark.



However, the sub-committee recommends that the conclusions of this scrutiny report be kept at the forefront of officers' minds in considering these future bids. We hope that the implications of this recommendation are clear.

5. **Complaints logs:** During all major works projects, detailed complaints logs should be kept and reviewed on a regular basis to prioritise issues which need to be resolved for the benefit of residents.
6. **Leaseholder charges:** No leaseholder in Draper House should be forced to pay for more than the value of the original notices on which they were consulted. It is understood that this is already the intention of council officers, but the sub-committee felt it was important to underline this approach in our recommendations.
7. **Sharing information:** Southwark procurement team should investigate setting up a formal network with other London Councils to share information regarding the performance of construction contractors.
8. **Appointing project management teams:** Officers should review how the original project management team for Draper House was appointed. Project management teams should not be appointed to complex projects unless senior managers are absolutely certain that the individuals have the training, qualifications and skills required to deal with the project. Measures should be put in place by senior officers to ensure this is the case in future.
9. **Communications with residents:** The scrutiny sub-committee did hear evidence from officers that new procedures for ensuring residents are communicated with during major works have been put in place. These procedures should be strictly followed and failure to do so should be treated as a serious matter by senior managers.

Document is Restricted

This page is intentionally blank.

**HOUSING, ENVIRONMENT, TRANSPORT & COMMUNITY SAFETY  
SCRUTINY SUB-COMMITTEE** **MUNICIPAL YEAR 2012-13**

**AGENDA DISTRIBUTION LIST (OPEN)**

**NOTE:** Original held by Scrutiny Team; all amendments/queries to Fitzroy Williams Tel: 020 7525 7102

Name	No of copies	Name	No of copies
<b>Sub-Committee Members</b>		<b>Council Officers</b>	
Councillor Gavin Edwards (Chair)	1	Gerri Scott, Strategic Director of Housing	1
Councillor Graham Neale (Vice-Chair)	1	Deborah Collins, Strategic Director of Environment & Leisure	1
Councillor Chris Brown	1	Jonathan Toy, Head of Community Safety and Enforcement	1
Councillor Michael Bukola	1	Shelley Burke, Head of Overview & Scrutiny	1
Councillor Lorraine Lauder	1	Alex Doel, Labour Political Assistant	1
Councillor Tim McNally	1	Laura Cavener, Liberal Democrat Political Assistant	1
Councillor Martin Seaton	1	Tania Robinson, Environment Dept	1
		Fitzroy Williams, Scrutiny Team SPARES	10
<b>Reserves</b>		<b>External</b>	
Councillor James Barber	1		
Councillor Patrick Diamond	1		
Councillor Darren Merrill	1		
Councillor Michael Situ	1		
Councillor Geoffrey Thornton	1		
<b>Co-Opted Members</b>		<b>Total:</b>	
John Nosworthy (Homeowners' Council)	1	<b>Dated: March 2013</b>	37
David Monaghan (Homeowners' Council Reserve)	1		
Miriam Facey (Tenants' Council)	1		
Cris Claridge (Tenants' Council Reserve)	1		
<b>Other Members</b>			
Councillor Ian Wingfield [Deputy Leader]	1		
Councillor Barrie Hargrove	1		
Councillor Richard Livingstone	1		
Councillor Catherine Bowman [Chair, OSC]	1		