

Behind Closed Doors

Scrutiny of the Mayor's Planning Decisions
Planning Advisory Committee

June 2002



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Chairman's foreword



The Mayor's planning powers are little understood by most Londoners. But they have the potential to affect the life of the capital more than any other Mayoral decision.

The principal function of the London Assembly is to scrutinise the Mayor's activities and to draw to his attention both good and bad practice. It was right, therefore, that the Assembly would want to investigate the Mayor in his role as Planning Authority for London. We have found good things; that at a broad level his decisions have not been out of line with what happens across the capital. That his views on unitary development plans have broadly coincided with those of the Assembly and the Boroughs. So far, so welcome.

However this report shows that Mr Livingstone is found wanting in the way he exercises his decision making powers. It is a secret garden to which neither Assembly Members nor the public have access, but powerful property interests do. No reasonable person would consider this to be fair. This practice can easily be misunderstood and we believe that it is not only in the interests of London but also in the Mayor's interest that this custom should cease.

The Mayor talks the talk about being the most accessible and open Authority in the country. But, in fact, he doesn't walk the walk.

This scrutiny reinforces the conclusion of the Reaching Out report that the Mayor doesn't give the access that he promised Londoners in his manifesto.

My Committee, the Standards Committee and the Assembly have repeatedly drawn this failure to Mr Livingstone's attention. But we have been rebuffed.

I very much hope that this report will persuade him that it is right that he brings his approach to London's planning process into line with practice in the rest of the country – transparent and open to public scrutiny.

A handwritten signature in black ink that reads "Tony Arbour". The signature is written in a cursive, slightly slanted style.

Tony Arbour

Chairman of the Planning Advisory Committee

The Planning Advisory Committee

The Planning Advisory Committee (formerly the Planning Committee) was established by the London Assembly in 2000. On 9 May 2001, the following membership was agreed for the year 2001/02:

Tony Arbour (Chairman)	Conservative
Darren Johnson (Deputy Chair)	Green
Jennette Arnold	Labour
John Biggs	Labour
Louise Bloom <i>to February 2002</i>	Liberal Democrat
Sally Hamwee <i>from February 2002</i>	Liberal Democrat
Elizabeth Howlett	Conservative

The terms of reference of the Committee are as follows:

- When invited by the Mayor, to contribute to his consideration of major planning applications
- To monitor the Mayor's exercise of his statutory powers in regard to major planning applications referred by the local planning authorities, and to report to the Assembly with any proposal for submission to the Mayor regarding the improvement of the process
- To review Unitary Development Plans (UDPs) submitted to the Mayor by the local planning authorities for consistency with his strategies overall, to prepare a response to the mayor for consideration by the Assembly, and to monitor the Mayor's decisions in regard to the UDPs

On 8 May 2002, as part of a major reorganisation of its committee structure, the Assembly established a new Planning and Spatial Development Committee. This new committee will carry forward the responsibilities and terms of reference of the Planning Advisory Committee and the SDS Investigative Committee, together with the planning responsibilities of the Transport Policy and Spatial Development Policy Committee.

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Executive Summary

London's new strategic planning system has been up and running now for nearly two years. Its defining feature is that all executive planning power lies in the hands of the Mayor. This is a radical departure for the UK and a decisive break from decades of local authority committee-based public decision making.

One of the Assembly's key roles is to scrutinise the Mayor's decisions and the way in which he makes them – to hold the Mayor to account on behalf of Londoners. In pursuit of this responsibility, the Planning Advisory Committee has conducted an evidence-based investigation of the Mayor's planning decisions on strategic planning applications and the boroughs' own local plans.

Our main findings are summarised below.

- Although the GLA Act 1999 does not require him to do so, the Mayor has taken a deliberate decision to exercise his planning powers in private. He has chosen to act behind closed doors – in total contrast to his manifesto promise to introduce “the most open, accessible and inclusive style of government ever seen in the UK”.
- We believe that good practice demands openness – and the accountability and scrutiny which then result. We call upon him to hold his planning decisions meetings in public. Ultimately the law may need to change to force this, if the Mayor remains unwilling to comply.
- We have been alarmed to discover that the Mayor receives presentations from developers immediately before his private meetings where he takes his planning decisions. We are not suggesting that any impropriety happens in these meetings, but we believe that running both activities back to back is deeply unwise. It sends the wrong messages. We fear that this practice leaves the Mayor vulnerable to the accusation that his decision making is open to improper influence from a select group of powerful people with privileged access to him, whilst everyone else is excluded. The Mayor must do more to distinguish clearly between giving strategic advice to developers and taking statutory planning decisions by exercising these different roles separately.
- The Mayor is not very good at keeping Londoners informed about what he is doing on planning. He does not release agendas or minutes of his decision meetings. True, he releases on the GLA's website his letters to boroughs containing his views and decisions on strategic planning applications, but he does not do this for his representations on boroughs' Unitary Development Plans. He excludes Assembly Members from his meetings, does not consult us actively, and does not respond to the Committee's recommendations. He has failed to come up with his long-promised live planning applications database. This was supposed to go on the website so that everyone can see how the Mayor is dealing with planning applications.
- The Mayor should respond to feedback from the boroughs and clarify when and how he wishes to get involved in matters of local detail on strategic planning applications, and how doing planning business with him could be improved.

In this report we discuss our views in full, explain our concerns, and make eight recommendations to the Mayor for his attention and action.

1. Introduction

A new strategic planning framework for London

- 1.1 The establishment of the Greater London Authority, and the elections in May 2000 of a Mayor and Assembly, ushered in new strategic planning arrangements for the capital. The Greater London Authority Act 1999 gives executive planning powers to the Mayor in person, and requires the Assembly to hold him to account on behalf of Londoners by scrutinising his planning policies and actions.

The role of the Mayor

- 1.2 The Mayor's main planning responsibilities are to:
- produce a Spatial Development Strategy (SDS) for the capital, a new form of planning instrument with statutory force within the planning system. This strategy will replace London's current strategic planning guidance (RPG3) issued by the Secretary of State. The Mayor is calling his SDS the London Plan.
 - make representations to boroughs on their unitary development plans (UDPs) as they come up for review, and ultimately to secure their 'general conformity' with the London Plan once it has been finalised.
 - consider, and, if deemed necessary, direct refusal of planning applications of 'potential strategic importance' referred to him by the boroughs.
- 1.3 The GLA Act 1999 does not require the Mayor to exercise his planning powers in private. The Mayor could take decisions on the emerging London Plan, UDP responses and planning applications in public session, but so far he has chosen not to.

The role of the London Assembly

- 1.4 In July 2000, the Assembly established a Planning Committee to try and open up the Mayor's planning decisions to public scrutiny and debate. The Committee evaluates the Mayor's responses to the boroughs' UDPs and monitors the decisions he takes on strategic planning applications. It does this by:
- contributing to the Mayor's response to the consultation draft of a borough's UDP. Before the Mayor finalises his response, the Committee questions in public officers from the borough and officers advising the Mayor, and then informs the Mayor of the Committee's view; and
 - considering the Mayor's decisions on planning applications after he has taken them.

This scrutiny report forms part of the Assembly's monitoring process.

- 1.5 The Committee's terms of reference also permit it to contribute to the Mayor's consideration of a planning application before he takes decisions on it, but only if the Mayor invites the Committee to do so. To date, the Mayor has not sought the Committee's advice on any planning application. As the Mayor has consistently rebuffed attempts by the Assembly to secure on Londoners' behalf a more proactive role in his planning decisions, the Planning Committee was in May

2001 renamed the *Planning Advisory Committee* to reflect more accurately its role in the GLA.

- 1.6 Other committees of the London Assembly also take a close interest in the Mayor's planning functions. Previously, the Assembly's Transport Policy and Spatial Development Policy Committee monitored the evolution of mayoral planning policy in general, and the Spatial Development Strategy Investigative Committee carried out a major investigative review of the Mayor's SDS proposals¹. On 8 May 2002, the planning responsibilities of all three committees were amalgamated into a new Planning and Spatial Development Committee.

Scrutiny of the Mayor's planning decisions

- 1.7 Now that we are towards the end of the second year of the Mayor's new statutory planning powers, the Assembly considers it timely to examine how they are working in practice. This investigative review focuses on the Mayor's planning decisions on planning applications and UDPs (and not on the emerging London Plan, which is the subject of a separate Assembly scrutiny exercise²).
- 1.8 We commenced this investigation with two objectives:
- to see what applications and UDPs have been referred to the Mayor, and to examine his decisions on them, and
 - to investigate the process critically, and to uncover how the Mayor makes planning decisions.
- 1.9 Last October we requested data from the Mayor on the planning cases that had been referred to him by the boroughs. In November 2001 we wrote to seek evidence from London planning stakeholders, including boroughs and developers. Respondents are listed in Annex C.
- 1.10 We held two evidentiary hearings as part of this scrutiny, on 14 December 2001 with officers from the Planning Decisions Unit, and on 29 January 2002 with the Mayor and his advisers. On 11 April 2002 the Committee revisited this scrutiny when it reviewed for the first time the Mayor's decision on a particular planning application. Annex B gives a list of witnesses who appeared before us.
- 1.11 This report draws on oral and written evidence from the witnesses at the two evidentiary hearings, from the written responses received, and from the proceedings and minutes of other meetings of the Planning Advisory Committee. We also refer to other scrutiny work that the Assembly has undertaken.

