**Planning Committee**

**18 November 2014**

**Agenda Item 6: The Mayor's Strategic Planning Decisions**


**Nicky Gavron AM (Chair):**  Good Morning.  We are going to have an introduction, are we not?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  A brief one, yes.

**Nicky Gavron AM (Chair):**  A brief introduction from the Greater London Authority (GLA).  Introduce yourself first please.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  I am Stewart Murray, the Assistant Director of Planning based in the Development, Enterprise and Environment Directorate for the GLA, accompanied by my deputy.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):**  I am Colin Wilson, the Senior Manager of Development and Projects.

**Nicky Gavron AM (Chair):**  Thank you.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  As you know, we head up the Planning Unit, which includes both Colin's area on the development and projects area decisions and the planning applications, which is the item this morning, and also the London Plan strategy and policy side and the monitoring of development.  We cover the full scope of strategic planning.  Would you like me to go into a summary of the strategic decisions and call-ins?

**Nicky Gavron AM (Chair):**  It would be helpful.  It would set the context for everyone.  Thank you.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  Thank you, Chair.  The paper sets out the context in terms of the legislation.  Some of us, as you will know, Chair, were here in the early days when the GLA Act 1999 and the Mayor of London Order 2000 set up the powers and the referable strategic planning applications that would come to the Mayor.  There are thresholds set out summarised on page 96 in Appendix 1 of those categories of potential strategic [importance] applications or what we call PSIs. In 2000, the Mayor only had powers to influence and be consulted upon or to direct refusal to a borough of strategic applications and at that time there were approximately 300 to 400 referrals a year, although it took some time to build up to that.

Subsequent to that situation, the Government reviewed legislation and considered under the former Mayor the possibility of introducing positive planning powers.  There was quite extensive debate in Parliament and with London councils and obviously the Mayor at that time – in about 2006 and 2007 - to introduce positive powers where the Mayor could directly take over a strategic application and become the planning authority. However, in that debate and in the final decision to introduce positive powers, which came into effect in 2008, there were a number of stringent tests on what the Mayor could determine and what he had to fulfil in terms of taking over an application for his own consideration.  Those are set out in your paper, including areas such as cross-borough development where they need to meet the implementation of the London Plan and the

proper planning for London.  Those tests are legally binding on any Mayor.  The current Mayor - elected in 2008 - was the first Mayor to have those positive powers.

Subsequently, for the intervention, the number of applications where that has taken place to date has been 11.  Colin [Wilson] will confirm how many applications are referred to the GLA annually and during the period since those positive powers were implemented in 2008, but that represents less than 1% of all applications, if one does the maths.  Obviously, the approach is to be highly selective and to intervene only when it is felt that the strategic objectives of the Mayor's London Plan and his wider objectives need to be implemented or are not being implemented and, particularly in terms of the London Plan's thrust of growth, housing need, jobs and development, to use that power very lightly.  In the paper, you can see how many interventions there are.

Our approach as officers in advising the Mayor is that at all times it is better for the borough to first take the decision and for the Mayor to operate under the normal strategic referral process, which is for 99.2% of all applications that are referred to the Mayor and dealt with at stage one in consultation and stage two - whether to support change or direct refusal.  It is only at stage three where those applications are taken over and are determined by the Mayor.  The officers advice is to use that power very, very lightly and only in exceptional circumstances.

The interest has been that the number of applications taken over in the last two years has been similar to the number that had been taken over in the past four or five years.  One needs to look at that in context.  Firstly, in the previous five years we were in a deep recession and many sites were stalled.  The Mayor and the GLA have been working with the London boroughs, developers and landowners to try to get development going.  This has now started to really move with a number of strategic developments.  The London Plan has been revised in 2011 and then we had the affordable housing revised with only minor alterations last year.  We have just gone through an examination in public on the Further Alterations to the London Plan with a very significant increase in London's housing targets across all boroughs with approximately a one-third to 50% increase in the housing targets and, also, London pulling out of recession and the need to improve prospects for the economy and to support development, create jobs and support London to maintain its position as an economic hub for the country and those parts of London that are the lifeline of local economic communities.  The Mayor when looking at his interventions is looking at his housing targets, his jobs targets and also where development is being brought forward or being frustrated.

The other issue that is very important to set out is that the GLA works very closely with the boroughs at all stages and the boroughs have their own planning committees and their own local democratic processes.  There is a two-stage system where the boroughs take the decision first and the Mayor goes second.  It is only when schemes are frustrated or stalled or there is a breakdown in communication between boroughs, developers and landowners that the Mayor may be asked to intervene.

One would also need to compare that to the role of the Secretary of State, who also has call-in and intervention powers and can exercise that on any application at any time, whereas the Mayor's call-in powers are very tightly controlled by the three tests set out in the legislation of 2007 and the order of 2008.

Colin will just quickly refer to the applications that we have taken over.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):**  Yes.  As Stewart [Murray] said, as at about 2008 we had taken about 220 applications that were being referred to the Mayor.  That was just before the recession.  They dropped down to 180 and then 170 in 2010/11, following that path of the recession.  However, then the referrals have been climbing back up again.  In 2013, for instance, we were back to 212, which is broadly similar to what we had in 2008.  This year - 2014 - we are probably on our way to 280 or 300 referrals, which will be the most we have ever had.  That is reflected also in the pre-

application service that we run.  We will probably get more pre-applications this year than we have ever had at the GLA throughout its existence.

As Stewart said, it is against a context of there being more developments in London and more referrals.  On that basis, whilst the Mayor has taken over more schemes in the last two years, the numbers absolutely are still quite low.  It is three in each year and prior to that it was even one or two applications in each year.  Therefore, as it was intended when it was set up in the legislation, it is an exceptional power that we use fairly rarely and only when we absolutely have to and only when it is an absolutely strategic purpose, a purpose which I suppose you could say is local to London, rather than local to the local authority.  When the Mayor does hold a representation hearing or stage three, which has been set out in the paper, and he resolves to approve a strategic application, it is always the approach of the GLA to involve the boroughs and the developers in the section 106 planning obligations negotiations from the very start right through to the signing with the joint signatories or the boroughs if they wish to sign that and be party to securing maximum community benefits for their local communities.  That includes housing and affordable housing.

**Nicky Gavron AM (Chair):**  Thank you.  There is a lot there that we can pick up on during the rest of this session.  It would be very helpful if each of our guests could just introduce themselves and then we will crack on with the questioning.  Thank you.

**Marcus Bate (Senior Associate, Pinsent Masons LLP):**  Good morning.  My name is Marcus Bate.  I am a planning lawyer from Pinsent Masons, which is the largest firm of planning lawyers in the country.  I am here today because we represent around half a dozen key London boroughs on strategic planning applications and also a significant number of private sector commercial or residential developers and foreign investors increasingly asking about the Mayor's planning powers.

**Mike Franks (Chair, The Mount Pleasant Association):**  Good morning.  My name is Mike Franks.  I am the Chairman of The Mount Pleasant Association.  I think that is all.  I am an architect planner, if it helps, or does not.

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  My name is Peter Eversden and I am Chairman of the London Forum of Amenity and Civic Societies, which represents 180 community groups and associates across the capital and was established by the Civic Trust 25 years ago as a charity.

**Duncan Bowie (Senior Lecturer in Planning, University of Westminster):**  I am Duncan Bowie.  I am a Senior Lecturer in Planning at the University of Westminster.  I undertook a research report for this Committee about two years ago on the Mayor's planning decisions in the 2008 to 2011 period and I also in 2010 published a very detailed study of planning and housing in London with the previous regime.

**Nicky Gavron AM (Chair):**  Thank you for that.  We are expecting - and he has given apologies for being late - Councillor Murray from Islington, but we can start straight away.  If I can just open with the first question to our GLA representatives, could you just tell us why you think the Mayor really needs call-in powers?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  Firstly, that was a big issue for debate, as I said earlier, when drawing up the positive planning powers of call-in intervention back in 2006 to 2008.  That was in a situation where it was rather strange that the Mayor had powers of direction to instruct a borough to refuse, a negative power which is to some extent a powerful measure but is not necessarily going to deliver the outcome of getting development going or delivering housing and affordable housing.

There were a number of cases in the period from 2000 to 2008 such as cross-borough developments where two boroughs were taking different local decisions on the same development.  The classic one that is often

referred to is the Lots Road Power Station site, which falls within the London Borough of Hammersmith & Fulham and the Royal Borough of Kensington & Chelsea, where at the time the two boroughs were taking different decisions on a very strategic development. That development was, some may say, delayed significantly because of those odd decisions. Those are some of the reasons.

The other reason is, as Colin [Wilson] described, the Mayor's need to implement the London Plan targets with a growing population and growing targets for the boroughs, on developers and for London as a whole, particularly on housing but also on commercial and employment areas. The Mayor needs to be seen to have an effective implementation plan and part of that should be the toolkit of powers to intervene when that is not being implemented locally but only for those developments which are very strategic.

A good example is the Mayor's decision to take over the Convoys Wharf development, which is in a London Plan strategic opportunity area on the riverside, identified for thousands of homes and jobs. I recall being on a site visit there in 2000 and it was a semi-derelict site or partly occupied. Twelve years later, it was still a derelict site and completely unoccupied and, as well as a recession, it had gone through a planning process with no outcome and no development. There is a case where the Mayor needs to be seen to implement his London Plan objectives where it has not been possible at the local borough level. However, in that particular case and in all other cases, his intervention is in collaboration with the borough at the point of intervention, even if the borough may object to that intervention.

The other issue is that often developers get frustrated by the negotiations and some of the local requirements that go backwards and forwards between the borough and developer on major schemes which are strategically important for the London Plan. The Mayor can intervene only after the borough has taken a decision or not before a major application has passed a certain timescale, which in the case of major applications is either 13 weeks or 16 weeks for an environmental impact assessment (EIA) development, which is most of the schemes, actually. The Mayor has to wait for at least 16 weeks before a developer can request that he take that over. Often, most of the schemes the Mayor has taken over before the borough has taken a decision have taken far longer than 16 weeks, which is the Government's statutory target decision date. That creates uncertainty in the development industry and for investors when London needs development needs to be brought forward. Also, it dissuades other investors where planning has been frustrated, maybe for issues that are less than strategic, and there is less attention to the strategic targets. Again, the Mayor uses those powers only very lightly and the legislation sets out clearly why he should intervene and should not intervene, the London Plan being the key implementation objective to deliver that.

**Nicky Gavron AM (Chair):** Yes. Can I just follow up with one thing there? You mentioned Convoys Wharf. Then I will bring you in, Andrew [Boff AM]. On Convoys Wharf, you cited delay by the borough in coming to a decision. Is that right?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** One of the reasons was that negotiations with the key developer/landowner had been going on not just for weeks or months but for years. That situation had broken down and there was not any reasonable prospect that the borough and the developer were going to reach agreement and ultimately take a decision on the development. In fact, interestingly, that development already had a resolution to grant with an unsigned section 106 from (overspeaking)

**Nicky Gavron AM (Chair):** Can I just ask? Was there a stage one?

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Yes.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** Yes, there was.

**Nicky Gavron AM (Chair):** There was a stage one and you were awaiting stage two?

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Yes, we did stage one because we have to do the stage one within six weeks of the application being validated. We had completed a stage one report and then we were in discussion with the borough and also Hutchison Whampoa about progress on resolving the issues the borough had with the application. Of course, stage two is only triggered by the borough going to a committee to take a decision. The borough did not get to a position where it had a committee date fixed because it could not resolve the disagreements it had with the developer.

**Nicky Gavron AM (Chair):** Did the developer come to you, saying, "Call this in"?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** The developer formally wrote under the provisions in the legislation or regulations requesting that the Mayor take over the application, to which we have to by law respond within 14 days, I believe, the same as in stage two.

**Nicky Gavron AM (Chair):** Just let me understand this. If an applicant writes to you, you have to call it in or you --

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** No, we have to report to the Mayor similar to a stage two decision and we have only 14 days to do so. The Mayor can decide to reject the request, which he has in one case from another borough that is not identified in the paper.

**Nicky Gavron AM (Chair):** Which one was that?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** This was a development in the London Borough of Redbridge for a strategic development in the green belt at Five Oaks Lane, which --

**Nicky Gavron AM (Chair):** What you are saying is that if an applicant asks the Mayor to call it in, except in one case, you have said, "Yes, we will call it in".

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** In two cases.

**Nicky Gavron AM (Chair):** All right. The reason you were citing Convoys Wharf was lack of resolution and delay, but it did take you five months then, did it not, to get to the actual --

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** To get to stage three of the hearing.

**Nicky Gavron AM (Chair):** The hearing?

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Yes, it did, but all of the things we were doing in that period were trying to resolve the differences between the developer and Lewisham and also resolve some issues with Transport for London (TfL) as well. Having become the planning authority, we then engaged - as Lewisham would be and we were engaged with Lewisham in this process - in trying to resolve differences of opinion about the scale of development, the amount of affordable housing and the provisions made for other community groups. When we take over a scheme, it is not a case of taking it over and then just rubber-stamping it through a decision process. We take it over as the local planning authority and, like a local planning authority, we are then engaged in further debate and discussion with the developer to get a closer fit with both the borough plan and also the London Plan.

**Nicky Gavron AM (Chair):** You may then become more sympathetic about the reasons why some of these very, very complex cases take quite a while because of all the different interests that have to be resolved.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** We always advise developers, Chair, actually, that if they resolve their differences and negotiate appropriately with the borough, it is the fastest route to determine the application in the normal manner. It is when those processes and negotiations break down or there is a standoff between the borough and the developer on very major strategic developments that the Mayor may be seen as the only way to deliver the outcome.

