

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 13 January 2011	<b>Meeting Name:</b> Dulwich Community Council
<b>Report title:</b>		Development Management	
<b>Ward(s) or groups affected:</b>		All within Dulwich [College, East Dulwich & Village] Community Council area	
<b>From:</b>		Strategic Director of Regeneration and Neighbourhoods	

## RECOMMENDATIONS

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

## BACKGROUND INFORMATION

4. The council's powers to consider planning business are detailed in Article 8 which describes the role and functions of the planning committee and Article 10 which describes the role and functions of community councils. These were agreed by the constitutional meeting of the council on May 23 2007 and amended on January 30 2008 and May 20 2009. The matters reserved to the planning committee and community councils Exercising Planning Functions are described in parts 3F and 3H of the Southwark council constitution. These functions were delegated to the planning committee.

## KEY ISSUES FOR CONSIDERATION

5. In respect of the attached planning committee items members are asked, where appropriate -
6. To determine those applications in respect of site(s) within the borough, subject where applicable, to the consent of the Secretary of State for Communities and Local Government and any directions made by the Mayor of London.
7. To give observations on applications in respect of which the council is not the planning authority in planning matters but which relate to site(s) within the borough, or where the site(s) is outside the borough but may affect the amenity of residents within the borough.

8. To receive for information any reports on the previous determination of applications, current activities on site, or other information relating to specific planning applications requested by members.
9. Each of the following items are preceded by a map showing the location of the land/property to which the report relates. Following the report, there is a draft decision notice detailing the officer's recommendation indicating approval or refusal. Where a refusal is recommended the draft decision notice will detail the reasons for such refusal.
10. Applicants have the right to appeal to Planning Inspector against a refusal of planning permission and against any condition imposed as part of permission. Costs are incurred in presenting the Council's case at appeal which may be substantial if the matter is dealt with at a public inquiry.
11. The sanctioning of enforcement action can also involve costs such as process serving, court costs and of legal representation.
12. Where either party is felt to have acted unreasonably in an appeal the inspector can make an award of costs against the offending party.
13. All legal/Counsel fees and costs as well as awards of costs against the council are borne by the regeneration and neighbourhood's budget.

### **Community Impact Statement**

14. Community Impact considerations are contained within each item.

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

#### **Strategic Director of Communities, Law & Governance**

15. A resolution to grant planning permission shall mean that the development & building control manager is authorised to grant planning permission. The resolution does not itself constitute the permission and only the formal document authorised by the committee and issued under the signature of the development & building control manager shall constitute a planning permission. Any additional conditions required by the committee will be recorded in the minutes and the final planning permission issued will reflect the requirements of the planning committee.
16. A resolution to grant planning permission subject to legal agreement shall mean that the development & building control manager is authorised to issue a planning permission subject to the applicant and any other necessary party entering into a written agreement in a form of words prepared by the strategic director of legal and democratic services, and which is satisfactory to the development & building control manager. Developers meet the council's legal costs of such agreements. Such an agreement shall be entered into under

section 106 of the Town and Country Planning Act 1990 or under another appropriate enactment as shall be determined by the strategic director of legal & democratic services. The planning permission will not be issued unless such an agreement is completed.

17. Section 70 of the Town and Country Planning Act 1990 as amended requires the council to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations when dealing with applications for planning permission. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.
18. The development plan is currently the Southwark Plan (UDP) 2007 adopted by the council in July 2007 and the London Plan (consolidated with alterations since 2004) published in February 2008. The enlarged definition of "development plan" arises from s38(2) of the Planning and Compulsory Purchase Act 2004. Where there is any conflict with any policy contained in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published, as the case may be (s38(5) Planning and Compulsory Purchase Act 2004).
19. Section 106 of the Town and Country Planning Act 1990 as amended introduced the concept of planning obligations. Planning obligations may take the form of planning agreements or unilateral undertakings and may be entered into by any person who has an interest in land in the area of a local planning authority. Planning obligations may only:
  - I. restrict the development or use of the land;
  - II. require operations or activities to be carried out in, on, under or over the land;
  - III. require the land to be used in any specified way; or
  - IV. require payments to be made to the local planning authority on a specified date or dates or periodically.

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

20. Government policy on planning obligations is contained in the Office of the Deputy Prime Minister Circular 05/2005. Provisions of legal agreements must fairly and reasonably relate to the provisions of the development plan and to planning considerations affecting the land. The obligation must also be such as a reasonable planning authority, duly appreciating its statutory duties can properly impose, i.e. it must not be so unreasonable that no reasonable authority could have imposed it. Before resolving to grant planning permission subject to a legal agreement members should therefore satisfy themselves that the subject matter of the proposed agreement will meet these tests.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council Assembly Agenda June 27 2007 and Council Assembly Agenda January 30 2008	Constitutional Team Communities, Law & Governance 2 <sup>nd</sup> Floor 160 Tooley Street PO Box 64529 London SE1 2TZ	Kenny Uzodike 020 7525 7236
Each planning committee item has a separate planning case file	Council Offices, 5th Floor 160 Tooley Street, London SE1P 5LX	The named case Officer as listed or Gary Rice 020 7525 5437

## AUDIT TRAIL

<b>Lead Officer</b>	Deborah Collins, Strategic Director of Communities, Law & Governance	
<b>Report Author</b>	Nagla Stevens, Principal Planning Lawyer Kenny Uzodike, Constitutional Officer	
<b>Version</b>	Final	
<b>Dated</b>	1 October 2010	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Strategic Director of Regeneration and Neighbourhoods	No	No
Head of Development Management	No	No