

Committee:	Date:
Policy and Resources Committee	19 September 2019
Subject: Review of officer recommendations to the Planning and Transportation Committee	Public
Report of: The Town Clerk	For Information
Report author: Simon Latham, Town Clerk's Department	

Summary

1. In January 2019, following concerns expressed by a Member, the Town Clerk commissioned an independent review into officer recommendations made to the Planning and Transportation Committee on 29 January 2018 and 11 September 2018 in relation to the delegation of the Richard Cloudesley School planning application to the London Borough of Islington and to the application for the change of use of the Golden Lane Community Centre. This report provides Members with a summary of the key findings and recommendations arising from the review.
2. A number of Members and Officers were interviewed as part of the process and, in short, the findings were as follows:-
 - **Richard Cloudesley School delegation of planning application:** Given the complexity of this cross-boundary project, *“that officers acted in accordance with the law, followed due process and acted with integrity and in good faith”*.
 - **Golden Lane Community Centre application for change of use:** Whilst one of the officers involved was no longer in post and not available for interview, *“I have further found no systemic failings in the Planning Process, which require changes to that process”*.
3. Notwithstanding the outcome, the investigator made two suggestions to assist with the management of processes going forward:-
 - *That Members and officers are reminded of the provision in the Protocol on Member/Officer Relations, in particular Paragraph 12, Dispute Procedures; and*
 - *Before attending the Planning & Transportation Committee, officers thoroughly review reports in detail, check plans and appendices and be prepared for robust and detailed questioning from Members.*
4. It is intended that both recommendations will be shared as appropriate and taken on board. No further action is required.

Recommendation

5. Members are asked to note the findings and recommendations of the investigation.

Main Report

Background

1. In January 2019, the Town Clerk commissioned Doreen Forrester- Brown, Director of Law & Democracy and Monitoring Officer in the London Borough of Southwark, to undertake an independent review of the process and evidence leading to two officer recommendations made to the Planning & Transportation Committee. This followed a complaint made by a Member that relevant information may have been withheld from Members during the course of making their decision.
2. The officer recommendations in question relate, firstly, to the recommendation to the Planning & Transportation Committee on 29 January 2018 to delegate the decision relating to the Richard Cloudesley School planning application to the London Borough of Islington. and secondly, the recommendation made to the Committee on 11 September 2018 supporting the change of use of the Golden Lane Community Centre
3. It is important to note that the purpose of the investigation was to provide the Chief Executive with personal assurance that, in dealing with matters, officers acted appropriately and to ascertain whether the planning process would benefit from any changes. No individual was under investigation and it did not relate to a disciplinary.
4. As part of this investigation, Ms Forrester-Brown reviewed relevant correspondence and documentation, and conducted interviews with the following Members and officers from the City of London Corporation and LB of Islington:
 - The complainant
 - The Chairman of the Planning and Transportation Committee at the time
 - Director of Built Environment
 - Chief Planning Officer and Planning Director
 - Director of Community and Children's Services
 - Comptroller & City Solicitor
 - Assistant City Solicitor
 - Planning & Development Lawyer at the London Borough of Islington (by phone)

All interviewees have been given the opportunity to have sight of the investigative report.

Current Position

5. The detailed findings of the investigation were presented to the Town Clerk in July 2019. Whilst no other action is proposed other than that indicated, a more detailed summary of the findings is set out below.
6. In relation to the recommendation to delegate the planning application decision to LB Islington, Ms Forrester-Brown found as follows:-

- *‘From the evidence I have collated I find that officers acted in accordance with the law, followed due process and acted with integrity and in good faith. This was a complex cross boundary application. Officers took advice and were working professionally and diligently to reduce the risk of a legal challenge, comply with the duty to work efficiently in the discharge of their planning function.’*
 - *‘Late and urgent items to committee are never desirable and fortunately infrequent. However, in this case of a complex planning application with the London Borough of Islington taking longer than expected to decide whether to accept the delegation, who could accept it and the indemnity required, the reasons for the delay and request for a late and urgent item were justifiable. Further, the Chairman agreed to accept the report; it was open to the Chairman to refuse.’*
 - *‘All the facts lead me to conclude that officers in the CoL and Islington successfully devised a robust governance process for this very complex planning application which produced the correct outcome whilst ensuring all interested parties had the opportunity to make representations to the Planning & Transportation Committee. The fact the permission has not been challenged is testament that the hard work, professionalism and caution exercised by officers and members was exactly the right approach in the circumstances.’*
 - *‘I have found no evidence to suggest that officers are in breach of the Code of Conduct or Member Officer Protocol.’*
7. In preparing the planning application it was accepted that, in the case of the Richard Cloudesley School project, the City Corporation was wearing two ‘hats’ i.e. it was both applicant/developer and the local planning authority. Coupled with the scheme being very complex and controversial applications such as this required more attention.
8. In relation to the Golden Lane Community Centre change of use application (which involved an officer being unable to respond to all questions relating to the site and the individual making an erroneous reference to the layout of the building), Ms Forrester-Brown found as follows:-
- *‘I have further found no systemic failings in the Planning Process, which require changes to that process.’*
 - *‘The officer is no longer employed by the CoL; I was therefore unable to discuss the meeting with them.’*
 - *‘On reviewing the evidence, I agree this was an innocent mistake and an example of an officer not being sufficiently prepared for the questions submitted by Members. Members were clearly more familiar with the building than the officer who relied on plans which were inaccurate.’*

- *'I do not believe relevant information was withheld from members; rather the evidence confirms the officer made a mistake by relying on plans that were not accurate. This omission tends to suggest that once again the quality of the application submitted by the local planning authority was not up to standard.'*
 - *'In hindsight and coming relatively soon after the Richard Cloudesley School application, I can understand why some Members may wish to point to this meeting and the officer's performance as another example to support a wider conspiracy theory. However, I find this was a genuine mistake. Members made their decision on accurate and relevant information.'*
9. Despite the findings, the investigation also made two recommendations as follows:-
- *'That Members and officers are reminded of the provision in the Protocol on Member/Officer Relations, in particular Paragraph 12, Dispute Procedures.'*
 - *'Before attending the Planning & Transportation Committee, officers thoroughly review the reports in detail, check plans and appendices and be prepared for robust and detailed questioning from Members.'*
10. The recommendations have been noted. Going forward they will be shared with officers and be actioned accordingly.

Conclusion

11. Given the challenges and contentious nature of these planning applications and the concerns about the possible withholding of information in determining the applications, a review was commissioned by the Town Clerk to provide him personally with independent assurance over the probity of his officers and that, in dealing with matters and providing advice to Members, they acted appropriately, with integrity. It was also to ascertain whether the planning process would benefit from any changes. That assurance has now been provided and, other than taking on board the recommendations of the investigation, no further action is required.

Appendices

- None

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