**Nicky Gavron AM (Chair):** Do you think it was the case in Convoys Wharf that there was a stand-off?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** Yes. On Convoys Wharf, the borough and the developer were not seeing eye-to-eye whatsoever.

**Navin Shah AM:** That was purely on section 106, you said, was it not? The borough, from what I heard, was minded to grant subject to section 106 --

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** To start off with, yes.

**Navin Shah AM:** -- and therefore the stand-off was to do with section 106, was it not?

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** No, there were still outstanding disagreements about levels of affordability and also about design and about height, mass and bulk. It was not as simple as saying that the borough was content with the entire package except for section 106 levels. There were ongoing negotiations that were part of that five-month period about design, about layout, about space and about heritage. There were all sorts of things that were not resolved.

**Andrew Boff AM:** It is just a simple technical question, really. You were going on, Mr Murray, about how it is important that applications should be determined within 16 weeks. How many potentially strategic applications are determined within 16 weeks?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** In terms of the Mayor's decisions, the Mayor has only 6 weeks to give his stage one and 14 days to give his stage two, which often falls within the 16 weeks in which the borough is seeking to meet its own local targets. Sixteen weeks is the borough's target. The Mayor has to fit within that.

**Andrew Boff AM:** Yes, but you were saying that one of the reasons for calling in an application, as I understood what you said, is to ensure that the reputation of planning in London is not damaged and that developers can be confident that their applications are going to be determined within 16 weeks. I am interested to know how many are determined within 16 weeks.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** It varies per borough. We could probably provide you with the London figure.

**Andrew Boff AM:** If you could, that would be great.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** I know it is not as high as the average for the rest of the country, probably because of the complexities of London and having a two-tier

system might be part of that. However, generally boroughs are incentivised to try to achieve it. The target used to be about 65% of those applications within 16 weeks.

**Andrew Boff AM:** For strategic importance?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** Of strategic importance are the 300 or 400. We can provide you with those figures.

**Andrew Boff AM:** Yes, please.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** Of course, many of them do take longer because they are ---

**Andrew Boff AM:** This is what I am trying to get to the point of. If they are going to take longer because they are of strategic importance, using that as a reason for determining them does not seem to be a very effective one if they are going to take longer than 16 weeks anyway because they are so complex.

**Nicky Gavron AM (Chair):** That is the point I was making.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** It is who goes first and it is the certainty of getting a target for a decision. On the one that I referred to earlier, Convoys Wharf, there was no degree of certainty that the borough was going to take a decision in the foreseeable future. In fact, we had evidence to show that the borough actually deferred taking the decision - it was in 2013 in September - and it was not prepared to take a decision until February, which was well beyond the 16 weeks. Also, there was no degree of certainty that the developer was going to get anything other than a refusal after a sustained further delay. It is the certainty issue rather than the very specific 16 weeks or 13 weeks. It is about when the borough is going to take a decision and whether it is providing certainty to the developers, who are entitled to know when their application is going to be brought forward for a decision.

**Nicky Gavron AM (Chair):** Steve, you wanted to come in, and then Peter [Eversden].

**Steve O'Connell AM (Deputy Chair):** Yes, just briefly on the back of that before Peter, I understand that there is a distinction between applications where there is a breakdown, in essence, in relations between the applicant and the borough and a determination is unlikely and overdue, as opposed to sites where the market has changed. At 3.00pm today there is a ground-breaking ceremony at Ruskin Square, which has been desperate for 12 or 15 years and the Mayor has not taken it in, but that was partly because the market has moved, et cetera.

The point I wanted to just come back on was your point about the fact that there have been only two applications where there has been an approach by the developer and the Mayor has said no. One of them was greenbelt and pretty obvious. That suggests that for the rest of the approaches, the Mayor has quite happily accepted the applicants' overtures. That might worry people to a degree in that there is almost an assumption or a default position for the Mayor that if an applicant approaches, he will take it over. I would have thought there might have been more of a balance. I thought we might have seen more approaches where the Mayor said, "No, it does not fit the three-point criteria", or, "Go away, Mr Applicant. Your reasons are weak. Go back and work with the borough because we like the boroughs to determine applications". I was quite surprised you said it was only two.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** There were only two development proposals which the Mayor, at a formal request from the developer, has intervened, although it is actually three because one of them was on the same site.

**Steve O'Connell AM (Deputy Chair):** I must have missed it. Sorry, did I mishear? I thought I heard that there have been 11 or 12 or whatever applications where the developer has come forward and the Mayor has taken over the application.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** No. Of the 11, the vast majority of those are where the borough has determined the application formally and in most cases it has been a recommendation for refusal, subject to the Mayor's direction. It is actually three applications because Mount Pleasant was two applications on the same site in two different boroughs and there is Convoys Wharf. There are those applications only where the Mayor's intervention at the request of the applicant to take over was before the local planning authority had gone to its planning committee for a determination.

**Steve O'Connell AM (Deputy Chair):** Are there many situations where the applicant has requested the Mayor to take over the determination and where the Mayor has said no?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** There was the one I have just referred to in Redbridge, but Colin [Wilson] gets a lot of others that do not see the light of day. There are others that do not formally come in.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Yes.

**Steve O'Connell AM (Deputy Chair):** That is my question. On the face of it, we are hearing - and Colin is probably right - that in essence the applicants come along and it is very rare for your office to say, "No, we will not take this on".

**Nicky Gavron AM (Chair):** That is what I heard, too.

**Steve O'Connell AM (Deputy Chair):** It does not shine out from my briefing how many you have turned away, Colin.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Yes. As Stewart has set out, there are two mechanisms for the Mayor taking over. One is where the borough has gone to committee and then it has to be referred back to the Mayor.

**Steve O'Connell AM (Deputy Chair):** Stage two, yes.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Then the Mayor can take a view and we can advise the Mayor on whether or not to call that in. That is not a formal request.

**Steve O'Connell AM (Deputy Chair):** No, I get that.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Then there is a formal request process where they write in and that has tended to be used infrequently.

**Andrew Boff AM:** The question is - how many?

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Getting on to the question of how many people and whether that absolutely reflects the approaches that we have had to call in applications - because we get informal inquiries from developers before committee or after committee - they will approach me or they will approach Stewart [Murray] and will say, "Look, we would like this and we think the Mayor should take this over --

**Steve O'Connell AM (Deputy Chair):** "We think we are not getting the answer we want. Would you kindly take it over?"

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Yes. In quite a lot of those instances, although it is not formally recorded because it does not come in an email or a letter, quite often either Stewart [Murray] or I will say, "No. For the following reasons, we do not think we would as officers recommend to the Mayor that we would do that".

**Andrew Boff AM:** How many formal ones?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** The formal ones you have.

**Andrew Boff AM:** Two?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** Yes. There were actually three applications because one was one site with two boroughs.

**Andrew Boff AM:** How many have you turned down?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** One formally.

**Andrew Boff AM:** Just one formally? Of the formal applications, of the three or four that you have received --

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** Of four, three we have taken over on the two sites and one has been rejected. What Colin [Wilson] was also saying - but we do not have the numbers - was that we get quite a few informal requests and they do not get further because we say it does not meet the test or is not appropriate.

**Steve O'Connell AM (Deputy Chair):** I bet you do, yes.

**Nicky Gavron AM (Chair):** I just want to welcome Sir Edward Lister who has joined us and to bring in Peter Eversden and Mike Franks who wanted to come in. This is on why the Mayor needs a call-in, yes?

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):** On what Stewart [Murray] said, I thought it was interesting that when talking about the time when the Mayor had only negative powers, Stewart referred to the Lots Road development. That was one which left the communities and the boroughs in little doubt as to how the Mayor would act in future because on that occasion, although he had no powers at that time to direct approval, the Mayor acted on behalf of the developer at an appeal public inquiry. It resulted in Colin [Wilson] sitting on the opposite side of the triangle to me as I supported eight community, voluntary and waterways groups and Colin was opposing me and the London Borough of Hammersmith and Fulham.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):**  Probably Kensington and Chelsea and Hammersmith and Fulham by the --

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  Yes, Hammersmith and Fulham. The application was approved and people said, "Is this what the Mayor is going to do in future or is any Mayor going to do that?"  It is still thought by many people that that development will harm the Arcadian Thames landscape views.  That left hanging in the air - quite apart from in 2008 when the Mayor could actually have greater powers - how the Mayor would act in appeal inquiries.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):**  Yes.  In that particular case of Lots Road, obviously we had made a report to Ken Livingstone, then Mayor, and to Nicky [Gavron AM, former Deputy Mayor of London] and they had agreed that we would appear at that inquiry in support of Hammersmith and Fulham.  In that instance, the Royal Borough of Kensington and Chelsea had refused the scheme on one ground alone, which was the height of the building on their site.  Hammersmith and Fulham had an even taller building opposite that they approved and they were very happy with the affordable housing provision.  We were happy with that and also with the design.  We went to an inquiry to support the borough, but it was a very long process and a very expensive process and a very drawn-out process.

Lots Road, as Stewart [Murray] has mentioned, is one of the examples we gave to the Department for Communities and Local Government (DCLG) as an example of how the Mayor having a positive power could speed up a process and could also give the decision-making to an elected individual rather than to the inspectorate or to the Secretary of State, also an elected individual but not elected necessarily in London.

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  You can understand how it would appear that you were acting on behalf of the developer.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):**  No.  In part, yes, but also on behalf of one of the boroughs involved, Hammersmith and Fulham, which supported the scheme.

**Nicky Gavron AM (Chair):**  Mike, do you want to come in?

**Mike Franks (Chair, The Mount Pleasant Association):**  Yes.  The story of how Mount Pleasant, which is sitting in Camden and Islington, ended up with the Mayor, has a reasonably transparent plot behind it - and by 'plot' I do not mean sinister or anything like that - because the developer, prior to making the approach to the GLA, reduced the affordable housing offer down to 12%.  He was offering 20%.  The end product was 24%. The issue about whether they were affordable is extra to that.  However, the strategy that the developer's agents, DP9, the specialists in getting planning permission, put forward seemed to me to be reasonably transparent.

I would have thought that the GLA officers would have seen what that was about: the attenuated period in which the boroughs were trying to get the Royal Mail Group (RMG) to answer a number of questions to effectively open the relevant books and to understand the profitability of the scheme.  The complaint was that it was reduced over the two-year period.  It was reduced in the last three months quite significantly or maybe six months.  It became obvious that the boroughs were dissatisfied and two or three weeks later, after Boris [Johnson], the Mayor, called it in, they refused the permissions.  Both of them took the position to committee and refused it.

I worry that the process is very easily capable of being manipulated by skilful developers' agents.  I see the particular one here that affects us in Mount Pleasant as pretty transparent.  The dialogue between the boroughs and the GLA could have been more effective in this.  The GLA could have acted as a goad to the

developer to improve its figure. After a lot of hard work and difficulty - in which we were not involved as a community and as a mature third-sector organisation; we were not involved - the result was transparent. I feel that there ought to be more proactive decisions and intervention before a legal call-in in which the GLA could have worked with the boroughs to press the RMG to improve what they had done or to open their books because they eventually opened their books to the GLA but they did not do so in the same way to the borough. We have lots of complaints about speed.

One other point is a general point and I believe this has been true for a very long time. The urban design issues on this and many other decisions are placed as secondary issues. The design, the quality of the environment and the general nature of the place is not given the attention it deserves. I am not convinced that there are relevant officers in both the boroughs and the GLA to address this. Effectively, you design something in paint on the outside of a big decision ---

**Nicky Gavron AM (Chair):** Mike, can I just say - we are going to come on to place and design a bit later on.

**Mike Franks (Chair, The Mount Pleasant Association):** Sorry, I cannot see the agenda at the minute.

**Nicky Gavron AM (Chair):** We are at the moment just trying to grapple with the --

**Mike Franks (Chair, The Mount Pleasant Association):** OK. The final point to say is that we were cut out of the ability to have any dialogue with the developer from the time it went to the Mayor. Essentially, the decision came from an analysis of the policies but not an intimate knowledge of the site. That is a big question to ask for the whole of the community because their claim was that it was bad design. The issue never came up.

**Nicky Gavron AM (Chair):** Interesting. We are going to move on to that. Just to close on this opening question on why the Mayor needs a call-in and because of the delay and the frustration argument, I just want to mention a couple of examples. They were quite early on. It was Columbus Tower and Southall Gas Works that you called in, neither of which has progressed. Perhaps you will say they are progressing now.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** They are progressing because Columbus Tower was --

**Nicky Gavron AM (Chair):** That was in 2011.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Yes. Columbus Tower, for instance, has been sold on again and probably will progress, I would say, in the next year or so and probably will come back as a new application. That is not unusual for sites in London. Southall Gas Works is again a similar situation in that the consent was granted and National Grid, the owner, was in the process of an estate review of all the land it owned in the United Kingdom (UK). As part of that, there has been a delay then in selling it on to a developer. Again, not unusual in London, but at the moment a very live scheme coming forward to implementation with the Berkeley Homes. You will see that implemented shortly as well.