¹ London Assembly SDS Investigative Committee January 2002 *Scrutiny of Towards the London Plan*

² Ibid

2. Strategic planning applications

The Mayor's powers

- 2.1 London's new planning arrangements give the Mayor the key ability to intervene in the capital's most significant planning applications. This important power helps the Mayor to implement the London Plan through signalling clearly the sort of developments he thinks London needs.
- 2.2 The boroughs are required to consult the Mayor on planning applications of 'potential strategic importance'. He is able to comment on and support these applications or, if he considers it necessary on strategic planning grounds, direct the borough to refuse planning permission. The Mayor is not able to direct approval of applications, only the borough can do this.³
- 2.3 The Secretary of State has defined what these significant planning applications are. Various categories of potential strategic importance are set down in the Town & Country Planning (Mayor of London) Order.⁴
- 2.4 In broad terms the categories cover applications for:
- large scale development
 - major infrastructure
 - development which may affect key strategic policies
 - development which may affect key strategic views of London, or protected Thames wharves
 - development which is a departure from the borough's UDP.
- 2.5 The boroughs continue to be responsible for dealing with all planning applications in their areas, and retain their day-to-day development control responsibilities.

The Mayor's role

- 2.6 Figure 1 reproduces from GOL Circular 1/2000 a flow diagram which explains the Mayor's role in planning applications of strategic importance. Note that the Mayor gets to see each application twice. In the GLA, these are known as Stage 1 and Stage 2 statutory referrals.

Stage 1

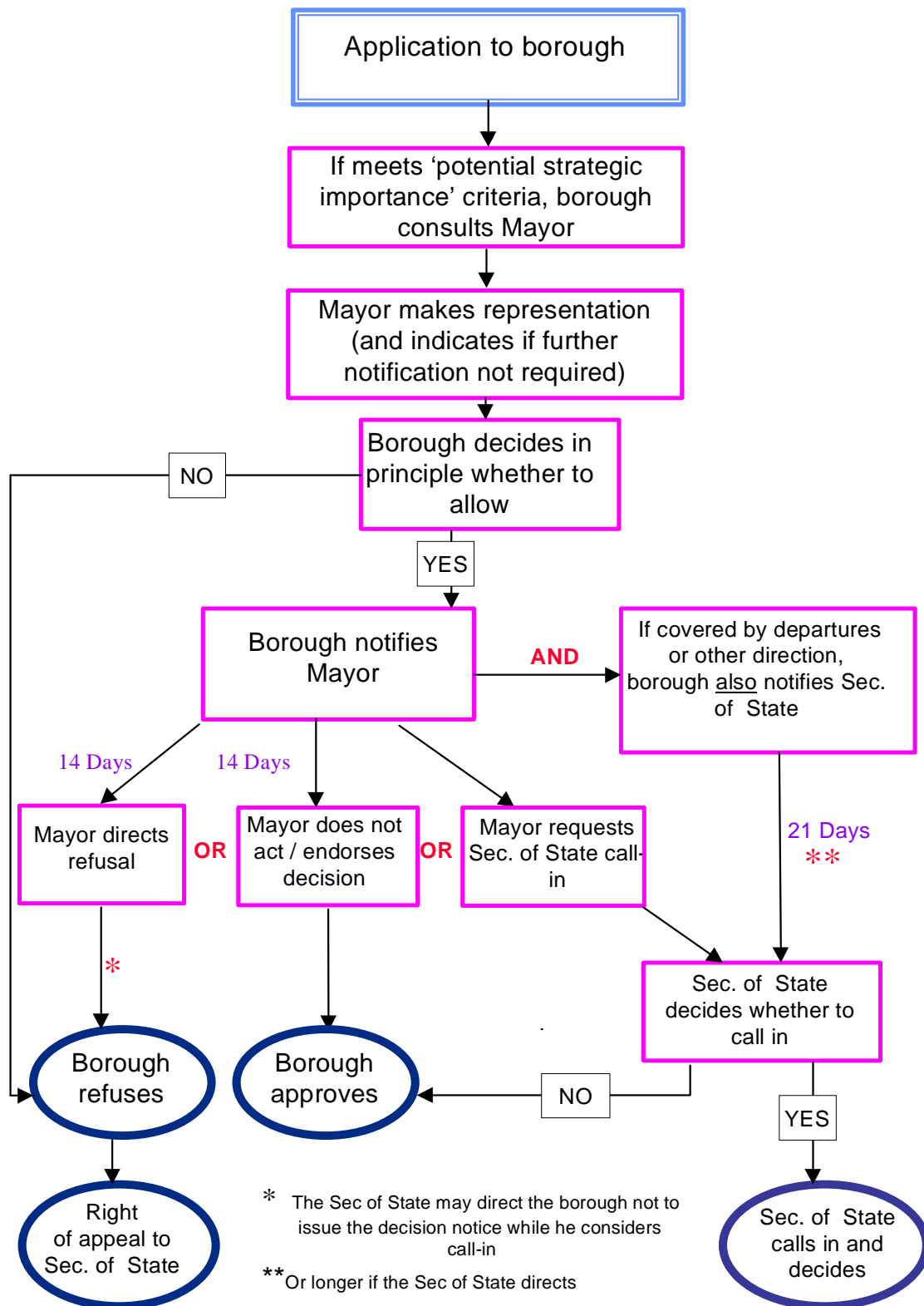
- 2.7 When a borough receives a planning application of potential strategic importance it sends it to the GLA's Planning Decisions Unit (PDU). The Mayor has 21 days within which to respond, though with the borough's agreement this can be extended. In this period, the PDU case officer meets the applicant to discuss the application, seeks the views of Transport for London, and if appropriate the London Development Agency, may also meet the borough, and finally writes up the application as a Stage 1 report for the Mayor's fortnightly Planning and SDS Meeting.

³ Greater London Authority Act 1999, S. 344; Strategic Planning in London, GOL Circular 1/2000, June 2000; Town and Country Planning (Mayor of London) Order 2000, SI no. 1493

⁴ additional guidance is given in Strategic Planning in London, GOL Circular 1/2000, June 2000

Figure 1

The Mayor's role in planning applications of potential strategic importance



- 2.8 At the next fortnightly meeting the Mayor decides his initial representation to the borough. If the application meets his strategic requirements he can indicate to the borough that they do not have to notify him at Stage 2. If the application falls short, he will set out what amendments might be sought to improve it. If the application clearly fails his strategic policy tests, he will tell the borough that he is minded to direct them to refuse the application at Stage 2. If the Mayor calls for amendments to the application, PDU officers will negotiate with the applicants to try and secure improvements to the scheme – sometimes acting together with the borough’s officers, sometimes independently.

Stage 2

- 2.9 When the borough puts the application to its own planning committee for determination, and if the borough resolves to approve it, the borough must notify the Mayor and give him 14 days within which to decide whether to direct the borough to refuse the application. The PDU case officer writes this up as a Stage 2 report to the Mayor’s fortnightly meeting, at which the Mayor takes his final decision on the case and decides whether to direct refusal. Such a direction if made must include reasons for refusal which the borough will then use in its decision letter to the applicant.
- 2.10 The applicant’s normal right of appeal against refusal of planning permission by the borough remains in place under this new system, and the Mayor will be expected to defend his direction to the borough at a public inquiry if necessary. He is also liable for the costs of any appeal inquiry should it be found that the power of direction has been used unreasonably. And the Secretary of State’s existing reserve powers to call in applications for his own consideration remain behind the Mayor’s powers, as the right hand column of Figure 1 shows.

The role of the Assembly’s Planning Advisory Committee

- 2.11 The Committee’s terms of reference include the following:

- When invited by the Mayor, to contribute to his consideration of major planning applications

On the optimistic assumption that this might one day happen, the Committee agreed in January 2001 procedures to allow it to give the Mayor pre-decision advice on referred planning applications.⁵ In correspondence to the Chairman of the Committee, the Mayor has made it clear that he is not obliged to do this⁶, and so far he has chosen not to. The Mayor has, however, undertaken to consult Assembly constituency members individually on applications in their areas, and to consider their written responses to him when taking planning decisions. This has happened to a limited degree, but not in any consistent fashion.

- 2.12 The relationships between the Mayor and the Assembly, both at committee and individual member level, are discussed further in Chapter 5 of this report.

