

St Quintin and Woodlands Neighbourhood Forum

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Liz Peace CBE
Chair of the OPDC Board
City Hall,
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Dear Liz Peace,

OPDC governance arrangements

Two events in London in recent weeks have raised concerns amongst the public about the probity and transparency of the planning system. Having looked again at current OPDC arrangements, I have some queries to how they currently operate, and whether they are fully robust.

I am contacting you direct on this subject, in the hope that you can answer these queries. In raising them, I am not suggesting that there is any evidence of impropriety or lack of probity in OPDC's handling of planning matters. But there are some questions on which information on the OPDC website does not give answers.

The two recent incidents in the London planning world are:

- The Westminster City Council report and findings on standards of conduct by former Deputy Leader Robert
 Davies in respect of gifts and hospitality while serving as chair of one of the Council's planning committees.
 See at https://www.westminster.gov.uk/statement-from-leader
- The decision by Kensington and Chelsea's Planning Committee on 27th September to overturn officer recommendations and refuse the application from Queensgate Developments for a redeveloped Kensington Forum hotel in Cromwell Road.

The first of the above has raised widespread public debate on acceptance of gifts and hospitality by those individuals responsible for making planning decisions. The second has prompted debate (in Kensington and Chelsea and perhaps more widely) on the role of officers in providing extensive pre-application advice and on the influence within London's planning system of planning consultants, agents and specialist lobbying consultancies.

OPDC Register of Interests and declarations of gifts and hospitality

OPDC Board members and Planning Committee members are required on appointment to provide a statement setting out their financial and other interests, for publication on the OPDC website. The present list of Board members as published online show no such statements for Stephen Cowan (Leader of Hammersmith & Fulham) or Rahul Gokhale (Chair of Park Royal Business Group). These have a note saying 'to be added' although both individuals have been Board members for over 3 years.

Planning Committee members (other than the Chair who is a Board member) do not appear to have to provide similar statements on their various interests. Or if they do, these are not published on the OPDC website (other than one, in respect of Wesley Harcourt, LBHF councillor).

All London Assembly Members, apart from disclosing their interests, are also required to maintain and update an

online register of any gifts or hospitality received in the course of their duties. It is not clear why the same process does not apply to OPDC Board and Planning Committee members, given that the Corporation is a body accountable to the Mayor of London?

Senior GLA staff at Assistant Director level and above are also required to maintain a register of gifts and hospitality received. The list published online by the GLA includes entries by Victoria Hill, the former OPDC chief executive. No similar entries are shown for Mick Mulhern as the subsequent interim chief executive. Nor is it clear why OPDC Assistant Directors are not included in this process, whereas other GLA officers at this senior level are?

OPDC Planning Code of Conduct

The 21st May 2015 OPDC Board agreed a Planning Code of Conduct. The covering officer report states that the Code *applies to Planning Committee Members* (including Board Members who are Planning Committee Members) and to Planning Officers where and to the extent which indicated in this Planning Code. The requirements in this Code include the following:

Paragraph 1.1.1 Planning Officers should ensure that they conduct themselves in a way that not only maintains their impartiality in advising Planning Committee Members or Board Members making planning decisions, but ensures that they are seen to be behave in a way that maintains impartiality. Planning Officers should record meetings and dialogue with interested parties in the application file.

Paragraph 4.13 a written note should be made of all pre-application meetings or discussions (including telephone discussions) in relation to a prospective planning application or other planning matter held with the Corporation in its capacity as local planning authority and be placed on the application file (or preapplication file if appropriate) to show a transparent approach.

What is the 'planning file' as referred to here? If this is the OPDC's APAS online system on planning applications, such notes of meetings/discussions do not appear to be published there. Formal preapplication advice notes are published. If other such notes of meetings and telephone discussions are recorded only for internal use, what does such a practice contribute to a 'transparent approach'?

Pre-application advice

The OPDC web page on pre-application advice states If you intend to make a planning application within the OPDC boundary area, we encourage you to seek pre-application advice, particularly if your scheme is large or raises complex planning issues. OPDC do not currently charge for pre-application advice, and is operating the following interim arrangements until further notice.

Does this arrangement (of not charging for pre-application advice) remain the current position? Other London Boroughs, handling complex major applications, operate with a paid for advice service at various levels of detail, and with Planning Performance Agreements as encouraged by Government. Such agreements are bespoke to individual applicants and applications, with fees varying according to the workload demands involved.

Does the OPDC not use PPAs? Is it appropriate for the Corporation to provide free planning advice on major developments, effectively subsidised via the London Mayoral precept, when legislation allows for planning advice to be charged at cost? Costs of officer time spent on such advice for major schemes can often run into six figures.

We have noted that OPDC may provide several sets of written planning advice on a major scheme, over a period of many months of dialogue between applicant and planning officer. Within many Boroughs, there is public concern that such extensive pre-application discussions can lead to an inappropriately close

relationship between applicant and planning officer, with the officer involved becoming an advocate for the scheme rather than an impartial adviser to the decision-makers.

The recent high profile case of the application for the Kensington Forum Hotel, on which the RBKC Planning Committee overturned the officer recommendation on a major development, has brought the process of preapplication advice and PPAs to wider public attention in west London.

What is the position at the OPDC? Does the same case officer involved with an applicant in giving preapplication advice also draft the committee report and recommendations on an application? Formal notes of OPDC pre-application advice that we have seen have either been issued either in the name of the Director, or provide no information as to authorship. This feels unsatisfactory, in terms of accountability. Pre-application reports and notes published by RB Kensington and Chelsea give the name of the officer(s) providing the advice

The OPDC Planning Committee and Board deal exclusively with major developments in the OPDC area, all of which involve extensive pre-application advice. They also involve applicants with very substantial resources, and several of the same planning consultancies that have been named in the Robert Davies saga at Westminster.

As has been made very clear in Westminster's reports on the Robert Davies case, the issues were not about whether there was any improper influence on planning decisions. They are about public perceptions of what might have happened or could have happened, given the scale of hospitality involved coupled with the level of influence that these planning consultancies and lobbying firms claim to exert in getting applications approved.

The OPDC makes planning decisions via a committee made up of elected members and appointed members. Unlike London Assembly members, OPDC Board and Planning Committee members do not appear to be required to maintain registers of hospitality and gifts received. Those who are also elected councillors are required to do so when carrying out duties at their own council, but not in their OPDC capacity.

Given that the decision-making powers of OPDC members are greater than non-executive Assembly members, it seems strange that OPDC requirements are less stringent. Furthermore, those arrangements for openness and transparency as do apply to OPDC members and officers do not seem to be being kept up to date. Hence it is hard for the public to be fully satisfied that planning (and other decisions) made by the OPDC are wholly above board.

On pre-application discussions, there are continuing concerns amongst Londoners about the activities of some major planning consultancies, and some specialist lobbying and PR companies in the planning field. As and when OPDC begins to promote major applications as a development body, with the need for a separation of functions from its decision-making role as a planning authority, the inherent tensions in this scenario will come under increasing public scrutiny.

The Code of Conduct for Planning Committee members adopted by the Corporation in April 2015 seeks to address these latter issues. Whether such written guidance fully satisfies the public remains to be seen. As noted in the Westminster CC report on Robert Davies, the chief executive of the City Council has commissioned a review of the planning decision process, looking at officer/ member/ committee governance arrangements. This may identify a range of issues that prove to be relevant to all London planning authorities. Or the Corporation may itself wish to look at some of these matters at a time when it is re-appointing Board and Planning Committee members.

Yours sincerely,

Henry Peterson, Chair St Quintin and Woodlands Neighbourhood Forum 0207 460 1743