**Nicky Gavron AM (Chair):** OK. Eddie, do you want to come in?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** If I may, Chair. Just on those two, perhaps I can just come to Southall Gas Works. Yes, there was a delay, but the granting of the planning permission was key to the decision then being made by National Grid to make its decision to decommission the gasworks, which was a very expensive operation. There are high levels of contamination in the ground and there was also a need for a large number of compulsory purchase orders (CPOs). Therefore, it

was a very complex site. I would argue that without the Mayor's intervention at that stage, we would not be where we are today, which is where we have --

**Nicky Gavron AM (Chair):** There would not have been a planning permission? Do you not think there would have?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** I think it would have gone on for quite a long time and caused even more uncertainty within National Grid because it was the uncertainty within National Grid that was delaying things. May I just also come on --

**Nicky Gavron AM (Chair):** Hang on. Can I just be clear? Southall Gas Works had reached planning permission and was then called in?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** Yes. They had gone for planning permission on the site, but National Grid needed the certainty of having that planning permission under its belt to do the negotiations which they then subsequently did with various partners and then they settled on Berkeley Homes in whatever their internal property transaction process was. I am saying it was an integral part of getting a very difficult site to market and getting us where we are today.

**Nicky Gavron AM (Chair):** I accept that. We had a preamble before you came, Eddie. One of the points I was trying to draw out is that there is the same complexity. All the different things that have to be done, also have to be done by boroughs. Slowness of process and frustration with the complexity and the delays is one of the reasons being given for the Mayor calling in therefore an application, either with the applicant asking for it or because of whatever or he just decided to call it in. I wanted to just make the point that boroughs also struggle with that. The point has just been made that the Mayor could get more involved at an earlier stage with the complexity that the boroughs are facing. Anyway, it is just a point I wanted to make.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Just in relation to Hertsmere House and Southall and that very point, GLA officers are very closely involved with Ealing officers in developing the Southall scheme and also the Hertsmere scheme. I spent a lot of time with Ealing officers and colleagues from TfL getting to a point where Southall Gas Works was recommended by officers at Ealing for planning permission, which was then overturned at committee. We did an enormous amount of work to get that to a point where professionally we felt and the Ealing officers felt that it was a completely fine scheme, but it was overturned at committee.

The other thing with both Hertsmere and Southall is that they were both subsequently consented by the Mayor at the end of 2009/early 2010, which really was in the teeth of the recession. Therefore, delays in implementation have to be seen in that context as well.

However, it is not the case that we do not get ourselves involved with borough officers in negotiating these things and we are not aware of the complexities. It is just that --

**Nicky Gavron AM (Chair):** That is a point just been made by Mike Franks, by the way, that you might have become involved earlier, but we will come on to Mount Pleasant, I am sure, in later questioning. Shall we move on to question 2? Shall we just --

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** Yes, I was just going to say the other point is the opportunity areas that we work with very collaboratively lead to the applications that subsequently follow. We are often collaborating and leading with the boroughs such as on Southall to identify

opportunities where strategic applications are the next stage in the planning process.  We are there usually at the very start and we follow that through.  We are very committed to working collaboratively with boroughs.

**Nicky Gavron AM (Chair):**  That is good to hear, but I am just thinking about what has just been said by Mike Franks as well.  We will come on to that when we deal with Mount Pleasant.  Question 2?

**Tom Copley AM:**  Thank you, Chair.  Sir Eddie, on three occasions the Mayor has called in applications from boroughs that he has acknowledged are performing well against their housing targets: Camden, Islington and Lewisham.  Why was that?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  You have to now start talking about the specifics of some schemes here.  It is about the specifics of the schemes.  Mount Pleasant, for example, was well over the 16-week period in which a decision should have been taken by Islington and Camden.  No decision was forthcoming.  Indeed, when our officers here were talking to officers in Islington and Camden, there was no indication of when a decision would be taken.  In that particular case, the developer made contact with the GLA and, under the powers within the Act, asked us to take that one over.  That was the reason we became involved: because no decision was taken.

In the case of Convoys in Lewisham, if you will excuse me saying so, that site has been empty now for I think 17 years but somebody, I am sure, will correct me if it is not 17 years.  This was the latest in a long line of planning applications which had gone nowhere.  It was not that they were turned down or approved, they were just languishing.  This one was languishing and going absolutely nowhere.  Again, it was a decision.  Sixteen weeks had more than passed.  In fact, it was more like about six months by then.  The decision was then taken that we should actually take that one over and for that reason.

**Tom Copley AM:**  It took two years, did it not, for the Mayor to reach a decision on Convoys Wharf?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  Yes, but it had taken 17 years for Lewisham to make no decision.

**Tom Copley AM:**  The Mayor saw no prospect that the borough was going to --

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  I was involved, as indeed were officers, in discussions and it was very clear there was no decision likely to be forthcoming in the immediate future.  That was why the officers then became involved.  That was why an enormous amount of negotiation then took place.

Just to be clear, for us it is also about the section 106 and the planning application.  Sorry, I know a planning application has to have a section 106, but for us it is not just about making a decision on the planning application.  It is about a decision on the section 106 as well.  You need to sort out both halves of the equation.

**Tom Copley AM:**  On Mount Pleasant, how far over 16 weeks were the boroughs?  Sorry.  It is shame that Councillor Murray [Executive Member for Housing and Development, London Borough of Islington] is not here.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  In the case of Mount Pleasant, I am looking.  Colin [Wilson] will know and he can tell me the time.  It was a good bit over.  It was not under 16 weeks, if that was your suggestion.  It was well over the 16 weeks.

**Tom Copley AM:** Yet you still have two boroughs that are performing well against their targets. It might be over the 16-week limit, but why did the Mayor so readily accept this appeal from the developers?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** Nothing is 'readily' taken on. The Mayor has been campaigning constantly with the Secretary of State and officers here have been campaigning constantly to get a move on and to build London's houses that we need. That is about making quick decisions over planning. I am not saying too quickly. I am just saying within the law as it is laid out, 16 weeks, which is a reasonable period for a decision to be taken.

**Tom Copley AM:** I hear what you say --

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** You can turn them down and that would at least enable the applicant to go to appeal, but making no decision is not fair ---

**Tom Copley AM:** They can appeal against a non-determination, can they not?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** They could go for a non-determination appeal, but it is a very long process.

**Tom Copley AM:** Particularly in terms of the Mount Pleasant plan - and I hope I am not straying on to anyone's questions - there was a real sense there that the community was not happy with what Royal Mail were offering. Perhaps if there had been more time, a scheme could have been put together which would have been much more - and I see Mike Franks nodding - acceptable to local people. Perhaps this was a case where there would have been a benefit to slowing down a bit and, rather than rushing a scheme which was unpopular, coming up with a scheme that would benefit the local community.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** I would respond, if I may, with respect, by saying that there was a pre-application period long before the planning application was submitted. I do not know how long the pre-application period was. I am rather hoping somebody can tell me.

**Mike Franks (Chair, The Mount Pleasant Association):** About a year.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** If it was a year, it was a year to sort all this out before the planning application started its journey. What we are now saying is that this is an enormous amount of time. All of this should have been sorted out. The signals could have been given quite clearly during that pre-app period to Mount Pleasant that it was going to be turned down and that it should have been turned down if that was the view of Islington Council. However, it did not take that view. It in fact took a view that it was making no decision on the matter and that is where it was at that particular point in time. That was when the Mayor became involved.

Could I just also add? The argument at the end was not about design. Design actually was not the issue for Islington and Camden. It was about the percentage of affordable housing.

**Tom Copley AM:** The level of affordable housing, yes.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** If you do not mind me saying so, those other arguments had been resolved to everybody's satisfaction, not necessarily the community's satisfaction and I accept that, but as for the council to its satisfaction.

**Tom Copley AM:** Did you want to come in, Mike, before I move on?

**Mike Franks (Chair, The Mount Pleasant Association):** Yes. On the history of the two-year period, which is more than two years now, I need to explain the difference between a 'planning brief' and a 'development brief'. It is not a common usage. I have been a planner in local authorities. A planning brief is much more about planning with an urban design side to it. A development brief is a check whether it is feasible to implement that planning brief.

What happened with Mount Pleasant was that - and we guess that it has probably been two years before the supplementary planning document came out - that Royal Mail was talking to the boroughs. It paid for consultants to help prepare the supplementary planning document, which was a planning brief. That was where the scheme went wrong because Royal Mail told its four architects to immediately start developing what was an illustrative component of the brief. Actually, the proposal that came forward was almost, with minor exceptions, what was shown in the supplementary planning document.

In the year of aggravation after the document was approved, there was not enough awareness. There were 5,000 documents. There were pages of this thing. There was not enough awareness in the community trying to catch up - and Royal Mail had spent £10 million on this - with the sheer body of information because it takes an awful lot of absorbing when you have volunteers --

**Tom Copley AM:** It is a David and Goliath situation. You have Royal Mail with lots of money and people and --

**Mike Franks (Chair, The Mount Pleasant Association):** That is right. We are catching up with that, but that is a separate story. The problem of absorbing the complexity of what was put forward and the problem of the lack of urban design skills in the borough - because the majority of the opposition to the scheme was about the quality of the buildings and was about the height and block form - to allow eventually what amounts to certain statistics of height, quantity and generalised location allowed Royal Mail to come back with those.

I had worked with Eric Sorenson [former Chief Executive, London Development Partnership] for the preparation of the Mayor's right to call in before the GLA was set up. It was estimated there would be only three appeals or three call-ins a year simply because it could be very expensive and a lot of drain on officers' time or going to Government appeal. The supplementary planning document had flaws in it that the community immediately identified. The dialogue with boroughs was not about design, Sir Edward. Therefore, there was an intractable problem.

On the other side, the calculation of affordable, we know, was deliberately slowed down because the representation that the boroughs made was that they did not get enough information. However, I believe very firmly that the boroughs were prepared to make a decision but it was going to be a refusal and they must have flagged that up for a long time if they did not get adequate information on the land economic issues. The problem stayed as an intractable position.

I have to say that RMG was a very old-fashioned group in the way in which it approached this whole thing. It did not listen. It did not talk to us. It presented flat exhibitions and information. They did not take it back and say, "We have thought about what you have said and we have considered this".

**Tom Copley AM:** Thank you. Can I bring in Duncan? I think Duncan wanted to come in.

**Duncan Bowie (Senior Lecturer in Planning, University of Westminster):** I just wanted to comment that most of the discussion so far has been on the issue of process. A discussion about process can disguise the issues about policy and policy differences.

The first point I really wanted to make was on the issue of the justification for intervention generally and not specifically in this case. Following the question you put, Mr Copley, the justification, as Sir Edward has responded, was not on the cases of the boroughs concerned not delivering the overall housing targets. It was on the specifics of the case. Therefore, there is an issue about to what extent the specifics of the case were a challenge to the delivery of the London Plan policies in aggregate and that can be in a sense disputed differently in different cases.

On the policy side, there are two elements to this. The first issue is where there is an explicit difference of policy between the local authority and the London Plan. That in a sense relates to what actually is the latest plan in statutory terms. The critical issue, clearly, in Islington was the extent to which the recent amendment to the London Plan on affordable housing overrode the council's own policy. Obviously Councillor Murray [Executive Member for Housing and Development, London Borough of Islington], if he were here, would talk about that in more detail.

There is a more complex issue which applies in most of these cases, which is that even if there is not any distinction between the local plan and the London Plan position, what is the interpretation of the London Plan in terms of the different emphases on different priorities? The previous research I did for this Committee raised a number of issues about consistency of approach on density, on housing mix, on affordable housing proportions and fundamentally on viability. Clearly, as has already been commented on, some of those issues arise in some of these cases.

Lots Road was mentioned in the sense that it was actually a justification for the original legislative change. We do need to recognise that that was a different regime and a different London Plan. Bluntly, the issue there was primarily the issue I am just raising: the actual interpretation of the London Plan and whether certain aspects of that application did justify exceptional treatment in terms of the application policy.

What we have in most of these recent cases is the negotiations undertaken by the Mayor's team allowing variations from published policy to a degree which is possibly not viewed as acceptable either by the local residents or, effectively, by the borough. Inevitably, any planning decision is a balance of priorities. I would argue, as I have argued on a number of occasions, that in a number of cases including some of these cases the focus has been very much on unit maximum output and not necessarily on full compliance with a range of other issues in terms of affordability and density policy. That in a sense has been the fundamental element of the disputes with the boroughs, although obviously there are some design components and different perspectives on that, as we discussed.

The point I am making is that this debate is partly about whether these applications and the way the councils were treating them was threatening the overall delivery of the London Plan as a whole and much more fundamentally was whether the application of the London Plan in these individual cases and the decisions made - primarily on grounds of viability - were actually justifiable in terms of the variation and the balance of priorities. That in a sense is the main matter for discussion rather than primarily the process issue.

**Andrew Boff AM:** May I just ask on that point just to get it clear in my mind? Are you saying that there is a situation in some of these applications where local residents are concerned that GLA officers themselves are using a more flexible interpretation of the London Plan than what residents would like? Is that what you are saying?

**Duncan Bowie (Senior Lecturer in Planning, University of Westminster):** Certainly in a number of cases residents have opposed schemes on grounds of density, inappropriate mix or insufficient affordable housing. Mr Eversden will comment on that and a few cases in detail if he wishes to.

The previous research I did for this Committee - never mind, I have to say, the study I did for the previous regime because it is not actually a vast difference of approaches by the different regimes although the legislation has changed - did raise issues about consistency of application and consistency of assessment on a number of the factors I have referred to. Fundamental in this is the way in which the viability assessment is treated and assumptions - especially in the Mount Pleasant case - about the actual value of the site and the justification for the cost of the site actually being included in the viability assessment, including all the hope value rather than in any relation to the pre-existing use. Clearly, the borough and the Mayor's team took a different interpretation of that fundamental element in terms of the deliverability of the scheme. There is very little Government guidance on this and it is very much a matter for interpretation. Clearly, in the Mount Pleasant case - and Councillor Murray [Executive Member for Housing and Development, London Borough of Islington] would have said more on this had he been here - the borough took a different view on the viability and the deliverability of the scheme from the Mayor. The Mayor's perspective, as Sir Eddie [Lister] has focused on, was that in all these projects there was a wish for the schemes to actually progress, recognising that whatever decision is made does involve a degree of compromise and not all the policy objectives will be met.