⁵ minutes, Planning Committee 14 February 2001

⁶ Ibid

Scrutiny issues - monitoring

- 2.13 The GLA Act requires the Mayor to publicise his decisions. He must report to meetings of the Assembly “decisions...which he considers to be of significance”.⁷ It is for the Mayor to decide which of his decisions are significant. Right from the start, the Mayor has reported summaries of his Stage 2 final decisions on planning applications to the Assembly Mayor’s Question Time meetings, held 10 times a year.
- 2.14 Website publicity of the details of all strategic planning applications is one of the Mayor’s manifesto commitments.⁸ However, it was only from August 2001 – when it was made known that this scrutiny investigation would take place – that information on the Mayor’s decisions on planning applications began to appear on the GLA website. These take the form of letters to boroughs giving his initial representations and final decisions, together with the relevant officer reports from the Planning and SDS meeting. These are now placed on the website within ten days of the meeting.⁹
- 2.15 The Committee was advised in January 2001 that a new live database would shortly be in operation which would enable Assembly Members to keep track of planning applications as they passed through the GLA, and would permit automatic notification to Members of applications received from their constituencies.¹⁰ We were given to understand too that this database would also be placed on the website so that anyone could see what was happening to referred planning applications¹¹.
- 2.16 We understand that design work on the database commenced early in 2000 before the GLA elections, under the GLA Transition Team. We were assured of its imminent arrival in February 2001 and again in December 2001. The Committee regrets that this database is still awaited, over two years since it was first commissioned.

Recommendation 1

We call upon the Mayor to complete without delay his long-promised live planning applications database. This should be placed on the GLA website so that everyone can see how the Mayor is dealing with planning applications.

⁷ S.45 Greater London Authority Act 1999

⁸ Ken Livingstone’s Manifesto for London, April 2000

⁹ minutes Planning Advisory Committee evidentiary hearing 29 January 2002, para 3.13

¹⁰ minutes Planning Committee 14 February 2001

¹¹ minutes Planning Advisory Committee evidentiary hearing 14 December 2001, para 5.19

3. The Mayor's decisions on planning applications

- 3.1 In October 2001, when we requested data, it was apparent that the promised database was not ready. Instead, the Mayor supplied us with information from Planning Decision Unit's spreadsheet (this works as a shadow database). This covers the seventeen month period from 3 July 2000, the date on which the Mayor assumed his planning powers, through to the end of November 2001.
- 3.2 Summary information extracted from the spreadsheet is reproduced overleaf in tabular form in Figures 2, 3, 4 and 5, and is discussed below.

Planning applications caseload

- 3.3 Before the GLA was established, there was some debate about how many strategic planning applications per year the Mayor was going to have to deal with. Estimates ranged from 250 (Government Office for London) to 300 – 400 (the London Planning Advisory Committee). Figure 2 shows that although the Mayor was referred 371 planning cases by the boroughs during his first seventeen months, only 243 of these were strategic planning applications as strictly defined in the GLA Act. This equates to an annual rate of 172, somewhat less than predicted.

<i>Category</i>	<i>Number</i>
Statutory referrals <i>Planning applications of strategic significance, as defined by the Secretary of State in the Town and Country Planning (Mayor of London) Order 2000</i>	243
Non-statutory referrals <i>Masterplans, planning briefs, pre-applications, non-statutory applications and pre-3 July 2000 applications (see Figure 3 for definitions)</i>	128
Total all referrals	371

- 3.4 Taking a looser definition of what constitutes a strategic planning application, if one adds to the 243 figure the 31 pre-applications, 61 non-statutory applications and the 6 Pre-3 July 2000 applications from Figure 3, the total rises to 341 – an equivalent annual rate of 241. This is close to GOL's original estimate of 250 applications per year, but less than the figure of 300 which the Mayor keeps referring to.

Non-statutory referrals

- 3.5 Figure 2 shows that a third of the Planning Decision's Unit's caseload is taken up with non-statutory work – giving comments on masterplans and planning briefs,

¹² source: GLA Planning Decisions Unit, November 2001

and pre-application versions of schemes. The Mayor has made it clear that he takes a broad view of his planning remit, and wishes to get involved at any early stage when investment decisions are being made about the future use of land in London. Consequently, officers from Planning Decisions Unit have taken a proactive stance, encouraging boroughs to discuss draft masterplans and planning briefs with them, and meeting developers and boroughs in pre-application meetings to discuss proposals before planning applications are made.

- 3.6 In oral evidence to the Committee, Giles Dolphin, the GLA's Planning Decisions Manager, advised us that pre-application discussions happened in a variety of different ways but these were usually initiated by developers contacting his officers to establish if their proposal was a strategic development.¹³ Before they committed themselves to time, expenditure and consultation, and before the borough commenced considering the application, developers wanted to make sure that they were getting their scheme roughly right.¹⁴ He likened this to situations where developers went to county councils before meeting planners from the districts as they wished to speak with the strategic authority first.¹⁵
- 3.7 Stewart Murray, Team Leader (Development Control) in the GLA's Planning Decisions Unit, advised the Committee that the process for dealing with pre-applications was not dissimilar to that operated by the Government Office for London when they performed the strategic planning role before the GLA was established. He stated that developers often wanted to have pre-application discussions with the Mayor at an early stage to ensure that they were not wasting their time.¹⁶ Giles Dolphin informed us that boroughs sometimes approached his officers to discuss a pre-application proposal they had received, or a draft planning brief that they had prepared for a strategic site. And where development was proposed at a transport interchange for example, his officers might be approached by the landowners Railtrack, as had happened with a development at Euston Station.¹⁷
- 3.9 Giles Dolphin also informed us that on the rare occasions where he did not know what the Mayor was going to think of a pre-application scheme he advised the developer to make a presentation to the Mayor.¹⁸ The Mayor confirmed that the decision on who got to see him in person was entirely a matter for officers.¹⁹
- 3.10 This report will go on to show that the issue of developer access to the Mayor is a critical one. The ramifications of this are discussed further in Chapter 5. For now, however, we note that the Mayor's willingness to engage with developers and boroughs at the pre-application stage has had a significant impact on officer workload. Figure 3 gives a more detailed breakdown of the type of work undertaken.

¹³ minutes, Planning Advisory Committee evidentiary hearing 14 December 2001, para 5.2

¹⁴ minutes, Planning Advisory Committee evidentiary hearing 29 January 2002, para 3.6

¹⁵ minutes, Planning Advisory Committee evidentiary hearing 14 December 2001, para 5.8

¹⁶ Ibid, para 5.13

¹⁷ minutes, Planning Advisory Committee evidentiary hearing 14 December 2001, para 5.2

¹⁸ minutes, Planning Advisory Committee evidentiary hearing 29 January 2002, para 3.6

¹⁹ Ibid, para 3.7

Figure 3

**Non-statutory planning referrals to the Mayor
July 2000 to November 2001**²⁰

<i>Category</i>	<i>Number</i>
Masterplan <i>boroughs and/or developers seeking the Mayor's view of a planning framework for a significant group of sites (e.g. Paddington Basin, Cricklewood railway sidings, Elephant and Castle town centre)</i>	10
Planning brief <i>boroughs seeking the Mayor's view of a planning framework for a large single site or a smaller grouping of sites (e.g. Borough Market)</i>	20
Pre-application <i>boroughs and/or developers seeking the Mayor's view of a scheme before a referable planning application is made</i>	31
Non-statutory application <i>boroughs seeking the Mayor's view of a non-statutory application, or referring an application on the statutory/ non-statutory margin</i>	61
Pre-3 July 2000 application <i>the Mayor expressing a view on a significant application made before 3 July 2000, (e.g. asking the Secretary of State to call in the application)</i>	6
total non-statutory referrals received	128

Statutory referrals

- 3.11 Figure 4 reveals what kind of decisions the Mayor has been making on statutorily referred planning applications. Two key points emerge:
- The Mayor loves to negotiate. He has sought amendments from three quarters of the applications he has seen to date.
 - He hardly ever says no. He has directed refusal on only 10 applications to date. As three of these applications were for one site, this means that the Mayor has only said no to eight development proposals.
- 3.12 Taken together with his low rate of refusal, this high rate of intervention could at first sight be read in two ways – either the Mayor is excessively permissive, or he is tough negotiator, successfully getting applicants to change their schemes to meet his requirements.
- 3.13 Looking at the 181 applications in Figure 4 on which he has given either an initial representation or a final decision (the 118 applications which have reached Stage 1 and the 63 which have reached Stage 2), the Mayor has sought amendments from 135 schemes – 75 % of the total. And an examination of just the 63 applications which went forward to Stage 2 reveals that the Mayor demanded amendments on 56 of them – 89% of the total.

