

**OVERVIEW & SCRUTINY COMMITTEE**

MINUTES of the OPEN section of the call-in meeting of the OVERVIEW & SCRUTINY COMMITTEE held on MONDAY JANUARY 22 2007 at 6.00P.M. at the Town Hall, Peckham Road, London SE5 8UB

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**PRESENT:** Councillor Fiona Colley (Chair)  
Councillor Bob Skelly (Vice-Chair)  
Councillors John Friary, Barrie Hargrove, Adedokun Lasaki,  
Tim McNally, David Noakes and Althea Smith (Reserve)

**CO-OPTED MEMBERS:** Reverend Nicholas Elder

**ALSO PRESENT:** Michael Tyrer - Chair, Grosvenor Tenants' & Residents' Association  
Kay Bettinelli - Grosvenor Tenants' & Residents' Association

**OFFICER SUPPORT:** Shelley Burke – Head of Overview & Scrutiny  
John East – Head of Planning & Transport  
Glen Egan – Acting Borough Solicitor  
Paul Evans – Strategic Director of Regeneration  
Peter Roberts – Scrutiny Project Manager

**APOLOGIES FOR ABSENCE**

Apologies for absence were received from Ms Ann Marie Eastwood, Mr Alie Kallon and Councillors Lewis Robinson and Dominic Thorncroft.

**NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMED URGENT**

There were none.

**DISCLOSURE OF INTERESTS AND DISPENSATIONS**

Following advice from the Acting Borough Solicitor, Councillor John Friary declared an interest in Item 1 as he had opposed the application at Planning Committee. Councillor Friary left the meeting.

1. **CALL-IN: 45 URLWIN STREET PLANNING DECISION: POTENTIAL CHALLENGE TO SECRETARY OF STATE'S DECISION (STRATEGIC DIRECTOR OF REGENERATION DECEMBER 19 2006)** (see pages 1 - 15)
- 1.1 Michael Tyrer, Chair of the Grosvenor Tenants' & Residents' Association, expressed residents' concerns. He explained that Grosvenor Park Estate was a conservation area which stopped part way down Urlwin Street and therefore did not include number 45. The estate was the only entire Victorian estate in South London. All the buildings around 45 Urlwin Street were already listed. Residents had asked the council to extend the conservation area but had not received a reply. If number 45 had been listed, the planning conditions required would have been different and would have made it difficult to get permission for the development as proposed.
- 1.2 Mr Tyrer stated that all residents had objected to the planning application and had been supported by Ward Councillors and the Community Council. He highlighted that the council had not provided supporting papers to the Secretary of State, following the developer's appeal against the Planning Committee's decision, and had not taken up the grounds for subsequent challenge of the Secretary of State's decision suggested by Planning Aid. The Tenants' & Residents' Association felt that the council had not properly followed all the elements of the planning process.
- 1.3 The Strategic Director of Regeneration explained that at the point of his decision in December he was not in the position of considering the planning merits of the case. Instead, the question was whether, having lodged a protective appeal, the council had grounds for making a substantive appeal. The Director stressed that a successful appeal would result in the decision being referred back to the Secretary of State for reconsideration. The council had to take a view as to whether this would result in a change to the Secretary of State's decision.
- 1.4 The Strategic Director of Regeneration acknowledged that the council had failed to submit a statement to the Secretary of State, following the appeal and amplifying the Planning Committee's decision. He had considered this as possible grounds for challenging the Secretary of State's decision but determined that this had limited likelihood of success.
- 1.5 The Director also acknowledged that the council did not make the Secretary of State aware of a change in local planning policy when the Executive agreed to adopt the Southwark Plan 2006 (Modifications version) for development control purposes. The council had taken advice on this as further grounds for challenge and had been advised that there was risk that this argument would not succeed. In addition, the Director commented that it would have been open to the developers to submit a new proposal which would confirm with the changed policy. His final decision not to challenge the Secretary of State recognised that any challenge would only create a delay and that there was no significant likelihood that the Secretary of State's decision would be any different.
- 1.6 The Strategic Director of Regeneration emphasised that the council had always been fully aware of the concerns of residents in respect of the Urlwin Street application. His decision in December did not represent a failure to support the decision of Planning Committee but rather the question of what could be achieved through an appeal and whether this would result in any ultimate change to the development.