I am not necessarily taking a view on whether the Mayor's decision was right on the individual schemes. I am just trying to make the point that no scheme is ever fully policy-compliant. My own view is from the previous research and is that in some cases, including some of these cases, the focus on unit output and the timetable of delivery has been given greater precedence than some of the other components of London Plan policy, leaving the individual borough policy in these cases to one side. The issue is the appropriate interpretation of the London Plan policy. As I say, it is a matter of compromise. The question is whether this actually was the right compromise or whether factors other than unit output should have been given greater consideration. It is a matter of judgement.

**Tom Copley AM:** That was very interesting.

**Marcus Bate (Senior Associate, Pinsent Masons LLP):** For me, it is a similar point. It is this contrast between the London Plan as a whole assessment as you were just describing, which is one of the three tests that Mr Murray described that the Mayor has to go through. However, when you look at the 11 stage two reports, it is done very specifically by reference to a limited number of what are seen as key policies. I can only second the observation that the legal test of implementation of the London Plan as a whole has in practice, certainly from a lawyer's perspective, been analysed by reference to, in particular, London Plan policies maximising housing delivery and employment floor-space. It is that tension as a whole versus specific policies which is particularly important for people to discuss today.

**Nicky Gavron AM (Chair):** Very helpful.

**Tom Copley AM:** That is a very interesting point. I want to go back to Sir Eddie with just a couple more questions on this because we have been on this for quite a while. In terms of affordable --

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** I wonder if I can respond to just one of those points, which is very important, Chair, that Duncan raised.

**Tom Copley AM:** Go on, yes.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** For the Mayor and the boroughs and the developer, when deciding the level of, for example, affordable housing and the tender split and the viability assessment, however you interpret the viability assessment, there are clear choices and some

of those are difficult choices.  Although we have to be careful about what we say in terms of Mount Pleasant and Convoys Wharf because we actually have not signed the section 106 agreements and there is not actually planning permission yet, there are clear choices to the Mayor and the boroughs and the developer about the priority between maximising units and meeting lower-rent affordable housing.  Higher subsidies mean lower numbers of units.

In all of those cases - for example, Mount Pleasant - options were presented in the viability assessment for a range of units, affordable rents and target rents and they were meticulously discussed and debated in the representation hearing, including by Councillor James Murray [Executive Member for Housing and Development, London Borough of Islington], who asked the Mayor a number of questions.  As Duncan [Bowie] described, a balanced decision had to be reached.  The GLA's and the Mayor's approach is not to go singularly one way in interpreting the London Plan and affordable housing policy.  It is actually to present a range of options and what works best, considering what the boroughs see as important local housing need and what the developer can viably afford to deliver.  There is a need for balance.

**Tom Copley AM:**  It could be perceived as an emphasis on certain aspects over others, perhaps.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  One can interpret it in different ways, but what we presented was a range of options on higher/lower, on affordability and on numbers.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):**  Coming back to the point about policy, our particular policy is concentrated on in the Mayor's reports, which is a point Duncan [Bowie] has made in previous reports he has done for the Assembly.  It is worth bearing in mind that the Convoys Wharf stage three report was 113 pages long and that is probably about twice as long as the national Planning Policy Guidance Notes.  If we were to put everything in these reports, we would be up to about 300 or 400 pages, at which point they become rather pointless and self-defeating.  There is a professional task we have to do synthesising information and policy and giving due emphasis to things which are proportionately more important in these things, so that we can give clear guidance to the decision-maker, to the Mayor and to Ed [Lister].

On the point of whether design is a secondary issue: absolutely not.  We have designers and architects working in the GLA and I know in the particular instance of Mount Pleasant that certainly Camden and Islington are doing.  I know we have taken different views about what is good or bad design, but that is not by any means unusual on issues about design.

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  Just on this point about viability: we have had two big hurdles on this subject.  One was the Mayoral Community Infrastructure Levy (CIL), which was necessary for Crossrail 1.  The other one was the 'get-out-of-obligations card' which Nick Boles [Planning Minister] dealt to developers to play whenever they wanted to.  Very few boroughs - and Westminster comes to mind - have the skill to talk about build costs and building configurations and everything else which is necessary in that process.  It is advantageous that the GLA is involved and is supportive on some of those because it does have the capability to get more deeply into those arguments and the books than some of the local authorities and is better skilled to do so.  That can be helpful, but it is a question of whether the Mayor is really taking into account 'affordable' affordable housing on what is finally delivered because we do not seem to be getting enough of that.

**Tom Copley AM:**  That brings me neatly on to my next question for Sir Eddie.  Has the Mayor secured more affordable housing when he has called these applications in than the boroughs would have done?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** You have heard of Mount Pleasant and the numbers quoted. It was 12% and it was raised to 24% and it has been --

**Tom Copley AM:** One could argue that the developers were going deliberately low than perhaps if it had been left to the boroughs. Islington was going for 50% but there might have been a compromise at 30% or something like that.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** Yes, but all I would say to you - and I come back to this point - is that they had it at pre-application for well over a year. Those are the kinds of discussions which need to take place and it is part of the process of working their way through it. They were asking for 50% affordable housing on the site. Royal Mail was indicating at a very early stage in the process that it would never, ever achieve 50%. Maybe 30% was a compromise number that they may have reached at some point, but my point is that the clock is ticking on everybody and they need to get a move on, make that judgement call and either approve what they have or turn down what they have. They need to make that decision.

On the amount of affordable housing, I think I am right in saying that in every case the Mayor has called in where housing has been an issue, he has increased the percentages. Certainly at Convoys he increased the percentages that were on offer. There has been a pattern of better outcomes.

However, Peter [Eversden] is right. We are blessed in a way at City Hall. We have really good planning officers who do actually understand all of this. They can actually negotiate and they are much stronger. Sorry, I do not want to dwell on a particular borough here and please do not read this in that way, but they are in a position where they are able to negotiate the amount of affordable housing.

There are a number of stage one reports I review with the planning team on a regular basis - and indeed the Mayor does - where the percentage of affordable housing that is on offer and is possibly going to be accepted by the borough is found to be unacceptable to us. We push those numbers up. Our record of pushing affordable housing numbers up is a good one and we could with a little bit of work actually demonstrate that to you with some of the stage one and stage two reports that we do. I do not want to create lots of work, but I am on very safe ground in making that assurance.

**Nicky Gavron AM (Chair):** Duncan wanted to come in on this.

**Tom Copley AM:** There is also the question of course of what 'affordable' is, which you might want to comment on.

**Duncan Bowie (Senior Lecturer in Planning, University of Westminster):** My point was just that the focus can often be just on the numbers of affordable houses as a percentage of the total. The key issue obviously from a local housing needs point of view is the type of affordable housing in terms of the size, the bedroom size mix, often issues relating to the built form in relation to the ground in some of these schemes and, much more critically, the level of rent. Clearly in the Mount Pleasant case, it was the fundamental issue in all the negotiations really from the first stage.

The Mount Pleasant issue is much more problematic because of the original way in which, effectively, Royal Mail was privatised and the basic assumptions about the profit margins that the privatised company were actually assuming, which acted as a very severe constraint on the affordable housing output. You can then obviously as a planning authority make a different judgement about whether that original assumption about land value was reasonable or not. That was why I referred earlier to this whole issue about the way in which viability relates acquisition cost to existing-use value, on which Government guidance is very confused. That obviously acted as a major constraint on a site that had actually been public-sector owned. Clearly, there is a

historic agenda and a site that was public-sector owned could have actually been used more effectively for a much wider range of affordable housing provision had the basis of the transfer of ownership from the public sector into the private sector been different.

I agree that that is not directly relevant to planning applications, but it does actually set the framework and has raised the whole issue of how you treat land cost in viability appraisals. There is still a continuing debate both within Government and outside Government as to the basis of such assessments, with the Lyons Review proposing a couple of weeks ago now that existing-use value should actually be the basis. That is not the view of the Royal Institution of Chartered Surveyors (RICS) but the view that has come out in several Government-supported reports over the years. In a sense it is that fundamental issue, I have to say, that has to be resolved if we actually have a better starting point for some of these negotiations and to actually make the use of planning powers far more effective.

I know that actually goes beyond the agenda of this discussion, but it is absolutely fundamental to the debate about how we get more affordable housing in London.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** May I, Chair, just slightly respond to Duncan's [Bowie] point? I am not in disagreement with where he is coming from, but I would make a point which I think is important. The RMG is a private company. It was no longer a state-owned operation. It has shareholders who have a right to best value. That, at that point, changes the basis. The Government can make a decision to sell land at a low price whether that is by a low price or by putting affordable housing in to a greater percentage or however you do the calculation, but a corporation of any kind or any individual is going to seek best value. I do want to just defend the position that Royal Mail was in when seeking the best value for its land, as indeed would any individual in this room. I just feel it is important.

**Tom Copley AM:** I appreciate it is now a private company, yes.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** However, it is also true that you have the same issue with National Health Service (NHS) Trusts, which would be a good example. They are going to be in exactly the same position. I could cite a couple of planning applications flying around the ether at the moment where we have NHS Trusts which because of their locations will make substantial amounts of money out of the land transactions. To be fair, those Trusts are then putting that money back into the hospitals, but you could be asking why they should be making so much money because of their geographic locations. I am afraid they are independent bodies, no different to anybody else.

**Tom Copley AM:** One can argue they should be providing key worker housing for nurses, perhaps.

**Nicky Gavron AM (Chair):** Can I draw this topic to a close? It is a very interesting point, but we are trying to stick now to the situation we are in at the moment. I want to move on to Steve.

**Steve O'Connell AM (Deputy Chair):** If I may go away from the specific to the more general: I understand that the number the Mayor has taken over is small. We are talking about 11 or something, about 1% of total applications in London but there is still a question I posed earlier about this does send signals out to developers that there is another process. I am long in the tooth, I know the planning system in town halls and I understand how developers think. My question really initially to Sir Edward is: does the introduction of this power to the Mayor not give a signal to the developers that there is an alternative process that they can turn to and give succour to those developers who are actually wanting their development to go through and are finding that they are basically not getting what they want from the local authority? Is it not giving that encouragement to developers?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** No, I do not think so, if I may, because we take about 200 - 300 planning applications a year coming through City Hall. Not all of them get to a stage two process, but we do have a substantial number coming in. The highest number in any one year we have taken over is three. The numbers that we take over are really very, very small and in each case they have been schemes which, in our opinion, were of strategic importance.

There were many other schemes there which were turned down by the boroughs and where they made approaches to us to say, "Please will you take it over?" and we took a very clear decision that we would not get involved and that we would leave the decision with the boroughs and we set out our reasons why we felt that it was a matter for the boroughs. We have only take taken over in very rare occasions. In this last year we have taken over two schemes where it has been because of, I will use the word 'non-determination' but it is not really non-determination in the legal sense, but it is in the sense that nobody has made a decision within the 16-week period. We do feel at City Hall quite strongly that after 16 weeks it does need to be processed. However you look at these things, to bring a scheme forward in this country it takes about two years to work a scheme up, it takes about a year to go through planning process, of any size. You are talking about a very long period of time and we do need to crack on, get housing, get commercial premises, get industrial premises built, so there is real pressure out there. I think that failure to make a decision is not an unreasonable one.

**Steve O'Connell AM (Deputy Chair):** I understand that, because I mean the previous Mayor also lobbied for those powers to move things along and I get that, but this is around where there is a distinction. I think I mentioned it earlier before you were in the room, is that there is a distinction where there are individual applications that have just been held up in the system, that there is basically a breakdown in relationships and sites, and I will mention again the site I am visiting at 3.00pm this afternoon, which is Ruskin Square, which you know outside is Croydon, which is finally a ground breaking ceremony this afternoon, which has been in need of development and housing for as long as I have been a councillor, and probably much, much longer.

London is littered with the sort of sites where it is taking a long time and in those situations I am assuming there has not been an approach and the Mayor has not seen fit to intervene, as distinct from, and I think there is actually two examples where committees have actually decided on applications in boroughs and the Mayor, on an approach from an applicant, has decided to take it on. What I am trying to spit out is the reasoning, it is the sites that have been a long time dormant and there has been no activity, and to try to understand, where would the Mayor decide to get involved in other sites? Where is the distinction? Because where there is a blurred distinction that is where there would be encouragement to developers to say, "Ah, we can go the Mayor's office on this one. It will enable us to go forward and perhaps get the sort of deal that we want". Could you expand on that?

**Nicky Gavron AM (Chair):** Do you want to come in on this point Marcus?

**Marcus Bate (Senior Associate, Pinsent Masons LLP):** Yes please.

**Steve O'Connell AM (Deputy Chair):** Well, Marcus is nodding, so Marcus?

**Marcus Bate (Senior Associate, Pinsent Masons LLP):** It does not necessarily mean I agree.

**Steve O'Connell AM (Deputy Chair):** No, even better.

**Marcus Bate (Senior Associate, Pinsent Masons LLP):** Well, it was on signals first of all - you mentioned signals - and I just really want to stress the difference between signals from the two or three, depending on how you look at Mount Pleasant., examples where the applicant has requested call-in and it is non-determination, despite what Sir Edward [Lister] says.

**Steve O'Connell AM (Deputy Chair):** I am sorry to cut across you, but non-determination that in itself is a re-course for developers.