²⁰ source: GLA Planning Decisions Unit, November 2001

Figure 4**Statutory referrals of planning applications to the Mayor
July 2000 to November 2001²¹**

<i>Stage reached and outcome</i>	<i>Number of applications</i>
Not yet reported to the Mayor for Stage 1 initial representation to the borough	
Recently received by PDU, too early to report to the Mayor	42
Additional information requested by PDU officers from borough	9
Held in abeyance by borough (awaiting information from applicant)	5
Withdrawn by applicant	6
Total pre-Stage 1	62
Mayor's initial representation to the borough at Stage 1	
<i>Stage 2 awaited – borough has yet to formally consider application</i>	
Support, content to allow borough to determine, no need to refer at Stage II	29
Conditional support, amendments required	30
Concern expressed, amendments required <i>Including as a consequence of amendments secured, 4 applications which were later withdrawn, and 11 which were revised so as to become non-statutory</i>	41
Object, minded to direct refusal at Stage II <i>including 1 subsequently withdrawn</i>	10
Object, but content to allow borough to determine as it will refuse	4
Improper referral	4
Total reached Stage 1	118
Mayor's final decision at Stage 2	
<i>Within 14 Days of the borough resolving to approve the application</i>	
No direction (Stage 1 support)	8
No direction (Stage 1 conditional support, amendments made)	24
No direction (Stage 1 concerns met by amendments)	21
Direction to refuse (Stage 1 objections not overcome)	10
Total reached Stage 2	63
Total statutory referrals received July 2000 – November 2001	243

²¹ source: GLA Planning Decisions Unit, November 2001

- 3.14 When asked how officers regarded the fact that the Mayor had only directed refusal on 8 sites, Giles Dolphin responded that he felt that this represented success as many applications which had been considered unsatisfactory had been turned around through negotiation.²²
- 3.15 Going through the database, we found that the Mayor has been quite successful at raising the amount of affordable housing above that originally proposed by housing developers. He does this by raising the spectre of a direction to refuse unless a greater proportion of affordable housing is provided (for example, from 15% to 30% at a site in Havering).
- 3.16 The Mayor also gets involved in Section 106 negotiations.²³ This is a mechanism permitted under the Planning Acts in which the applicant and the local planning authority enter into a legally binding agreement under which the applicant undertakes to provide specific benefits (traditionally known as planning gain) in association with the proposed development. Examples of such benefits might be public transport improvements, support for training schemes, the provision of additional affordable housing etc. The planning permission does not become valid until the agreement is signed by both parties.
- 3.17 The role which the Mayor has developed is to suggest to both parties what ought to go into a proposed agreement, if by such action the scheme can be made to satisfy his policy requirements and a direction to refuse can thereby be avoided.
- 3.18 We asked the Mayor how he justified his involvement in Section 106 negotiations given that he was not a party to the legal agreement between the applicant and the borough. He responded that if he was able to improve the gain boroughs received this was an overall benefit for London. He claimed that several boroughs had benefited from increased commuted sum payments and increased proportions of affordable housing directly as a result of his interventions. Commuted sum payments arise in circumstances where the local planning authority accepts that affordable housing cannot be provided on the application site. The developer undertakes to make a financial contribution to off site provision elsewhere, secured through a S.106 agreement.
- 3.19 Our analysis of the database tends to bear this out – the Mayor was able to increase either the proportion of affordable housing or the amount of commuted payment for off site provision in at least 18 schemes. The Mayor himself cites the Harrods Depository site as the most spectacular example of this. Westminster City Council had been prepared to accept a financial contribution of £750,000 for off site social housing provision. But following the threat of a mayoral direction to refuse, the developer upped the offer to £2.5 million, Westminster resolved to approve the scheme, and the Mayor, satisfied with the amendments, did not direct refusal.²⁴
- 3.20 Figure 5 gives details of the ten applications across eight sites on which the Mayor has directed the borough to refuse a planning application. Even this shows that for four of these schemes, the Mayor managed to persuade the developer to

²² minutes, Planning Advisory Committee evidentiary hearing 14 December 2001, para 5.20

²³ after Section 106 of the Town and Country Planning Act 1990

²⁴ minutes, Planning Advisory Committee evidentiary hearing 29 December 2002, para 3.19

return with amendments sufficient for him to subsequently lift his direction and allow the borough to approve.

Scrutiny issues – a permissive Mayor?

- 3.21 What do these figures tell us? The Mayor likes to intervene and try get applicants to change their schemes to meet his requirements. To the extent that he seeks amendments on 75% of applications that reach his meetings, yet ultimately finds he has to direct refusal on only a small minority, he would appear to be a successful negotiator. And his claims of increases in affordable housing are undoubtedly impressive.
- 3.22 In paragraph 3.12 above, we floated another possible interpretation. Perhaps the Mayor is not a tough negotiator. Maybe he capitulates too easily. Perhaps he is a permissive mayor. Our analysis of the data in Figure 4 reveals that he did not direct refusal on 86 of the 96 applications on which he reached a final view²⁵, giving an equivalent 'approval rate' of 90%.
- 3.23 How does this compare with planning decision making across London? Recent data reveals that 86% of all planning applications in London were approved by the boroughs in the last quarter of 2001. Furthermore, this figure is stable with values of 87 or 88% being achieved in all other quarters in the last six years.²⁶ At first sight, it appears that the Mayor's approval rate is just slightly higher than the average approval rates of London boroughs.
- 3.24 However, this Londonwide data refers to all planning applications dealt with by the boroughs. As the Mayor only gets to see most strategic of these – a tiny minority of the tens of thousands of applications made each year – comparisons must be treated with caution. The real significance of the Mayor's directions to refuse – albeit exercised only on ten applications across eight sites – is that on each occasion the Mayor is overruling a borough's decision to approve a key project.
- 3.25 It is too early to interpret this information with any degree of confidence. But we note that we have received few serious complaints about the actual decisions that the Mayor has taken. Moreover, it is not the purpose of this first scrutiny to examine in detail the policy implications for London of his planning decisions. We have chosen for this initial scrutiny to concentrate on the process rather than content. We hope to return to the latter aspect when the GLA's development decisions monitoring information is available, as promised in the London Plan.

²⁵ from Figure 4: 29 Stage 1 applications where the Mayor, being content with the scheme has allowed the borough to determine; + 4 Stage 1 applications where he has allowed the borough to determine knowing it will refuse; + 63 applications which have reached Stage 2 (29+4+63) = 96, minus 10 directions to refuse = 86

²⁶ Planning in London, April 2002

Figure 5**Mayoral directions to refuse
July 2000 to November 2001**²⁷

site	proposal	reasons for Mayor's direction to refuse	outcome
Merton Abbey Mills (LB Merton 07/02/01, ref 0096a, 0096b, 0096c)	three applications: hotel, health & fitness centre & residential; residential; retail, office & residential	insufficient affordable housing, poor biodiversity	Merton refuses applications as directed. Negotiations continuing on affordable housing.
Limehouse Basin (LB Tower Hamlets, ref 0109)	Three residential blocks: 12 storeys, 31 units; 3 storeys, 9 units; and 5 storeys, 10 units	no affordable housing	Tower Hamlets continues to negotiate with applicant. Commuted sum offered increases from £400K to £650K (equivalent to 33% affordable housing off site), upon which mayoral direction withdrawn.
1 Westminster Bridge Road (LB Lambeth, ref 0145)	8 and 12 storey linked office buildings with 50,000 sq m B1, and 1,500 sq m A1/A3, closure of York Road	appearance of scheme and relationship to road network unacceptable	Lambeth refuses application as directed. Applicant appeals.
Northway Garage (LB Brent, 0190a)	Demolition of existing Northway Garage and construction of a part 7,8, 10, 12 storey building for student accommodation	object to design – scale, layout and relationship to surroundings	Brent refuses application as directed. Applicant appeals.
St James' Leisure Club (LB Bromley, ref 0200)	Erection of a new three storey health club on Metropolitan Open Land	loss of Metropolitan Open Land, excessive car parking provision.	Bromley refuses application as directed. Mayor negotiates to minimise impact on MOL. Mayoral direction withdrawn. Bromley subsequently approve with conditions
Former Barking Lido (LB Barking & Dagenham, ref 0217)	Erection of family restaurant/pub on Metropolitan Open Land	Inappropriate development on Metropolitan Open Land	Barking and Dagenham refuses application as directed. Applicant appeals.
Bradstow House (LB Harrow, ref 0236)	4-10 storey building, retail/leisure and 144 flats	Insufficient affordable housing, too much car parking, design considerations	Harrow refuses application as directed. Further negotiations with Harrow and applicant. Mayoral direction withdrawn. Harrow approves subject to S.106.
White Hart Triangle (LB Greenwich, ref 0304)	Industrial business park comprising up to 106,000 sq m (gross), new road access, revised roundabout	Inadequate sustainable transport, poor environment & biodiversity	Mayoral direction to refuse withdrawn subject to S.106 provisions

²⁷ source: GLA Planning Decisions Unit, November 2001

4. The Mayor's decisions on Unitary Development Plans

- 4.1 In London, Unitary Development Plans (UDPs) are prepared by the 33 local planning authorities (the 32 boroughs and the City of London – henceforward referred to as the 'boroughs'). They provide the legal planning framework for the borough, setting out in Part I the borough's strategic planning vision and objectives for its area, and giving in Part II detailed development control policies which assist the borough to permit or refuse planning applications.
- 4.2 This mix of strategic and local policy in a UDP reflects London's particular circumstances, following the abolition in 1986 of the Greater London Council and the consequent removal of the capital's directly elected strategic planning regime.