- 1.7 In response to Members' questions, the Strategic Director of Regeneration indicated that the processes for appeal were being reviewed in terms of the information to be submitted to the Secretary of State. The Head of Planning & Transport confirmed that the section's appeal processes were being strengthened in terms of checking and audit trails. Case Officers and Group Managers were now required to formally sign off whether they had complied with requirements for sending on information within the appropriate timescales and to check appeal statements. The importance of providing statements had been stressed to all officers together with the implications of not doing so.
- 1.8 Members asked what percentage of applications were determined by Planning Committee against Officers' recommendations. The Head of Planning & Transport responded that this year the numbers of decisions taken against Officers' recommendations was less than 5%. This was a decrease on previous years and reflected member training, the improving quality of reports, and better briefing of Members.
- 1.9 The Head of Planning & Transport underlined the importance of the appeals statement especially where officer recommendations had not been followed. Whatever decision was made, Officers ought to defend it resolutely even if there were limited grounds or where planning reasons were not sufficient.
- 1.10 The Committee moved into closed session in order to consider closed information relating to the potential to challenge the Secretary of State's decision on 45 Urlwin Street.
- 1.11 In response to Member's questions, the Strategic Director of Regeneration clarified that any complaint to the Ombudsman made by the residents would be a procedural complaint and would not lead to a reversal of the decision. Any award of compensation would relate only to time, trouble and expense in pursuing the complaint.
- 1.12 Officers indicated that there was no evidence of any deliberate intent in the failure to follow procedures fully. If any evidence was submitted this would be fully investigated. The original application to the Planning Committee included amendments and it was appropriate for Officers to recommend approval. The Committee gave more weight to issues raised by residents. The Inspector's report did not disregard residents' views but came to the view that granting permission was justifiable.
- 1.13 The Head of Planning & Transport reported in detail on action taken by specific officers in respect of the appeal to the Secretary of State. Adequate processes were in place but had not been properly followed. All other appeal applications were being checked to ensure compliance with procedures.
- 1.14 The Head of Planning & Transport indicated that the council's success rate in appeals had improved by about 10% over the past year. A proposal had been submitted to create a post of Appeals Officer to manage the process and ensure the quality of statements.
- 1.15 Members raised concerns about the numbers of agency staff used within the department and asked whether there were problems with recruitment which could have a knock-on effect on efficiency. The Head of Planning & Transport responded that recruitment was successful at certain levels but that there were difficulties in recruiting planning officers and senior planning officers.

- 1.16 The Committee noted the costs to the council in maintaining the right to appeal.
- 1.17 The Committee deeply regretted the failure of the council to actively support the Planning Committee decision to refuse planning permission for 45 Urlwin Street. However, having fully considered the potential costs of an appeal against the Planning Inspector's decision, the legal advice regarding the likelihood of success and the potential for a slightly modified application to be granted, the Committee concurred with the decision of the Strategic Director of Regeneration that the council should not proceed with a challenge to the Inspector's decision.

**RESOLVED:** That, noting that a number of failings have been identified in the handling of this case, the Strategic Director of Regeneration report to the April meeting of the committee with a full report on his investigation including information on:

- How this situation arose
- Any action he is taking relating to this case
- Whether there have been other similar cases
- What action he is taking to prevent a recurrence
- How he will improve lines of communication between his department, councillors and the public

As much as possible of this report should be made publicly available.

The meeting concluded at 7:40 p.m.

**CHAIR:**

**DATED:**