**Marcus Bate (Senior Associate, Pinsent Masons LLP):** As mentioned by Mr Copley earlier, there is a right of appeal after 16 weeks for non-determination, which in London genuinely arises because very few of the very larger schemes get determined within 16 weeks.

**Steve O'Connell AM (Deputy Chair):** In that time.

**Marcus Bate (Senior Associate, Pinsent Masons LLP):** That was going to be my key point. It is not on the nine which have been called in following a proposed refusal, but on the two or three where 16 weeks have passed. The reality is that when we act for developers on the larger schemes we do not tell them they will get a decision within 16 weeks. It is unrealistic. In a non-determination appeal scenario there is an appeal grant to the Secretary of State, and I am personally quite nervous that you could find yourself two or three months after the 16 weeks in a stage where it has been referred across under a call-in. I think a very different signal, very different signal from a council is going to refuse and the Mayor then takes it over.

**Steve O'Connell AM (Deputy Chair):** Right, I get it. One other question really for you Sir Edward, is on responsibilities, because the Mayor takes over, and I am not talking about individual cases at all, but if he refuses and there is an appeal, who is responsible for the cost? Is that the Mayor's office, if it goes to that stage?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** The Mayor becomes the planning authority at that point, so the Mayor takes on those responsibilities.

Can I just go back to your earlier point about what constitutes a stalled site?

**Steve O'Connell AM (Deputy Chair):** Yes.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** I am going to use the example of the one I was at first thing this morning, 8.00am this morning, which is the Origin site in Park Royal. That is a site that has sat there empty for five years. It sat there empty because it was bought just at the 2008 property crash so there was no cash. When they finally did get some cash together for it High Speed Two (HS2) came along and basically said they needed the site and so fundamentally red-lined it and it took a while for it to then come out of that process. So there are lots of things which are not necessarily driven by us. In that particular case we have been working very closely with Brent Council to unblock that one and there has been an enormous amount of work done in this building to unpick that. So, we do work very closely with the boroughs.

Ruskin Square, you are right, I just remember that as an empty site. I do not actually remember it ever having a building on it. That was a planning application that was made long before the change in the rules. You could argue that it was to do with section 106 viability and various other things but, nevertheless, the property market has now moved sufficiently for Ruskin Square to actually start. It is still only starting the first phase of that project, which is some housing and an office block. There is still about two-thirds of the site which --

**Steve O'Connell AM (Deputy Chair):** It is only a proportion of the site. I get that. My point is really differentiating where there is a clear breakdown in relationships between say borough and applicant, as opposed to stalled sites across London, where the Mayor would want to say, "This has sat there empty for 20 years, let's take it over and be more dynamic and support the borough" there is a distinction really.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** I think perhaps that is where I would like to talk about Convoys Wharf as an example, because I think it is a good example of one which is in that category.

**Steve O'Connell AM (Deputy Chair):** Second category.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** That site has been empty, again forever. I think, as I say, 17 years. It has stood there empty. There was a planning application which was put together with a master plan that went through that sat in the planning system and never came out of it. You could say, "Why didn't the applicant go to appeal?" For whatever reason the applicant never went to appeal and the years rolled by. The applicant then decided to bring in a new master planner to try to meet some of the original criticisms. They brought in Terry Farrells and they put together a completely new master plan for the area.

Even having done that, with a new planning application in, a long period of time elapsed before any decisions were taken. It was, therefore, clear to us here that there were no decisions forthcoming. There were a whole series of quite difficult local issues, which are not really relevant to this, but they are the reason why it got so heavily stalled. It is not about Affordable Housing or other things, it was other factors that were coming in to play. Therefore we are faced with a decision, do we take it over under the powers that were given to us in 2012 and make a decision one way or the other, or the applicant could have gone down the route of going to the Planning Inspectorate for England and Wales (PINS) for non-determination. That was open to them. The applicant took a decision and they felt it would be quicker if it went through the GLA and that would be a preferred route, but it could have done the PINS route. I would actually argue that from a London point of view the PINS route would have been far worse than the GLA route, because at least the GLA route is being decided by Londoners on a London scheme. The PINS route would have been a remote inspector coming in. I think for the Mayor to have taken that over was the right decision and it is a good example of a severely stalled site. It is still open for, of course, for them to go to PINS even after us, but that is another story.

**Steve O'Connell AM (Deputy Chair):** By extension, the rest of the panel, I am assuming though, without opening a can of worms, there is particular site-specific challenges and issues that you have opinions upon. The principle of the Mayor having this power on very rare occasions, very lightly used is a good principle, and while accepted individuals have, and I know James [Murray] will have opinions that come in later, certain opinions about how it has treated their own particular case. The principle is a good one. Duncan [Bowie] and Peter [Eversden] do you agree the principle is a good one, it is just the application and the interpretation of that Mayoral power?

**Duncan Bowie (Senior Lecturer in Planning, University of Westminster):** Yes. My own view has always been that there is no point in actually having a plan unless there are intervention powers. Having a positive power introduced under the 2007 Act obviously strengthened that ability. The question, as we have been discussing, is it was one of application. I think there is also, bluntly, to be honest, the issue about one's attitude the balance of powers between different levels of planning structure does ten do depend on which level you think has the most appropriate policy. Clearly, as the arrangements and components of the London Plan have changed as there has been a change of regime, Government policy on this has changed and individual borough policies have changed, clearly having been the lead officer on the housing content in the original London Plan here, in a sense I actually have, and I am on record from the last Examination in Public [EiP] of objecting to some of the changes that have been introduced. Nevertheless, once those changes are in place, there is a case for the Mayor obviously having the power to apply them in specific circumstances. The difficulty that I am focussing on is the one of the balance of priorities within the use of those powers and the

fact that, in some cases, including Mount Pleasant, I think the Mayor has the balance between different policy objectives wrong.

**Steve O'Connell AM (Deputy Chair):** That was your analysis earlier, yes.

**Duncan Bowie (Senior Lecturer in Planning, University of Westminster):** Yes.

**Steve O'Connell AM (Deputy Chair):** My point is, and then I will leave it at that, I can certainly see the case for if you are going to have a London Plan there needs to be some mechanism whereby that London Plan aspiration can be pursued, in the teeth of implacable delay, whilst at the same stage I defer to no one regarding local democracy and the ability to local councils to determine their application. I know James [Murray] will come in later on that.

**Nicky Gavron AM (Chair):** The issue might be then, Steve, is whether the Mayor, having that strategic power, taking over applications, actually delivers better outcomes for the boroughs or other than the boroughs might have arrived at.

**Steve O'Connell AM (Deputy Chair):** Yes.

**Nicky Gavron AM (Chair):** Then I think it might be good to bring James Murray in now on that.

**Councillor James Murray (Executive Member for Housing and Development, London Borough of Islington):** As Duncan [Bowie] says, partly where you have a feeling for which level of government is best suited depends on who is controlling which level of government. There is always going to be a little bit of that playing in. One of my concerns is, and you may have covered this earlier in the session, but the Mayor has intervened in boroughs like Islington where we are very good at delivering housing numbers, where we have a good track record in terms of development and where in the big sites we want to get something agreed, we want to get a development going on there, but it has been taken out of our hands.

It is interesting to note, in terms of Mount Pleasant in particular, that was actually with the Mayor's office longer than it was with us. It initially came with us between that date and the date when we were sending it to our Planning Committee, with a shorter time period than it took the Mayor to make that decision. So the idea about it being a quicker process is not necessarily the case.

I also think the pendulum has swung quite far in terms of allowing developers to get away with what they want. I think part of the reason for that is that they know they can appeal to the Mayor and they also know that the Mayor is not always consistent in even applying his own policies, so they can actually get away with a lot more in terms of pushing the boundaries of the profit they can make from particular developments.

**Steve O'Connell AM (Deputy Chair):** Just from your relationship with this particular application? Because that is quite a broad statement you are saying. Does that follow my question earlier about does this ability, this power, give encouragement to developers to think that? Is that what you are saying could work?

**Councillor James Murray (Executive Member for Housing and Development, London Borough of Islington):** I think the power itself is an important power to have and it is a good power to have, but I think its application really determines whether it is a force for the good or not. If it is applied inconsistently and if people feel that they can just go around councils and appeal directly to the Mayor, not on the basis of non-determination or strategic priorities, but just on the basis they think they are going to get a better outcome because they can push it further, then it undermines the integrity of the process. I think actually having a Mayoral call-in is a good thing, but it needs to be applied consistently and fairly.

**Steve O'Connell AM (Deputy Chair):**  I have no doubt Sir Edward [Lister] would reply to that.  In fairness, in kind of a defence, the numbers are very low and we have heard about the potential numbers - 300 a year - that could go across the Mayor's desk, when the numbers are very low.

**Councillor James Murray (Executive Member for Housing and Development, London Borough of Islington):**  Can I just say, even if the numbers are low it is also about what environment you set.  If councils know that the Mayor is in a position where he might call applications in and then decide them very permissibly they would feel in a weaker position because they have not got back up at the higher level.  So I think actually the number alone is a bit of a distraction.

**Nicky Gavron AM (Chair):**  Does anyone else on the panel want to come in on that?

**Mike Franks (Chair, The Mount Pleasant Association):**  Throughout the time that The Mount Pleasant Forum and Association and now Social Enterprise and a charity have been involved in this, we have experienced a profound lack of understanding of the role of the third sector.  Nationally, the third sector is pretty weak in these kinds of situations, based mostly on lack of experience.  Everything you see, starting with the *Skeffington Report* in 1967 and going on from there talked about the relevance of whatever you want to call it, the community sector, the local sector and the 'third sector' seems to be the best blanket description.  We are talking about battles between two big giants and the inexperienced and weaker components of this get crushed in the process.

It is high time the GLA, but boroughs as well, recognise not just the body of professional experience but the body of local knowledge that exists in these strategic sites, and the relevance of a remote plan, as against the intimate knowledge that is there.  We were not involved in this.  We had very little contribution to make to what I am reasonably certain would be a different scheme and that this was an exercise in getting bottom line figures for *Royal Mail*.  I profoundly disagree with Sir Edmond [Lister] about the description of what local authorities do on land economics.  A surveyor, I was taught in my planning, that land moved to its highest and best use, but that is not quite true if you have intervention powers.  If you have intervention power, land planning moves towards a consensus decision about what is best for it and that is not automatic and also should not relate comparing things in the market.

There seems to be a missing element of this, which is the dialogue and positive contribution, and, in our case, the serious possibility that we will build something.  We, The Mount Pleasant Association, will build work space and housing, even if it is a smaller amount in a larger scheme.  So, we are much more a serious player than somebody to be consulted or informed.  We are into participation and I commend to you 'Sherry Arnstein's Ladder of Participation', which is again in the 60s she wrote it.

I think that a different decision would have come out of this if there had been much more discussion about the intimacy of how kids go to school in this area, how you cross the road in this area, what is the history of this and that.  I know that a good survey will have done a lot of that but there is not the intimate knowledge and there should be, and we intend to be a serious player.

**Nicky Gavron AM (Chair):**  You are actually in this case saying that the borough did not take sufficient notice of you too?

**Mike Franks (Chair, The Mount Pleasant Association):**  Yes, I am afraid so, but I think the borough's resources are much less than the strategic resources of the GLA to complement that.  Not just knock heads together but actually to listen, we could have contributed much more, if the GLA had been more into management of that.

**Nicky Gavron AM (Chair):** We are moving on to discuss some of these areas in a moment, so if I could go to Steve now.

**Steve O'Connell AM (Deputy Chair):** Really this is moving on towards, and it was touched on, planning obligations, so once the Mayor has taken over an application. As I think we said earlier, a lot of the discussion debate is around what springs from it regarding planning obligation. I think, Stewart, you mentioned earlier that you are involved very much with the boroughs in discussing the CIL and the section 106 planning obligations and the benefits to the community.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** They sign the section 106, so they are signatories to the obligation.

**Steve O'Connell AM (Deputy Chair):** They would have to be. I presume legally they would have to be.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** No.

**Steve O'Connell AM (Deputy Chair):** They don't have to be?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** No.

**Steve O'Connell AM (Deputy Chair):** No, so this is by choice by the Mayor or the GLA?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** It is our approach, yes, to be collaborative and to engage the boroughs at all the stages of the section 106 negotiation.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** I think this is a very important point. We have worked very hard on every one of the schemes we have taken over to involve the boroughs in that final 106 agreement, and indeed the boroughs have in every case, up until now, signed that 106 agreement, so they have been satisfied with it, or if they have not been satisfied with it they have acknowledged that we have come to the end of the road in the discussions. Perhaps 'satisfied' is the wrong word.

**Steve O'Connell AM (Deputy Chair):** Again, without going into too many individual cases, is there going to be some applications where the boroughs are, let us say, less than pleased you have taken it over and, therefore, the relationships between the GLA and the borough are a little bit rocky at the beginning, just because you have taken the application over? Still in those situations you get to the stage where there is an agreement with the borough that they are content with the planning obligations agreement.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** They 'accept', I think might be the better word.

**Steve O'Connell AM (Deputy Chair):** They accept it, yes.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** It is just important to stress that we do not have to seek their signature on the 106 agreement if we have taken it over. We are perfectly at liberty to have signed the 106. Of course if we sign the 106 we then take responsibility for administering the 106 at that point.

**Steve O'Connell AM (Deputy Chair):** Yes.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** That is a positive and a negative, depending on how you want to look at it.