The Mayor's powers

- 4.3 With the establishment of the GLA, and the partial return of a strategic planning tier to London, UDPs are now required to conform with the Mayor's spatial development strategy – the London Plan – and ultimately, a borough is not allowed to adopt its UDP unless such conformity is achieved.²⁸
- 4.4 This requirement presents London with certain logistical problems. First, the Mayor's London Plan is unlikely to be finally completed until well into 2003.²⁹ Secondly, all London boroughs have embarked upon programmes of revising and updating their UDPs, and they are each at different stages in the process.
- 4.5 In practice, the objective of securing local UDP conformity with the SDS is proceeding in stages and slowly, with Mayoral interventions borough by borough at key stages of UDP preparation against a background of evolving London Plan policy.
- 4.6 When a borough is ready to go public with a new version of their plan, it places it on first deposit for a six week period of public response under a formal process strictly controlled by national Planning Regulations. The Mayor takes this opportunity to submit detailed representations to the borough, in the form of line by line objections and statements of support.
- 4.7 Once the deposit period has closed, the borough negotiates with all objectors – including the Mayor – to try and secure agreed changes to the plan which are then placed on second deposit for further public comment. Any remaining unresolved objections are subsequently considered by an inspector at the borough's UDP public inquiry. Following receipt of the inspector's report, and further modifications to the plan if necessary, the borough may adopt its UDP unless prevented from doing so by direction from the Secretary of State.
- 4.8 The Mayor's proposed representations to a borough at first deposit are put together by officers from the Planning Decisions Unit, with contributions from the

²⁸ Greater London Authority Act 1999, S.344

²⁹ The Draft London Plan will be published in June 2002, with its Examination in Public due in this Autumn. The EiP Inspector should report early in 2003, with formal agreement by the Mayor following later in the year.

SDS Team and from Transport for London (TfL), and are cleared informally by mayoral advisers prior to submission to Planning Advisory Committee.

4.9 Following consideration by the Committee, the Mayor agrees his representations to the borough either at his fortnightly Mayoral Planning and SDS meeting, or in person if his agreement is required between meetings. He has assured us that when he finalises his representations he takes into account the Committee's recommendations – but as neither minutes nor records of his meetings are released we cannot confirm that this is the case.

4.10 Representations to a borough's second deposit of its UDP, usually six months or so after first deposit, are usually dealt with by officers and only referred to the Mayor if new issues outside the scope of his first response are raised. We have not yet reached the point where a borough which went on deposit after 3 July 2000 (when the Mayor's planning powers came into force) has reached its UDP public inquiry.

4.11 Although the Mayor publishes his planning application decision letters and reports on the GLA website, his UDP representations and letters to boroughs are not similarly published.

The role of the Assembly's Planning Advisory Committee

4.12 In marked contrast to the Mayor's consideration of strategic planning applications, where the Assembly's Planning Advisory Committee can only examine a mayoral decision after the event, the Mayor's views on a borough's first deposit UDP are subject to a degree of prior scrutiny by the Committee. Its terms of reference permit it to see and comment on the Mayor's proposed UDP representations before he finalises them. The time-limited nature of the deposit period means that in practice the Committee has only week five of the six week period in which to do this. Both the Mayor and the Assembly thus have little control over when they are required to consider UDPs.

4.13 Committee procedures for dealing with UDPs were agreed at the 3 January 2001 meeting of the Planning Committee. The Committee invites representatives from the borough to attend the meeting and present its plan. The Assembly constituency Member also addresses the meeting. The borough's representatives and officers advising the Mayor (Planning Decisions Unit and TfL) then answer questions put to them by Members, followed by the Committee debating any of the Mayor's proposed representations that they might take issue with. The Committee's advice to the Mayor is then agreed.

4.14 Because the Mayor's does not respond formally to the Committee – his Planning and SDS meetings appear not to be minuted, and his representations to the borough are not published – the Committee is unable to take a view of the degree to which the Mayor takes its advice on UDPs.

Figure 6	
The Mayor's proposed UDP first deposit representations considered by the Planning Advisory Committee³⁰	
<i>Borough</i>	<i>Date of Planning Advisory Committee meeting</i>
London Borough of Barnet	<i>Not considered by Committee – Assembly in recess August 2000 – but the Mayor agreed to take individual comments from Committee Members</i>
City of Westminster	14 February 2001
Royal Borough of Kingston upon Thames	2 May 2001
London Borough of Bromley	2 May 2001
London Borough of Harrow	<i>Not considered by Committee – Assembly in recess August 2001 – but the Mayor agreed to take individual comments from Committee Members</i>
London Borough of Camden – King's Cross UDP chapter	14 December 2001
London Borough of Camden – affordable housing and mixed use UDP policies	10 January 2002
London Borough of Lambeth	21 February 2002
London Borough of Ealing	13 March 2002
London Borough of Waltham Forest	20 March 2002
London Borough of Greenwich	11 April 2002

The Mayor's decisions on first deposit UDPs

- 4.15 Figure 6 shows the UDPs for which the Committee has considered the Mayor's proposed representations at first deposit.
- 4.16 Somewhat to its surprise, the Committee has found itself endorsing the vast majority of the Mayor's proposed UDP representations – and he makes between 100 and 200 detailed comments on each plan. The process is of value because, in advance of the release of the Draft London Plan, the Mayor's evolving thinking on SDS policy is discussed in public and increasingly revealed.

³⁰ source: Planning/Planning Advisory Committee minutes, February 2001 – April 2002

Scrutiny issues – communication and publicity

- 4.17 On the face of it, the Mayor's interaction with borough UDPs, and the Committee's public role, appear to be working well. No witnesses have come forward to identify any problems, procedural or otherwise. This comes as no surprise, for the procedures should be familiar to all involved. Giles Dolphin told us that the officer procedures for dealing with UDPs were based upon that used by the London Planning Advisory Committee (LPAC), prior to the formation of the GLA, and that it was felt that it was best to continue with procedures which had been agreed by all the boroughs.³¹ In written evidence, the London Borough of Harrow noted that the Mayor's UDP comments to date have been helpful.³²
- 4.18 Lest we – the Mayor and the Assembly – rest on our laurels however, three notes of caution must be raised. First, these are early days. Since the Mayor assumed his planning powers, only just under a third of London boroughs have been exposed to a detailed mayoral UDP response by virtue of reaching their first deposit stage. The rest of London is either ahead or behind the ten boroughs listed above. No doubt opinions on the value of the Mayor's interventions will firm up at the first UDP inquiry where his representations are defended in public.
- 4.19 Secondly, we suspect that boroughs believe that the Committee's recommendations to the Mayor on his representations to them on their UDPs carry weight in the GLA's planning decisions process. Boroughs certainly seem to welcome the opportunity to attend the committee meeting and put forward the case for their plan, for unlike selected developers they do not get access to the Mayor. However, although it is possible to work out whether the Mayor has responded positively to our recommendations by examining copies of his final responses to boroughs, we believe that his failure to respond to us formally allows him to make light of our concerns and evade a proper standard of accountability.
- 4.20 And thirdly, mayoral inputs to borough UDPs are currently proceeding by way of private dialogue. This will continue to be the case until the Mayor takes steps to give his views wider exposure. We believe that it is in the wider public interest that he publicises his UDP representations to boroughs and posts them on the GLA website.

Recommendation 2

In the interests of open government and accountable decision making, the Mayor should give a formal response to recommendations which the Assembly makes on his proposed representations to boroughs on their UDPs. He should also make public his representations to boroughs and post them on the GLA website.

³¹ minutes, Planning Advisory Committee evidentiary hearing 14 December 2001, para 5.1

³² memorandum, London Borough of Harrow, 2 January 2002

5. How decisions are made

The Mayoral Planning and SDS Meeting

5.1 The Mayor makes his planning decisions at fortnightly meetings with his advisers and officers. The following business is conducted:

- statutory decisions on referred planning applications (the Mayor's initial representations to boroughs at Stage 1 and his final decisions at Stage 2)
- decisions on the Mayor's formal representations to boroughs on their UDPs
- informal consideration of pre-application schemes, planning briefs, and masterplans
- preparation of the London Plan.

5.2 Attending these fortnightly meetings are:

- the Mayor Ken Livingstone, his Chief of Staff Simon Fletcher (who deputises for the Mayor in his absence) and his Planning Adviser Eleanor Young
- the Deputy Mayor Nicky Gavron (as Mayor's Cabinet Spatial Development and Strategic Planning lead) and her Planning Adviser Tony Cumberbirch
- GLA officers (from Planning Decisions Unit, Policy and Partnerships, SDS Team, Legal Services, and the Press Office)
- Transport for London officers
- London Development Agency officers.

5.3 All decisions are made by the Mayor in person, as provided for in the GLA Act, following due consideration of written and oral officer advice. The meetings take place in private, and are unannounced. Although for his decisions on planning applications the Mayor complies with and even exceeds the minimal legislative requirements on publicity, agendas are not published nor reports released in advance so it is not possible to find out what is going to happen at any meeting until afterwards.

The Mayor's secret meetings

5.4 In his election manifesto, Ken Livingstone stated:

*"London has suffered badly from being the only major capital city in the developed world without city-wide government. Now there is the chance for London to take the lead through a new style of politics and a new kind of governance that matches the needs and opportunities of the new millennium. As an independent Mayor I will introduce the most open, accessible and inclusive style of government ever seen in the UK."*³³

5.5 With expectations as high as these, we were not surprised to receive some criticism of the Mayor's planning decisions process. The London Borough of Barking and Dagenham expressed concern about the lack of openness. Referring to the Mayor's direction to them to refuse permission for a family restaurant/pub

³³ Ken Livingstone's Manifesto for London, April 2000

at the former Barking Lido (see Figure 5, Chapter 3), they contrasted his procedures with their own, where decisions are taken in open meetings with objectors and supporters present, and able to participate.³⁴

- 5.6 Barking and Dagenham went on to comment, “It seems strange in this era of transparent decision making that this facility is not accorded to applicants and Local Authorities in order to listen to the debate and hear the reasoning behind the decisions that may not be apparent in the officer’s report, which is a recommendation only.³⁵” This view was echoed in the written response from Graham Jones, Chief Planning Officer at the London Borough of Harrow, “I can still see no valid justification as to why advice to the Mayor on planning matters and his planning meetings are not subject to the same requirements for public access to information as for all other local authorities. This point was the subject of representations when the provisions were going through Parliament and no satisfactory justification was made then or since.”³⁶
- 5.7 We asked the Mayor’s officers why mayoral planning business was conducted in private. Giles Dolphin’s view was that as the Mayor took decisions as an individual not a committee, there was no need for a public meeting. The purpose of the meeting was for the Mayor to get information from officers, not to facilitate a committee debate. He added that government ministers did not take planning decisions in public.³⁷
- 5.8 We questioned the Mayor himself on the stark contradictions between his manifesto commitments and the reality of his closed planning meetings. And he gave us more or less the same answers as his officers.
- 5.9 Although the Mayor stated that he believed that the way in which he dealt with planning applications was open and accessible³⁸, he felt that there was no way of opening up the decision making process as he was the sole decision maker. He told us that his planning decisions meeting was not a committee where a majority vote determined the issue. The decision was for himself alone to make, and the only purpose of the meeting was for him to ask questions of his officers.³⁹
- 5.10 The Mayor considered his planning decisions meetings to be similar to private briefing meetings in boroughs between officers and chairs of planning committees, held in advance of public meetings.⁴⁰ Giles Dolphin added that if the Mayor’s planning meetings were held in public, another private meeting would also have to be held. He therefore questioned what there would be to observe at a public planning meeting, as the Mayor would have asked all the questions he wished at the private pre-meeting.⁴¹
- 5.11 The Mayor too confirmed that in his view a private session followed by a public meeting would be pointless.⁴² He stated further that at his private planning meetings he frequently questioned his officers in a “robust” way. This could be

³⁴ memorandum, London Borough of Barking and Dagenham, 5 December 2001

³⁵ Ibid

³⁶ memorandum, London Borough of Harrow, 30 November 2001

³⁷ minutes, Planning Advisory Committee evidentiary hearing 14 December 2001, para 5.15

³⁸ minutes, Planning Advisory Committee evidentiary hearing 29 January 2002, para 3.7

³⁹ Ibid, para 3.1

⁴⁰ Ibid

⁴¹ minutes, Planning Advisory Committee evidentiary hearing 29 January 2002, para 3.12

⁴² Ibid, para 3.18

- subject to misinterpretation and could be used by those who wished to challenge subsequently his decision.⁴³
- 5.12 The Mayor told us that he had taken legal advice on the process he used to deal with planning applications, and that there was always a GLA lawyer present at his planning meetings.⁴⁴ He promised that if the Assembly was unhappy at any of his decisions, Giles Dolphin would attend committee to answer any questions, and that he himself would also attend, subject to time constraints.⁴⁵
- 5.13 In response to a question on possible conflicts of interest, the Mayor stated that he could not think how he could have any conflict of interest as he owned no land in London, and the only shares he had were in the company into which he channelled his extra-mayoral earnings. He continued that he could not be involved in a prior decision as he was not elected to any other decision making body.⁴⁶
- 5.14 He did not see that the fact that he was both the planning policy maker and the planning authority for London as potentially conflicting, but he conceded that there was a high risk from making public comments in advance on planning proposals before he had determined them, and for this reason he had ceased this practice.⁴⁷
- 5.15 In conclusion, the Mayor advised us that he saw his planning role as more akin to that of the Secretary of State than a local authority planning committee. He reminded us of his limited powers, but told us that if the Government ever decided to give him the power of directing approval in addition to his existing power of refusal, he could see in these circumstances a role for the Assembly.⁴⁸

Behind closed doors

- 5.16 The Committee appreciates that in taking his planning decisions in private the Mayor is acting within the provisions of existing law. We are encouraged that he appears willing to embrace the Assembly as decision making partners should the law change, and he receive positive as well as negative powers of direction.
- 5.17 But we must deal with what he does now, not what he may do in the future. It is right for the Assembly to hold the Mayor's current performance to account against the standards he has set himself. And the standards are high – the most open, accessible and inclusive style of government ever seen in the UK.⁴⁹ It is against these criteria that the Mayor's choice of acting behind closed doors must be judged. And it is a matter of choice. True, the law allows the Mayor to act in this way, but it must be understood that it would not prevent him from operating differently and opening up his meetings to public scrutiny, should he choose to do so.
- 5.18 We believe that the reasons given by the Mayor for conducting business in private do not stand up to close examination. We do not accept that just because he

⁴³ Ibid, para 3.12

⁴⁴ Ibid, para 3.14

⁴⁵ Ibid, para 3.18

⁴⁶ Ibid, para 3.14

⁴⁷ Ibid

⁴⁸ Ibid, para 3.9

⁴⁹ Ken Livingstone's Manifesto for London, April 2000

sees himself as a Secretary of State he is bound to act like one. And we regard the rejection of local authority open practice and his preference for Whitehall secrecy as profoundly undemocratic.

- 5.19 The argument that a public meeting is unnecessary because this is an individual's rather than a committee decision seems to us bizarre. The value of a public meeting is not simply to open up a debate amongst decision-makers but also to expose key deliberations between a decision-maker and advisers – and the Mayor's planning decisions meeting falls squarely into this latter category.
- 5.20 It may well be the case that a public planning decision meeting might push some initial discussion between the Mayor and his officers into a preceding informal process. In our view this would not diminish the value of an open meeting where the information and various arguments put to the Mayor by officers can be scrutinised, as well as the extent to which the Mayor tests advice given him.
- 5.21 It is vital for London that the merits of London's most significant developments are discussed openly. We believe that it is for the Mayor's own protection and in his best interests that his consideration of planning applications is exposed to public view. But the Mayor chooses to act otherwise. What has he got to hide?
- 5.22 We believe that good practice requires the accountability and scrutiny that openness allows. Ultimately, the law may need to be changed, and statutory guidance on good practice tightened, to force this if the Mayor remains unwilling to comply. If the Mayor cannot be persuaded to honour his promises to Londoners and go public, the Government must act to ensure that the Mayor is required to exercise accountable democracy in public.

Recommendation 3

We call upon the Mayor to honour his manifesto commitment to Londoners and hold his planning decision meetings in public. We note that current legislation does not prevent this.

Recommendation 4

If the Mayor refuses to go public of his own accord, we may have no option but to call upon the Government to amend the Greater London Authority Act 1999 to require him to hold his planning decisions meetings in public.

The Mayor and developers

- 5.23 In paragraphs 3.5 to 3.10 of this report, we discussed the Mayor's willingness for his officers to engage in pre-application meetings with architects, developers and borough planning officers. The Committee wanted know what the Mayor's role was in this, so last year we asked him to supply us with details of dozen or so pre-application meetings that we had been told he had held personally with developers.
- 5.24 Imagine our surprise, however, when on receipt of information for the period July 2000 to November 2001 (see Figure 7), we discovered that some of these discussions had been taking place at the Mayor's Planning and SDS meetings –

- and not, as we believed at the time, in stand-alone meetings, clearly separated from the decision making process. The information supplied to us by Planning Decisions Unit last November showed clearly that developers had attended mayoral planning decisions meetings on 16 May, 13 June, 12 July, 11 September and 7 November 2001.
- 5.25 This concerned us greatly. Worried at the implications of privileged access to and influence over the Mayor's private decision-taking meetings by a select few powerful developers, we were keen to hear a defence of this hitherto unrevealed practice.
- 5.26 When we asked why developers were now invited to the Mayor's planning decisions meeting, Eleanor Young, the Mayor's Planning Advisor, told us that this was for diary reasons. She stressed that developers did not stay for the part of the meeting where other applications were discussed and the Mayor made decisions.⁵⁰ Giles Dolphin advised us that developer presentations did not involve discussion, just an explanation of the proposed development, followed by an opportunity for the Mayor and Deputy Mayor to ask questions. We heard that following this, developers would leave the meeting before any further discussion took place. Giles Dolphin made it clear that developers who had made an initial, pre-application presentation would not be present at a future meetings at which the Mayor would make his Stage 1 informal or Stage 2 formal stage two decision on their scheme.⁵¹
- 5.27 We put it to the Mayor that this still meant that powerful people, or those with powerful friends, had access to the Mayor, whilst those with less power did not. Referring to his meeting with Gerald Ronson to discuss the Heron Tower application (at a special meeting, not a planning decisions meeting – see Figure 7), the Mayor told us that anyone with a scheme which would bring thousands of jobs to London would always get access to his office.⁵² He saw value too in getting to know particular developers so that over time he could squeeze more and more out of them in private meetings.⁵³
- 5.28 We suggested to the Mayor that he might for his own protection consider drawing up a protocol for his meetings with developers, which would set out clearly conditions under which he would meet developers personally. Giles Dolphin told us that the two criteria used were high profile cases where the Mayor would need to be well briefed, and applications where issues of strategic planning policy were being raised which were new or not entirely resolved. He stated that from an officer's point of view he had no problem with setting these criteria in writing to allay concerns.⁵⁴ (The Mayor subsequently drew up this protocol as a proposed revision to the GLA's Planning Code of Conduct.)