**Steve O'Connell AM (Deputy Chair):** I am assuming clearly there is going to be co-aspiration for the borough and the GLA around living space, about green space, recreation space, a whole range of matters, but clearly I guess it is around the housing element that there would be slight disagreements around the delivery. Ultimately it is within the GLA's powers, the planning authority, to implement, but at all times you want to take the borough with you to get the co-signing. Again, there will be boroughs that may want to comment on it, but up until now, although it may have been difficult discussions, you have always got to a stage where the boroughs have signed it off because they are where they are and they need to progress it, in essence.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** We have two that are pending, so Mount Pleasant and Convoys, and a more recent one at City of Fulham, which Councillor James Murray's team will know very well. The approach has been consistent within the Mayor's Office and the GLA that we start, continue, negotiate and complete the section 106 arrangements and seek to secure the boroughs signature to that agreement.

The approach taken by the borough might be different in each case, some accepting the decision of the Mayor to take over and negotiate the best for their communities, obviously they are legally bound to do, and some that would take a more adversarial approach, which we tried to ensure that we avoid that in all cases but we have to make sure that the Mayor's decisions are transparent, so we share all of the section 106 approaches with the borough and the developer, the applicant, and we try to reach agreement so that at the end, I think as Duncan [Bowie] said earlier, there is a balanced decision and there is an interpretation of meeting the London Plan policy and the borough's local planning policy, say on Affordable Housing, and obviously the National Planning Policy Framework. At the end of the day the lawyers cross-check whether we have the right balance and the interpretation is right, then hopefully the borough will sign the agreement as with the Mayor.

**Steve O'Connell AM (Deputy Chair):** With this whole process it is a two-part process. There is one issued about the actual principle about who takes the planning decision, but then of course the second part was able to be made even with the most complicated and perhaps a more adversarial part is about the application, the setting, the 106 and the planning obligation to CIL. That is a very significant piece of work in itself.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** It is quite intensive, depending on how each party to the 106 approaches the negotiations.

**Steve O'Connell AM (Deputy Chair):** My last question really is about, as we said, when you get to the end of that process and all parties find themselves to be … they are where they are and you want and agree and always get the boroughs to sign off. This has not happened yet, and that is within your power, the GLA power. I do not want to put thoughts in your mind - are there any powers for the borough if they get to that stage where they are saying, "This is not acceptable for us"? Are there any powers of judicial review? There is a power, and ultimate nuclear power for the borough to say, "This is unacceptable. We won't have this", has that yet been taken up?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** The Judicial Review (JR) route is open at all stages in the process. I think it would be wrong to say it is just open at the end. It is open all the way along the road. We obviously are well aware of that and so are all the other parties. It is our desire to reach a conclusion which is acceptable to all parties, and that is what we seek to try to achieve, without ending up in the JR situation. Unfortunately, as we all know JR is a factor.

**Steve O'Connell AM (Deputy Chair):**  With all the 11 cases up to now you have arrived at that place where there has been signoff.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning)(?):**  Two to go.

**Marcus Bate (Senior Associate, Pinsent Masons LLP):**  Of course with two to go, notwithstanding that, sorry.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  Just clarifying the legal remedy point, from what Sir Edward was saying, there are two separate judicial review point in particular, so the decision by the Mayor to take over a planning application is itself judicially reviewable.

**Steve O'Connell AM (Deputy Chair):**  Challengeable.

**Marcus Bate (Senior Associate, Pinsent Masons LLP):**  Also then the decision to grant planning permission when we have signed the 106 that is also challengeable.  They are quite different grounds.  That remedy is available to the local authority in both cases, but also to an interested party.

**Steve O'Connell AM (Deputy Chair):**  That was just for my own knowledge, thank you, Chair.

**Nicky Gavron AM (Chair):**  I wondered if James wanted to comment on anything.

**Councillor James Murray (Executive Member for Housing and Development, London Borough of Islington):**  I think the phrasing that Sir Edward Lister used about the boroughs accepting rather than agreeing the 106 is probably the right balance of terminology to use, because you are essentially cornered.  Although I appreciate you might want to engage with boroughs, ultimately we know where the buck stops and so there is a level of acceptance.  Although again there are JR opportunities they are limited because of the nature of JR and obviously it runs the risk of cost, which we have to be mindful of as a borough.

I think also the other point is that although the section 106 negotiations might be involved, to an extent the die is cast on the Affordable Housing element when the planning application is actually heard and decided on, because that is the point at which the overall percentage of Affordable Housing are set and the parameters of it.  Particularly on the Mount Pleasant one, that was the biggest fight that we were having as a local authority and that was the point where we disagreed most fundamentally, because we had our own independent viability evidence which showed that while more Affordable Housing at genuinely affordable rents was easily deliverable on that site and it was very untransparent how it ended up being justified by the Mayor's team at a much lower level.  I think although the section 106 is important, the fight about the Affordable Housing level and within that the rents that are being set comes earlier.

**Steve O'Connell AM (Deputy Chair):**  Much earlier in the process, yes.  OK, thank you, Chair.

**Andrew Boff AM:**  Can I just very quickly on that… do you think it is time that all the entire planning process is transparent, including financial viability?

**Councillor James Murray (Executive Member for Housing and Development, London Borough of Islington):**  Absolutely.  I think is really a problem about viability, because the thing about viability is it becomes such a big monster within development.  A few years ago there were very few planning applications in Islington that had viability studies, now every major one has a viability study and even quite a lot of minor ones have viability studies and yet we are very constrained about what we can put out in public in terms of the information with the figures in it.  We have had fights with developers if we try to put out more they threaten

us with legal action and there is a bit of a back and forth about what we can put out and that should not be the case.  The upfront assumption should be much greater transparency including some of the information out there and we should have an agreed way of approaching viability, rather than it becoming almost wizardry, where developers will hire  expensive consultants to try to get the outcome they want and then the council are running to catch up to try to and unpick it.

**Andrew Boff AM:**  Can I just get a response back from Sir Edward on this?  Apart from the initial sounds of developers screaming and throwing papers in the air, what would be the effect of making sure that all financial viability assessments were transparent and public?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  I think there is a real difficulty with that.  It depends what you mean by the word 'transparency'.  Are you talking about the word 'transparency' in sharing the information properly with the boroughs and with the GLA or are you putting that information out into the public realm?

**Andrew Boff AM:**  The public domain, because there is information I cannot see in order to hold you guys to account, and I cannot see it.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  No. I have a difficulty with that.  I completely agree there should be transparency with the borough, with ourselves and I have no argument with that at all.  My argument is putting it out in the outside world you are now starting to show the profit levels, you are now starting to show the land price details, you are starting to show all of this and that is commercially sensitive information.  I think the net result of doing that would be to slow down development in London and slow down development significantly.

**Andrew Boff AM:**  Why?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  Because this is commercial information which companies will want to keep to themselves.  It is part of their negotiation with their own funders with their own development partners.  It is really a commercial matter and I do not think it should be out there.  Should the information be shared properly for a proper decision with us as the planning authorities?  Yes, of course, no question about that, but not into the outside world.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  There are recent rulings regarding the Freedom of Information Act.  At the Tribunal on a particular London development, deciding what should be released and what should be retained as described as commercially sensitive information, so there are two cases in London, one that has been determined and one that is pending, which give clearer guidance on what should be a transparent or viability assessment and what should not be released.

**Nicky Gavron AM (Chair):**  Can I just ask, if the District Valuation Offices are asked to look at the viability of a particular scheme that is not public?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  No.

**Nicky Gavron AM (Chair):**  That is just for the developer?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  Nothing is public.  All the viability information is confidential, except of course there has been these two Freedom of Information (FoI) cases.

**Steve O'Connell AM (Deputy Chair):** We cannot hold you to account and the councillors on Islington or any London borough cannot hold their planning departments to account on any of the decisions, because the elected officials cannot see the information.

**Councillor James Murray (Executive Member for Housing and Development, London Borough of Islington):** No, councillors can see it. I think it varies between different councils. I think some councils share information more widely than others. I think some councils are taking a view to not share even information with members but I think other councils do. It varies from council to council.

I think though I would I just like to pick up on the way that Sir Edward Lister was speaking about certain information being confidential, earlier. He sort of gave the impression that it was only a few key numbers in the report that might have to be confidential. The reality is that developers, when they put forward their case for redaction and so on they score out chunks and chunks of it, even like very seemly innocuous figures, to the point where it is almost meaningless to put it in the public domain. As a council we push back very hard on that and give back our alternative and say, "No, these are the only ones we think you are allowed to take out" and as I said, there is a back and forth. I think there is a big range between different councils about how public they are, even within their own members, and then how public they are in terms of putting it further out there. At both levels developers obviously are pushing for greater confidentiality. I think it is our role to push back against them.

**Nicky Gavron AM (Chair):** Thank you.

**Tom Copley AM:** Can I just ask, I was interested, Sir Edward, earlier when you said it would slow down development if there was transparency. Why would it slow down development?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** Because I think that commercial information is the kind of information which companies need. It would affect their stock exchange ratings in some cases. It will affect their relationship with shareholders. It is full of stuff here which you cannot possibly put out there, which would create all sorts of difficulties.

**Andrew Boff AM(?):** Possibly, but it makes more difficulties for us surely.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** No, I do not think it makes any difference. Excuse me saying so. What I will agree with, with James [Murray] is there are very few people who actually understand viability out there, and I suspect if you actually had some of these viability documents, without being rude to anybody in this room, you would struggle with them, because they are very, very difficult documents to read. I do not actually think it helps anybody. I think it is why you employ specialists to analyse the information.

**Andrew Boff AM:** I barely understand the brief I have been given for this meeting. It is a philosophical debate about transparency, but I do not see why.

**Nicky Gavron AM (Chair):** I want us to now focus on transparency and bring Navin [Shah] in, but a number of you want to come in and it would be good if you did and then Peter [Eversden], Marcus [Bate].

**Marcus Bate (Senior Associate, Pinsent Masons LLP):** Do you want to go first, Peter?

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):** Just briefly on this point, I said earlier I think the GLA have a lot of skills in negotiating on viability and some boroughs have very little. I would like to see the experience which is been collected together all the time constantly used to enhance the

Three Dragons' toolkit type of advice and methodology and also that there should be more training for the borough staff, because we want to see better negotiations on the ones that are not called in and even the ones which are referred. The boroughs could have got further with the kind of skills that can be applied from the GLA if they develop their own capability. I think the GLA could assist in that with training and documentation and enhancing the kit.

**Duncan Bowie (Senior Lecturer in Planning, University of Westminster):** This is the point which I own up, because I probably was the officer responsible for inventing the viability system running in London when I was here as lead offer on the Three Dragons model and having read the original guidance and the guidance into the original London Plan on this.

In those days it was as much about assessing the justification for public sector investment. The original guidance was agreed with the then Housing Corporation, as it was, about assessing the viability to develop. It was always a two-part process. Now, effectively, the public funding that is used for social rent has pretty well disappeared. The viability appraisal is a method used by developers to justify non-compliance, or degrees of non-compliance with policy, whether it is a London Plan or local authority level, rather than actually focussing on what is necessary in terms of public funding to add to what is demonstrable from the profit margins of the developer.

On the confidentiality issue it has always been problematic when I originally negotiated the package with the Home Builders Federation on the original advisory group, and this is 2003/04 now. It was on the basis that the material would be confidential between the applicant and the planning authority, with the Local planning authority, the Mayor and in those days the Housing Corporation as funder, where there was a funding application. It was only on that basis that developers actually participated. Some people may remember that lots of the major developers objected to it and we used to sign, and it may still be the case, Freedom of Information exemption certificates to ensure that the information was not released.

The process always was that the analysis was provided to the decision makers, whether it was the Mayor at the Mayoral planning meetings or within the local authority. I think local authority officers or lawyers who had taken the view that the decision-makers, the members, should not see the financial appraisal or analyses are wrong. That information has to be provided by two of the decision-makers in a form that is actually understood. That is why we actually introduced a Three Dragons model, which not everybody likes but it was a consistent basis which everybody understood how it worked, and it is true that there are consultants all over London who spend their time manipulating the Three Dragons and other models in order to confuse the local authority. That, after all, is what they are paid to do and there is a problem about the serious lack of skills within local authorities.

Here in City Hall we used to train all the local authority staff, but it is no longer done. City Hall used to do all the appraisals internally and validate them, rather than actually use external consultants to do it. So that has actually changed and I think that is a weakness. Most local authorities do not have the capacity in house. I still train all my students who are all local authority planners, and generally in London, to do financial viability appraisals, and it is a skill that is actually widely lacking. So, I think it is actually very important that the City Hall get back into the system of actually doing internal validation checks more regularly than they at the moment. Secondly, that they actually do provide support and training to local authorities to do it.

There are various elements of the assessment that actually have been weakened. The affordability assessment is now not part of the model, which I think is a serious negative change, because that was put in so that local authorities could actually check the affordability of units to occupants. That is no longer part of the Three Dragons model, and that was not updated in the revision earlier this year.

I think there needs to be improvements but I am still generally in favour of financial viability appraisals, so long as they are transparent within the decision-making bodies.  I tend to agree with the Information Commissioner that more material should actually be made available to the public because there is a general feeling that community groups are excluded from the process.  As Sir Edward [Lister] says, a lot of the material in viability appraisals is problematic in terms of releasing it to the public arena, although there have been cases in which developers have put the full viability assessment into planning inspections.  In my view planning inspectors have often made the wrong decisions on viability cases because they have not actually understood viability either.  It is actually quite complex.  Nevertheless, the more City Hall can do to work with authorities on consistent approaches to viability appraisal, and especially consistent approaches to the treatment of land acquisition which is actually, as I mentioned earlier, really the fundamental problem in all viability appraisals, which is why many of us have been trying to get Government to clarify the guidance, which is why I actually strongly support the Lyons Commission report recommendation.  I think one of the reasons it is there is because I argued very strongly that it went in.