50 minutes, Planning Advisory Committee evidentiary hearing 29 January 2002, para 3.2

51 Ibid, para 3.3

52 minutes, Planning Advisory Committee evidentiary hearing 29 January 2002 para 3.22

53 Mayors Question Time, 22 May 2002

54 Ibid, para 3.23

Figure 7**Developer presentations to the Mayor
July 2000 – 7 November 2001⁵⁵**

<i>Date</i>	<i>Proposal</i>	<i>Present</i>	<i>Description of meeting</i>
early July 2000	Heron Tower	Gerald Ronson (developer), Judith Mayhew (City of London Corporation)	Scheme presentation to Mayor with John Ross (Mayor's Senior Adviser, Economic Policy) and PDU officers
11 July 2001	Swiss Re	Representatives from Norman Foster and Partners	Scheme presentation to Mayor with PDU officers
9 Nov 2000	London Bridge Tower	Renzo Piano (architect), Irving Sellar (applicant) and representatives from Railtrack Properties	Scheme presentation to Mayor with PDU officers
3 Jan 2001	Canary Wharf	Paul Reikeman (developer)	Scheme presentation to Mayor with PDU officers
11 May 2001	South Bank Centre	Maya Evan, Eliot Bernard (South Bank Centre)	Discussion with PDU officers present
16 May 2001	44 Hopton Street	Malcolm Kerr (Montagu Evans), Philip Gumuchdjan (Kevin Dash Architects & Gumuchdjan Associates), Peter Harris (London Town Plc)	Scheme presentation to Mayoral Planning & SDS Meeting
30 May 2001	Selfridges Department Store, Oxford Street	Stuart Lipton and representatives from Selfridges	Discussion with PDU officers present
13 June 2001	Fenchurch Street Tower	Malcolm Kerr (Montagu Evans), Chris Wilkinson (Chris Wilkinson Associates), Archie Galloway (City of London Corporation), Simon Davis, David Rees	Scheme presentation to Mayoral Planning & SDS Meeting
12 July 2001	Greenwich Meridian Gateway	John Donnan, Peter Vaughan, Albert Golding, Clive Bird (Broadway Malyan Architects)	Scheme presentation to Mayoral Planning & SDS Meeting
12 July 2001	Gunnarsbury Station Site	Kenn Simms, Jonathan Sarfaty (Michael Aukett Architects), Ray Daniels (Bright Services Ltd)	Scheme presentation to Mayoral Planning & SDS Meeting
11 Sept 2001	St Botolph's House City of London	Neven Sidor (Nicholas Grimshaw & Partners), Andrew Rosenfeld, Tim Garnham (Minerva), Derek Taylor (Montagu Evans)	Scheme presentation to Mayoral Planning & SDS Meeting
28 Sept 2001	Kings Cross	Peter Bishop (Director of Environment, Camden), Cllr Jane Roberts (Leader Camden Council), Steve Bundred (Chief Exec Camden), Roger Madeleine (Chief Exec Argent Group)	Presentation to Mayor with officers from Mayors office, LDA and PDU present
7 Nov 2001	1 Westminster Bridge Road, Lambeth	Barry Kitcherside, Paul White (Frogmore Developments)	Scheme presentation to Mayoral Planning & SDS meeting
7 Nov 2001	New Metropolitan Centre Stratford Rail Lands, Newham	Stuart Lipton (Stanhope), Nigel Hugill (Chelsfield), Mike Low, Malcolm Smith (Arup Associates)	Scheme presentation to Mayoral Planning and SDS meeting

⁵⁵ source: GLA Planning Decisions Unit November 2001 (plus information on the Heron Tower meeting given by the Mayor at the Planning Advisory Committee evidentiary hearing 29 January 2002, minutes para 3.20)

- 5.29 The Committee accepts that it is right that an executive mayor is able to give a strategic view at an early stage on key strategic planning proposals. We also appreciate that for reasons of commercial confidentiality such meetings should be held in private. It is well known that the Government Office for London acted in a similar fashion prior to the GLA⁵⁶, and as far as we know, may still do so.
- 5.30 What we found most alarming, however, was the practice revealed last year of receiving presentations from developers at the beginning of meetings at which the Mayor later takes planning decisions, albeit decisions on other schemes. We believed putting both activities on the same agenda paper was deeply unwise. It sent the wrong messages.
- 5.31 Just before finalising this report, we asked the Mayor's office for updated information on his developer meetings. This is shown in Figure 8, and reveals a change in practice. From 6 February 2002 to date (i.e. from the first developer meeting onwards since we questioned the Mayor on 29 January), developer presentations to the Mayor have taken place "prior" to his planning decisions meetings. Our questioning of the Mayor has clearly had some effect.

Figure 8
Developer presentations to the Mayor
29 November 2001 – 15 May 2002⁵⁷

29 Nov 2002	Spitalfields Market Tower Hamlets	Mike Blair (Spitalfields Development Group), representatives of Foster & Partners Architects	Scheme presentation to Mayoral Planning & SDS meeting
6 Feb 2002	Croydon Gateway East Croydon	Philip Goodwin (Director of Planning Croydon), David Wetzler (chief Executive Croydon), Cllr Adrian Dennis (Croydon Council), Robert Fort (developer consortium representative)	Scheme presentation prior to Mayoral Planning & SDS meeting
20 March 2002	St Botolph's House City of London	Neven Sidor (Nicholas Grimshaw & Partners), Andrew Rosenfeld, Tim Garnham (Minerva), Derek Taylor (Montagu Evans)	Scheme presentation prior to Mayoral Planning & SDS Meeting
20 March 2002	Kings Crescent Estate Clissold Park Hackney	Joanna Chambers (Arup), Dickon Robinson (Peabody Trust), representatives of West 8 Architects	Scheme presentation prior to Mayoral Planning & SDS Meeting
15 May 2002	Quay House Canary Wharf	Will Alsop (Alsop and Stormer Architects), Malcolm Kerr (Montagu Evans), representatives of Delancy Group developers	Scheme presentation prior to Mayoral Planning & SDS Meeting
15 May 2002	London Arena site	John Turner (Ballymore Properties), Richard Serra, Steve Brown (GVA Grimley), Nic Jacobs (Skidmore, Owen and Merrills)	Scheme presentation prior to Mayoral Planning & SDS Meeting

- 5.32 Whilst we welcome this small move by the Mayor in response to scrutiny, we believe that in reality little has changed. We understand that when developers come and see the Mayor and his officer and adviser team in his fortnightly planning slot, planning decision business follows on immediately as before. And both activities remain on the same agenda paper.
- 5.33 We believe that this slightly revised practice does not go far enough. We do not suggest that any impropriety happens in these meetings, but we believe that

⁵⁶ minutes, Planning Advisory Committee evidentiary hearing 14 December 2001, para 5.13

⁵⁷ source: GLA Planning Decisions Unit, May 2002

running these two activities back to back still leaves the Mayor vulnerable to the accusation that his decision making is open to improper influence from a select group of powerful people with privileged access to him, whilst everyone else is excluded. We fear that selective access such as this may even fall foul of human rights legislation. It may be administratively inconvenient for him, but the Mayor must take further steps to separate clearly the two processes, and he must do it now.

Recommendation 5

The Mayor must do more to distinguish clearly between giving strategic advice to developers and taking statutory planning decisions by exercising these different roles separately.

- 5.34 The Mayor used the presence of developers at his planning decisions meetings as a reason to exclude Assembly Members from observing proceedings. He considered that developers who came to his meetings would not necessarily want to speak openly in front of Assembly Members who were there to represent their constituents. In his view, he could not expect Assembly Members to respect the confidentiality of his meetings as they would be loyal to their constituents and not to his planning regime.⁵⁸
- 5.35 We find the Mayor's arguments for excluding Assembly Members from his planning meetings wholly unconvincing. Not only did he fail to recognise the dangerous signals that inviting developers to his planning decision meetings sent to the outside world, he used the presence of developers at these meetings to justify the exclusion of Assembly Members. They cannot be trusted, but he can. He seems to forget that in the May 2000 GLA elections people were invited to put their trust in a new Assembly as well as in a new Mayor for London.

The Mayor and the Assembly

- 5.36 We have seen that whilst the Mayor is prepared to engage with us on his views on boroughs' UDPs (see Chapter 4), he has so far refused point blank to involve the Committee in his decisions on strategic planning applications (see Chapter 2). Developers have been allowed to attend his planning decision meetings, and we note that councillors from Camden and Croydon, and representatives from the City of London Corporation have also attended meetings to promote developments in their areas. Yet the Mayor has rebuffed all suggestions that Assembly constituency members might join these meetings to give him the benefit of their detailed local knowledge.
- 5.37 He added that even were these meetings to be public, he could not see how a corrupt Mayor could be prevented from going behind officers' backs to do a private deal with developers, but that in voting for a mayor, people had to decide who they could trust with these powers.⁵⁹
- 5.38 The Mayor himself raised the issue of the risk of corrupt planning decisions. We believe, however, that no reasonable person would conclude that excluding

⁵⁸ minutes, Planning Advisory Committee evidentiary hearing 29 January 2002, para 3.7

⁵⁹ Ibid, para 3.23

Assembly Members and conducting business behind closed doors is the best way to minimise this possibility.

- 5.39 The Mayor suggested to us that a reasonable compromise would be to have one of the Independent Members of the Assembly's Standards Committee present at his planning meetings and stated that he had no objection to this happening, provided that they accept the confidentiality of the proceedings, unless they had concerns over the legality or propriety of what was being done.⁶⁰ (The Standards Committee subsequently considered and rejected this proposal, foreseeing difficulties in reporting back any potential probity issues to the Assembly⁶¹.)
- 5.40 If the Mayor will not involve Members in his decision making meetings, the least he can do is conduct rigorous consultations with the Assembly. The Mayor informed us that his staff had been told that any Assembly Member must have access to him whenever they requested it, irrespective of the issue. He stated that there had never been an occasion where he had declined to meet a Member on any issue (aside from at his planning meetings, that is). But he felt that for Members' own safety on planning issues it would be best for them to deal with the Planning Decisions Unit.⁶² Giles Dolphin told us that from December 2001 weekly lists of planning applications received would be sent to all Members, and that Constituency Members would be sent copies of the Mayor's Stage 1 letters to boroughs so that their views could be reported to the Mayor at Stage 2.⁶³
- 5.41 However, we do not believe that these procedures go far enough. Meaningful consultation requires more than mere notification. Assembly Members have valuable local information and experience which the Mayor should actively seek. He should make sure his officers have obtained our views before reporting to him.

Recommendation 6

The Mayor should consult actively with Assembly Constituency Members before arriving at decisions on strategic planning applications.

The Mayor and the boroughs

- 5.42 Are the boroughs happy with these arrangements? The ALG said it was too early to form a collective, Londonwide view.⁶⁴ Of the six boroughs who did respond to us, only the London Borough of Wandsworth took severe exception to London's new strategic planning system, resenting mayoral intervention as interference in their local decision making.⁶⁵ But other boroughs raised more practical concerns, focusing on working relationships between their officers and the Mayor's, and identifying room for improvement.
- 5.43 Harrow stated that it was important that at an early stage the Mayor identifies the strategic issues pertinent to a particular case so as to clarify what matters he would be involved in and what local matters would be left to the borough to deal

⁶⁰ Ibid, para 3.11

⁶¹ minutes, Standards Committee 7 March 2002

⁶² Ibid, para 3.17

⁶³ minutes, Planning Advisory Committee evidentiary hearing 14 December 2001, para 5.11

⁶⁴ memorandum, Association of London Government

⁶⁵ memoranda, London Borough of Wandsworth

- with.⁶⁶ Michael Fearn, Regional Director of Shire Consulting, planning consultants, referred to difficulties his clients had experienced with the City of Westminster over whether or not a proposal was a UDP departure – a recognised category of referable application, but left very much up to the individual borough to identify.⁶⁷
- 5.44 Brent said that the Mayor seemed unaware of their own UDP policies.⁶⁸ Islington and Harrow felt that the Mayor was more interested in detailed urban design matters and less in strategic issues, such as the loss of strategic employment land to housing in London.⁶⁹ And when we examined the merits of the Mayor’s decisions on a planning application in Brent which had been subject to legal challenge, we too found him unmoved at the loss of strategic land to housing.⁷⁰
- 5.45 Islington referred to concerns about the overlapping roles of GLA, Transport for London and London Development Agency officers. Lester Pritchard, Islington’s Head of Development Planning, said that if the GLA is to be effective, the way in which the Mayor operated his strategic role must be defined and consistent. Islington suggested that it would be beneficial to establish a protocol on Mayoral involvement in strategic planning applications, addressing officer relationships, meetings with developers and so on.⁷¹
- 5.46 We asked the Mayor for his views on this suggestion. He responded that once the SDS was up and running, both he and the boroughs would be bound by the same legal framework. Giles Dolphin added that in effect the Town and Country Planning (Mayor of London) Order 2000 sets the framework for relationships with the boroughs, and that almost all of what was required is set out in this document. He said that there had been some early teething problems, with some boroughs experiencing difficulties in identifying referable applications, but that they had changed their administrative procedures to overcome this. He concluded that he had seen no evidence that a protocol between the GLA and the London boroughs was necessary at this stage.⁷²
- 5.47 We disagree. We support the notion of a protocol on officer working practice between the GLA family and boroughs, but we also acknowledge that some aspects of the mayoral-borough relationship go beyond this. For example, it would be helpful if the Mayor were to publish guidelines as to the general factors that are likely to trigger his detailed intervention on a referred application, and those conditions under which he will be content to let the borough make its own determination. Such policy guidance is above and beyond the nuts and bolts of a protocol, and is unlikely to be clarified in the Draft London Plan.
- 5.48 Greater transparency on the Mayor’s approach to Section 106 agreements would also be welcomed. The Mayor could identify the policy circumstances under which a truly strategic need justified his seeking of amendments to prospective legal agreements, as distinct from quibbles about quantum or detail which are arguably not his province.

⁶⁶ memorandum, London Borough of Harrow

⁶⁷ memorandum, Shire Consulting

⁶⁸ memorandum, London Borough of Brent

⁶⁹ memoranda, London Borough of Islington and London Borough of Harrow

⁷⁰ minutes, Planning Advisory Committee 11 April 2002

⁷¹ minutes, Planning Advisory Committee evidentiary hearing 29 January 2002, para 3.26

⁷² Ibid

Recommendation 7

The Mayor should agree with the London boroughs a protocol on identifying and processing strategic planning applications, dealing with applicants, and the conduct of good working relationships between GLA, TfL and LDA officers, and the boroughs.

Recommendation 8

The Mayor should publish guidelines on the general factors which would trigger his intervention on a referred planning application. This should also include the circumstances under which he would wish to get involved in Section 106 negotiations between boroughs and developers.

Annex A: Recommendations

1. We call upon the Mayor to complete without delay his long-promised 'live' planning applications database. This should be placed on the GLA website so that everyone can see how the Mayor is dealing with planning applications.
2. In the interests of open government and accountable decision making, the Mayor should give a formal response to recommendations which the Assembly makes on his proposed representations to boroughs on their UDPs. He should also make public his representations to boroughs and post them on the GLA website.
3. We call upon the Mayor to honour his manifesto commitment to Londoners and hold his planning decision meetings in public. We note that current legislation does not prevent this.
4. If the Mayor refuses go public of his own accord, we may have no option but to call upon the Government to amend the Greater London Authority Act 1999 to require him to hold his planning decisions meetings in public.
5. The Mayor must to more to distinguish clearly between giving strategic advice to developers and taking statutory planning decisions by exercising these different roles separately.
6. The Mayor should consult actively with Assembly Constituency Members before arriving at decisions on strategic planning applications.
7. The Mayor should agree with the London boroughs a protocol on identifying and processing strategic planning applications, dealing with applicants, and the conduct of good working relationships between GLA, TfL and LDA officers, and the boroughs.
8. The Mayor should publish guidelines on the general factors which would trigger his intervention on a referred planning application. This should also include the circumstances under which he would wish to get involved in Section 106 negotiations between boroughs and developers.

Annex B: Evidentiary hearings and expert witnesses

The following witnesses appeared before the Committee:

14 December 2001

Giles Dolphin, Planning Decisions Manager, GLA
Stewart Murray, Team Leader (Development Control), GLA
Hannah Elliott, Business Support Officer (Planning Decisions), GLA

29 January 2002

Ken Livingstone – Mayor of London
Nicky Gavron – Deputy Mayor of London and Mayor’s Advisory Cabinet Member (Spatial Development and Strategic Planning)
Eleanor Young – Mayor’s Policy Adviser (Planning)
Giles Dolphin, Planning Decisions Manager, GLA

11 April 2002

Giles Dolphin, Planning Decisions Manager, GLA
Barry Taylor, Strategic Planner, GLA

Annex C: Written evidence

Written Evidence

Written evidence was received from the following organisations and individuals:

Brent Council: Stephen Weeks, Head of Area Planning
Croydon Council: Philip Goodwin, Director of Planning and Transportation
Islington Council: Lester Pritchard, Head of Development Planning
London Borough of Barking & Dagenham: T Lewis, Group Manager, Development Control
London Borough of Harrow: Graham Jones, Chief Planning Officer
London Borough of Wandsworth: Ian Thompson, Borough Planner
Shire Consulting: Michael Fearn, Regional Director

Annex D: Orders and translations

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