What I am basically saying is I am agreeing with Sir Edward [Lister] that actually there are problems in full release of the information but I am also stressing that viability appraisals should be seen not just in terms of the viability for the developer but whether there is actually a case for public subsidy and also, bluntly, whether the units are actually genuinely affordable, because a lot of the schemes put forward by developers claiming to be affordable do not actually meet the current affordability criteria in the London Plan, never mind the original criteria in the original Housing Supplementary Planning Guidance, which were much tougher, I have to say, and actually included a definition of affordability for social rent based on 30% net income, which we are years away from now.

**Nicky Gavron AM (Chair):**  Thank you.  I just want to bring in a lawyer on this point, on the viability point, and then we will ask Sir Edward [Lister] to respond.

**Marcus Bate (Senior Associate, Pinsent Masons LLP):**  One observation from experience with our developer clients and then one more general law to do with freedom of information.  The simple experience observation, and this builds on what Sir Edward [Lister] was saying as an adverse of full disclosure, is that the developer clients who my firm act for and with are more cautious about what they share with authorities.  Quite simply once stung they will then think, "Well if I give it to Islington and it is going to be disclosed I'll simply give Islington less, as we won't the negotiation about redaction".  An interesting cause  as opposed to the Information Commission, who have been very clear in supporting this idea that you need to have full and frank disclosure between the applicant and the local authority, potentially with the GLA.  That is merely an observation.  I do not comment beyond that.

The second point is this public investment angle which Duncan [Bowie] was talking about.  The reality is that the Freedom of Information regime already recognises this.  Mr Murray mentioned two recent cases, both of which to an extent require public land and investment to take their delivery and the freedom of information decisions have made it clear that the level of disclosure for that type of scheme is much greater than for one where it is simply private land, private investment, because the public powers and the public involvement is that lesser.  I do not actually think, despite what has been said, that actually much needs to change in that respect.

**Nicky Gavron AM (Chair):**  OK.  Eddie, do you want to come in or not?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  I do not think there is anything more I can really add to what I have said on it.

**Nicky Gavron AM (Chair):**  No, OK.  I mean the training and so on?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):** Oh I see. Well, I am afraid, Chairman, we are in the same position as the local authorities. There is no cash and the reality is that the number of planning applications we are now processing is far higher than we have ever had before. We are doing more opportunity area frameworks that we have ever done before. We are doing more master planning. We just do not have the resources to be doing something like this. I would happily have a role here for that but the money would have to come with it and, to be blunt, I do not think the boroughs have the money either.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):** I want to make sure this is all balanced, but we are trying to get some of the experts to sponsor ourselves, initially, on the viability training expertise, so we have had some of the consultants come in and offer free training, initially with ourselves but I think we will try to see where we can get further sponsorship to roll that out. I think the caveat there is that often the consultants are representing in the commercial sector.

**Duncan Bowie (Senior Lecturer in Planning, University of Westminster):** I will happily run another course for you, as I used to do.

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):** It is being done, because Urban Design London have conferences on viability for the borough staff and the officers from Westminster have given very, very good advice to them.

**Nicky Gavron AM (Chair):** OK, thank you. That was drilling down on a part of the transparency issue. I just want to hand over to Navin [Shah] now.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):** Nicky, could I just say that as a for instance Convoys Wharf I think had four viability assessments and the Councillor [Murray] is absolutely right. I think the issues around viability seem to get ever more complicated in some ways but in other ways often are related to things like existing use value and what it may or may not be. My experience of these things with viability experts is that some of the most vociferous disagreements occur in debates between viability experts of what is and is not viable, which I suppose goes back to stubbornness, because whilst there are ambiguities about things like existing use value, even with training you can get four different experts in a room and they will give you four different answers.

**Nicky Gavron AM (Chair):** OK. I would love to go on about viability because the National Planning Policy Framework has changed the definition of it and I think that is really forcing a lot of what is behind this debate, but I think for the moment we will just go with Navin's question.

**Navin Shah AM:** It is leading on to how we can make the process more transparent, a greater level of accountability and so on. Peter, you have been advocating some kind of external scrutiny for the Mayor's decision to call in the planning applications. Would you like to expand on that?

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):** Yes, I suppose that is because we have seen the situation get a little muddled between what is called in and what ought to be called in, from our point of view, and how things are dealt with, which are referred. Because there have been one or two specific examples that have made us feel that those things are not really clarified and we need them to be. An example is the Brentford Football Stadium, we felt that should have been called in and worked on very rigorously. The developer could not afford to build a stadium so their enabling development was to build around it housing at two and a half times the density that the London Plan should permit as sustainable and they could not afford to provide any contributions for infrastructure or affordable housing or anything. We

thought that was a very serious situation and when it was referred to the Mayor there was a lot of content in the stage one report.  There were some 20 or so TfL objections, which were quite serious.  The North and South Circular would come to a standstill on certain occasions that the local underground station only had one stairway which was both up and down with no central rail and you would have a situation with thousands of football fans using that station.

A lot of these things really needed looking at but the Mayor decided not to intervene and allowed the council to proceed.  What the council had already done was that the leader had said publically, "This must be passed".  He had changed the members of the Sustainable Development Committee for that particular application and then changed them again afterwards.  We thought that all of this is getting to the point of pressure that ought to be investigated and it was allowed to go through.

Now, these things have consequences, this is why we want things properly defined.  The consequence is that London Borough of Hounslow has now said, "If the Mayor allowed that excessive density then we can replicate it".  They have now devised a thing called The Q Quarter, which says that we can have that kind of density right down to the river, in the buffer zone of the Royal Botanical Gardens, Kew – who's World Heritage Site Management Plan would not allow it, but the borough says, "We can do it because the Mayor said we can".  All of that will be perhaps clarified in the examination of the draft local plan, which now has that in it.

I find that something which demonstrates that it seems that something went wrong.  It is not only a question of what do we think about call-ins, what do we think about non-call-in, and getting the clarification redefined of what it is that will be taken into consideration and then what is being taken into account can be scrutinised if we have the borough, the communities and the Assembly involvement in what is the Mayor actually going to do now, because there seems to be a need to call-in or there seems to be a need to go further than the Mayor was prepared to do in the stage one and stage two reports, before he said, "OK, decide it yourself".  Because in that case we have an approval but we are left with all the TfL objectives extant, so what is going to happen?  We go ahead with the development and then we get harm to the local environment.  This is why I think I want definition and then I want scrutiny of how is the Mayor about to decide what to do.

**Navin Shah AM:**  Who undertakes the scrutiny?  What will be the actual mechanism?

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  Well, I do not suppose the Assembly can because they always vote on party political lines.

**Navin Shah AM:**  Yes.

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  It is something which ought to be looked at carefully.  When a major thing is referred to the Mayor, the Mayor is going to go through a stage one/stage two process, but if the borough and the community feel that that is not going right then there ought to be some way of influencing what the next stage will be.

**Nicky Gavron AM (Chair):**  Sorry to intervene, but you have been discussing applicants going to the Mayor in a couple of cases.  Would you say that the community and the boroughs should go to the Mayor and say, "We want this.  We want you to take this over".

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  Yes.  I think that would be very valid, if one sees things that appear not to be the right things to be going through and the right things being done.

**Steve O'Connell AM (Deputy Chair):**  I think you are really asking the Mayor's office to be a quasi planning inspectorate on behalf of the community to overturn or review decisions by local authorities.

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  I feel that the stage one/stage two processes of referred applications should require the Mayor to do that.  If the Mayor, in those reports, is saying to the borough, "There's a lot of things to sort out" the borough then does not sort them out but the Mayor says, 'but I will let you go ahead anyway" then the Mayor is allowing the decision to be made on something with all these issues extant, which should not be.

**Navin Shah AM:**  Marcus, would this require a change in legislation, or what is your legal point of view in this?  How can this be managed?  I am very, very sympathetic with this.  This is a real issue.  We do need to look at a clear mechanism which will allow that under the layer of intervention, but can it be done as it is effectively without breaching any laws?

**Marcus Bate (Senior Associate, Pinsent Masons LLP):**  You would need to change the Mayor of London Order, as it currently stands, because it only allows the call-in to be taken if there is a resolution to refuse.  The Mayor can then takeover, or if the applicant requests there is currently no right for the third party to activate - -

**Councillor James Murray (Executive Member for Housing and Development, London Borough of Islington):**  I have to say I do not agree with the idea of activating for the reason that Mr O'Connell gave.  The Mayor takes out ratifications in the capacity as the local planning authority, not as the appeal body and I worry that the two are slightly different processes, so you would have to change something to create the new power to activate the request for call-in - that is the first point.  I would say I do agree with Mr Eversden that before we get to stage two it would be great to have, say, a stage 1.5 or equivalent which says, "The Mayor is minded to call this in if something does not happen within a specified timescale".  At the moment, stage one and stage two are so far apart.  Stage one is a very helpful advisory stage and stage two is just directive at the end, but it does not really give any clarity, to anybody involved, precisely when the trigger will be effectively called.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):**  There have been updates on cases where issues like that have been raised.  I think they might have done one on Brentford where specific things had been raised and there is that gap between stage one and two, and that was the gap that was required by DCLG.  They said you had to have some kind of deadline, "It's going to be six weeks and that's it".  At the time we said, "You don't get into the meat of these things for eight, ten, 12 weeks" but they said, "Well, there's the deadline and that's what you work to".  We do do update reports, where that is going to be helpful for the Mayor.

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  I am not saying that the Mayor should call more in.  I suppose I am really saying that I want the Mayor to be a little tougher in the stage one/stage two of the things that are referred, because many of us were shocked at the 200 tall buildings which the New London Architecture [NLA] did the exhibition of, and then there was the Skyline Campaign, because some of us had not realised that those were happening.  Looking at some of them which were not conformant with the policies of the London Plan meant that some of these things, although not called in had been processed through stage one and stage two and came out of it, in some people's view, with the wrong type of approval, because what they would do would be contrary to some of the policies in chapter 7 of the London Plan and chapter 3 on density and, therefore, have a harmful effect on the local area, context and character not taken into account, for which we have a very good Supplementary Planning Guidance (SPG) now, and infrastructure overloaded.

I am looking for a more rigorous stage one and stage two on some of those things and if it looks as though they are not solving some of the issues and they are not achieving closer conformity with the policies of the London Plan then there should be scrutiny of why not.

**Nicky Gavron AM (Chair):**  We have spoken about call-in, and we are now talking about the Mayor's ability to direct refusal.  I have spent eight years sitting in on these planning applications and stage one is where you really have to lay down all the issues where you are minded to refuse if these are not dealt with.  Stage two is where you assess whether they have been dealt with and you direct refusal or you do not.  A lot has to go on in between in terms of making sure that stage two is reflected from stage one.  I do not know how much of that work is done.  Of course if you do not do it then of course you have a situation where the stage two and the approval is not really a reflection of the policies.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  If I may, Chair, I think I need to rush to the defence of the system here, in the sense that most schemes, as you know, in fact I think every scheme fails to comply fully with the London Plan.  I do not think I have ever seen one that has fully complied.  There is always a list of items.  Is six weeks the right timeline?  I personally do not think you necessarily get the better quality stage one report by having longer than six weeks.  I think six weeks is a good discipline on everybody to focus the mind.  Between stage one and stage two there is an enormous amount of work goes on trying to sort this out, as you say.

**Nicky Gavron AM (Chair):**  Yes.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  Yes, there are supplementary reports if there are big issues of interest, but generally speaking the issues are sorted out by stage two.  At stage two though, there is often a judgment call taken by the Mayor: does he feel that the issues which are outstanding are ones that are so significant that he should turn it down or take some other action, or does he think on balance it is OK.  That is the decision the Mayor takes on the advice he is given.  In the case of Brentford Football Club, yes, you could take a view that what was there was non-conformity with the London Plan, indeed it was in density terms, but the fact was the Mayor took the view that the community gain from that football stadium was so significant that he was prepared to allow that planning application to go through without any Affordable Housing being required.  That was a judgement call on the issue of the day.  It was also, by the way, the judgement call of Hounslow Council.

**Navin Shah AM:**  Chair, I want to go to Mike [Franks].  I am talking about the whole issue of transparency.  Do you think the current call-in process actively involves members of the public?  Do they have enough say, or any at all?

**Mike Franks (Chair, The Mount Pleasant Association):**  Yes.  The rules of engagement can be pretty straightforward; confidentiality and all the other things.  Local knowledge can condemn a scheme to becoming something it does not want to be in due course.  There is a body of knowledge about the nature of the river fleet etc, which is local and almost like folk stories, some of which are lies of course, or happy invention.  The ground conditions in Mount Pleasant could cost the developer a fortune.  They are not dim.  They are aware of it.  They have had studies of it.  Local knowledge is different.

If you do not work with some of the immoveable elements of a place you are destined for the scheme to try to push back to it.  It is a characteristic.  It will fail if you do not understand it in its intimate terms as well as all the big issues, as well as all the creative design.  That is not just a consultation process.  It is also suggesting positive ways in which something can be addressed.

The third sector is extraordinary immature at the moment.  It needs to be much more mature in the way it which it deals with things, in other words not just a complaining community action process in which there is a knee jerk about, "Do not like it because it is big.  Do not like it because it is powerful.  I do not like corporations".  Any of that is immature.  We already have this problem, and we are going to have more of it. Because we have set ourselves up as solid body, and because we are working towards a plan and a development possibility, we will get the same calumny from some people.  We have already had a bit of it. There is an educative process.  Unless there is maturity in the relationship between the local sector and the rest of the players - strategic players, professional, anything else you care to name, public, private, third sector - it is time for a three-way partnership.  The stakeholders can put in a lot more than they are encouraged to do at the moment, or in many cases not able to do because of immaturity.  I think we are one of the cutting edge processes right now, and I hope it will continue.  We need to give respect, and be respected.  At the moment I do not think that is happening.

**Navin Shah AM:**  To wind up this debate on transparency matters, you have got a situation where for normal planning applications you can access your planning portal with the call-in applications.  There is no GLA portal whereby you can not only self, interactively, access the portal, but also put forward your views online.  You cannot check the land for call-in, comments that you can make, as well as dates for public hearing etc.  There are some fundamental flaws and so on.  The question is how can we bring in greater transparency than currently exists to make the call-in process more effective?

**Mike Franks (Chair, The Mount Pleasant Association):**  Can I make a point about the way communities see planning?  It is almost an alien process to them.  Understandably they have immediacies about the condition they are in.  The idea that they can project forward a possibility and see it as real and move towards it, is generally not in their experience.

There is a flaw in the planning process, town and country planning, because locally the world is shifting.  The two-year timescale that The Mount Pleasant process, after the supplementary planning document until the decision answer it and had to tell us, we can only deal with the legal documents in front of us.  For us the world had changed.  Many elements had changed.  They effectively made parts of the scheme redundant, or doomed to fail.  There were additional development sites coming up around that which were not part and parcel of the debate.  For local communities planning starts today and continues every step of the way towards some golden future which does not generally happen.  It includes public health, transport, far wider issues than the narrowness of town and country planning.  They could learn to make a solid contribution about that, and it is a valuable resource if properly handled.

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  I would like to follow on from that because I agree there is a lot of naivety and there is the inevitable, "I do not like it" response.  We are trying to make communities more and more capable and aware of the planning system so that they can work with the local authorities in advance of applications coming in, to have more of the area action plans, and development plan documents, that describe what is expected, even to the point where you have a planning order that has to be fulfilled by a developer in order to get approval.  I suppose the Localism Act encouraged that.  We are trying to develop our communities to do more of it.

I have an example that one of our members, the Brentford Community Council, were very concerned that the town centre was being approached by developers in a piecemeal manner for the right views over the right bit of water and so on, and not holistically considered.  They said, "We have got to have a town centre action plan".  The Council had limited resources so the local community group wrote it and said, "We have got retired town planners, we have got the capability".  They presented it to the Council and it was able to be put out immediately for public consultation, and adopted quickly before too many things went wrong.  I think more communities could do that.  As Mike says, their aspiration is, "I know something is going to happen.  I would

just like to help determine what it is going to be".  There are some boroughs that do not like that dialogue, because they say, "Our local plan is ours.  We do not even want you to write a neighbourhood plan to bolt on the bottom of it, let alone have you tell us what should be in our plan".  Others say, "For heaven's sake, help us write it.  We need that".  It varies tremendously across London.

**Navin Shah AM:**  Did you want to come in on the question about access to a portal, and do you have any intention of improving it to make it more interactive and accessible?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  All the Mayor's planning decisions are on the website and all published.

**Nicky Gavron AM (Chair):**  They are very difficult to find, you know.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  I can say corporately, rather than planning wise, we are fundamentally reviewing the GLA website which should be going live next spring.  Planning is right at the heart of that so planning information is going to be much more accessible.  That is the sort of technical investment challenge, but I totally take the point.  I do not think there is any planning information that is not published --

**Navin Shah AM:**  You cannot respond currently online, which normally on a planning portal you can.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy Planning):**  May I just clarify one point, please, if I may for a moment?  In most cases the consultation would be with the borough, not with us.  It should be going back to borough, and they in turn refer it back to us.  That only changes where we take over a planning application, and then there is a different set of circumstances.  As I say, that is three applications out of, you know, a large number.  Most of it is back to the borough, and it is really a borough issue.

**Navin Shah AM:**  Is there anything else that can be considered whereby we can actually make the current mechanism more transparent?

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  Communities, on reading a stage one report, certainly would like the opportunity to say, "It has not covered issues which we though the Mayor would have required the borough to have sought more information, or would have required the borough to change something".  That, perhaps, means that what the Mayor is expecting of the Mayor does not meet all the aspirations of the stakeholders involved.

**Nicky Gavron AM (Chair):**  Stage one reports are published --

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  Yes.

**Nicky Gavron AM (Chair):**  -- so there would be an opportunity, actually, for what Peter Eversden is suggesting to happen.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):**  People do write, email us, call us, we have meetings with local residents.  It is not the case there is no -- we have sat here and we do the stage one and we never hear anything back.  People lobby the Mayor --

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  We get a lot of letters.

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  By that time it is published.  Stage one is published.

**Navin Shah AM:**  Yes, stage one is published.  I am sure you do get letters and lobbying etc, but I am not sure the process is entirely known as to how exactly it operates.  The challenge is how you educate your community, that is actually the process --

**Mike Franks (Chair, The Mount Pleasant Association):**  Sorry.  Could we introduce the word 'stewardship' in local communities?  In many ways that is what they do because they are part of their area.  They are not the people from outside putting something into an area.  Stewardship needs to be brought in, in parallel with regulation, because standards have to achieved, and there are regulatory bodies.  Lots of planners see themselves almost as regulators of the plan but stewardship is a different concept.

**Navin Shah AM:**  My next question, I think we have skirted around it, and that is, is there a need for new criteria to clarify when the Mayor can use his call-in powers?

**Nicky Gavron AM (Chair):**  Andrew?

**Andrew Boff AM:**  Sir Edward, we are going to be in a situation where there are three plans possibly to consider for an application.  We will have the London Plan, the borough plan, the neighbourhood plan.  Which one takes precedence?

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  London Plan.  I would say that though, would I not?

**Nicky Gavron AM (Chair):**  It does set the frame of the plan.

**Andrew Boff AM:**  Can I ask the officers?  Three plans, which takes precedence on an application?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  There is a conformity process, which is a legal process so --

**Andrew Boff AM:**  Yes.  They are all adopted.  Hold on.  We are going to be in a situation where there are three adopted plans?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  Yes.

**Andrew Boff AM:**  London Plan, borough plan, neighbourhood plan adopted --

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  They are not adopted until they are assessed.

**Andrew Boff AM:**  Adopted, assessed --

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  Yes.

**Andrew Boff AM:**  -- conformed, in place.  Plans are there.  Which takes precedence?

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  Of course, the strategic plan takes primacy because it sets the framework for the local plan, which sets the legal framework for the

neighbourhood plan.  There is a timing issue.  If the London Plan was not updated regularly a local plan could --

**Andrew Boff AM:**  That is the answer?  That the London Plan takes primacy, despite the fact that the neighbourhood plan must be in conformity to the London Plan.

**Stewart Murray (Assistant Director, Planning, Greater London Authority):**  That is set out in the Government regulations.

**Andrew Boff AM:**  That is an interesting comment, and one I fundamentally disagree with.  Fundamentally disagree with.  I am astonished that you are so clear about that.  I wish we had another two hours to go through this item.  We do not.  How can we reconcile, if we can, the desires of a strategic planning authority that is determined to deliver new homes during a housing crisis, when local interest might be more directed towards place-shaping?  The  effect that housing is the only game in town.

**Colin Wilson (Senior Manager, Planning Decisions, Greater London Authority):**  That is the sort of subtext that has run through this meeting.  That is absolutely not the case.  It is not the case that this is just a numbers game.  It never has been.  In fact the first scheme we refused, when Nicky [Gavron] was Deputy Mayor, was on design rounds.  I think we lost that appeal, but that is one of the first actions the GLA took was on a scheme about design.  All of the things we have discussed in here -- we have often quite heated debate with developers and with communities and boroughs, about design issues and place-making.  A lot of the things that we discuss with [Sir] Ed [Lister] are about place-making on a weekly basis, on all sorts of scales of schemes.  It is not something which is secondary.  It is not wallpaper.  It is not something that we do not resource.  We have got designers and architects working in the team.  It is something we take very seriously, and it is something we promote very rigorously.

**Andrew Boff AM:**  The problem I have got, let us take for instance - and I know it is very difficult to answer hypothetical questions - if you have a situation where a local community has said they desperately want more play space for children.  They identify a particular area where there should be more play space, and that is in their local plan.  Then a developer comes along and happens, through whatever good fortune, to own that site and says they want homes on that site.  You are saying to me that the precedence of the plan is such that the homes will go in there and the play space will not.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  No, I am sorry I think I must disagree on this point.

**Andrew Boff AM:**  Good, that is what debate is for.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  I think the position is that it is a balance of all of these things, as Colin said.  It has never just been about housing.  The boroughs will look at it seriously, because they are all in need of housing.  We also pick up the play space.  If you look at the stage one reports, play space - it is a good example really - it all appears all the time in our stage one reports.  By and large it is resolved by stage two.  The play space may not be where you first thought it was going to be, and it might be in a different location.  In some cases it could be on the first-floor or the second-floor of a building because we have used the flat roof for it, but we have created the play space.  We do pick these issues up as we go along.  We regularly pick up the issue of mixed use on employment and on retail.  All of those things we, regularly as clockwork, pick up and, I think, resolve to everybody's satisfaction.  I was expecting the example you were going to make would be something like tall buildings.  I thought that was where Peter [Eversden] was heading as well.  That is a difference of view.  It is not particularly a planning issue.  It is a difference of view as to whether you should have tall buildings or short buildings or whatever.

**Andrew Boff AM:**  I get the point.  This is not about the content of the plan, it is the power of the plan.  It is where it is in precedence.  What I am worried about is you basically said all that effort that people have put into developing their neighbourhood plans they could have stayed at home and watched EastEnders really.

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  No, that is wrong.  I am sorry, I really must ---

**Nicky Gavron AM (Chair):**  Let us hear from Peter Eversden, shall we?

**Andrew Boff AM:**  That is what it sounds like.  Unless it has precedence, the neighbourhood plan is of no value.

**Nicky Gavron AM (Chair):**  Let us hear from the --

**Sir Edward Lister (Chief of Staff and Deputy Mayor, Policy and Planning):**  It has to conform to the London Plan, but it is not --

**Andrew Boff AM:**  Sorry.  I beg --

**Nicky Gavron AM (Chair):**  Shall we hear from Peter Eversden?

**Peter Eversden (Chair, London Forum of Amenity and Civic Societies):**  I think you are right, Andrew, that there is and there will be a lot of opposition on context and character because it depends what you are offered.  We know that parts of Earls Court and Kensington at six to eight-storeys, or up to ten-storeys, of terraces and squares, Edwardian and Victorian, are the highest density in Europe.  A lot of people think they are very liveable in, and they are very pleasant, and they create sustainable communities that the GLA guidance on that is all about.

We are not getting those because architects do not want to replicate something that someone else designed hundreds of years ago.  They want their own iconic landmark type building.  Often that results in a tall building, rather than a development of something which would have the same density but a better massing layout and everything.  We are going to get this, I think.

We have the capability in opportunity areas to determine that because of the size of area that is going to be developed we could have more of that kind of architecture.  There are people who are capable of doing it.  Even Peabody design some things like that.  They said at the New London Architecture (NLA) conference they think that brick is one of the new materials that everyone should start to think about.

It is a question of what we are going to get.  You will get community opposition if what is delivered does not appear to meet the creating sustainable communities' guidance, and the character and context guidance.  Very few boroughs have done context and character studies since the GLA published theirs, which should have meant that they followed very quickly.  We have not got the local plan content that would say, "That does not fit here".  Also, we are trying to infill some of the old estates we had with tall buildings, because what was left in between them was totally just a waste of space.  What is left between some of the modern tall buildings is a waste of space as well because it could be better configured.

Yes, you will get our opposition unless something is well designed.

**Nicky Gavron AM (Chair):**  Marcus, do you want to come in?

**Marcus Bate (Senior Associate, Pinsent Masons LLP):**  This is to help Andrew with the question about precedence.  Mr Murray briefly says it is a matter of regulations, not policy.  I really must stress that.  It is out of the hands of the Mayor to determine precedence.  The precedence test works differently in three different situations, to make it harder.  I will be really clear, on adoption of, say, your neighbourhood plan in your theoretical world, the London Plan takes precedence for the reasons of the conformity test that Mr Murray mentioned.  When it comes to determining a planning application, then the most recently adopted plan takes precedence, thus Mr Murray's comments that the London Plan, being regularly updated, ensures that it takes priority or supremacy.  The one that is interesting to the disconnect of the three is the decision by the Mayor to call-in an application.  The only plan, technically, that he needs to have reference to is the spatial development strategy.  There the precedence is always the London Plan regardless of dates, so the advent of a new neighbourhood plan makes no difference to the call-in decision.

**Nicky Gavron AM (Chair):**  That is very helpful.  Andrew, with your permission, we can end on that point?

**Andrew Boff AM:**  Yes.

**Nicky Gavron AM (Chair):**  I would just like to say we have drawn a lot from this and I think many things have come out of it.  I would just say that one of the things we have not really explored is that the bar for any kind of appeal, the judicial review, is set very high and is very expensive.  The recourse for action is a difficult one.  The other one that I would just like to draw on, and it really is underlined by what you just said Marcus [Bate], at the end of the day, in the call-in process, it is that flexibility that is given to the Mayor to pick and choose, really, from among his, or her priorities.  In a sense it is down to the Mayor, at the end of the day.

There is a lot more that we could draw out of this.  We will be pulling stuff together.  The final thing I want to ask you to do is to note the report.  Can I thank all our guests for what was, I think, probably the most technical meeting I think I have ever chaired.  Thank you all very much for your participation.