

Audit, Pensions and Standards Committee

Supplementary Agenda

Thursday 14 February 2013

7.00 pm

Small Hall - Hammersmith Town Hall

MEMBERSHIP

Administration:	Opposition	Co-optees
Councillor Michael Adam (Chairman) Councillor Marcus Ginn Councillor Robert Iggulden Councillor Lucy Ivimy	Councillor Michael Cartwright Councillor PJ Murphy (Vice- Chairman)	Eugenie White

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Date Issued: 13 February 2013

Audit, Pensions and Standards Committee Supplementary Agenda

14 February 2013

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12.	EARLS COURT REGENERATION SCHEME - OUTCOME OF INVESTIGATION BY DELOITTE	1 - 43
	This report sets out the outcome of an investigation by Deloitte into the Earls Court Regeneration Scheme.	

	London Borough of Hammersmith & Fulham AUDIT PENSIONS AND STANDARDS COMMITTEE 14 February 2013
Earls Court Regeneration Scheme - Outcome of investigation by Deloitte	
Report of the Chief Executive	
Open Report (Appendix A Exempt)	
Classification - For Information and For Decision	
Key Decision: No	
Wards Affected: ALL	
Accountable Executive Director: Melbourne Barrett	
Report Author: Derek Myers, Chief Executive	Contact Details: Tel: 020 8753 2000 E-mail: derek.myers@lbhf.gov.uk

1. EXECUTIVE SUMMARY

- 1.1. The Committee is the relevant body to consider on behalf of the Council the external independent report commissioned from Deloitte to look into allegations made against the standards of the Council's work in consulting its statutory tenants about the proposed Earls Court Regeneration Scheme.
- 1.2. Deloitte were appointed to look into this matter because it was decided that an audit firm would best meet the expectations. Their role requires independence and objectivity, as per the standards set out by the Chartered Institute of Internal Auditors. The Council appointed Deloitte from a Framework Agreement which it uses to source its internal audit service. This was an alternative to a full procurement exercise which inevitably would have taken further months. The Framework Contract enabled the Council to be satisfied that price of the work had been competitively tendered as part of the framework set-up.
- 1.3. The Deloitte work has been fully independent. The Deloitte team proposed their own terms of reference; decided who they would interview and are wholly responsible for their conclusions.

- 1.4. The main conclusions of the Deloitte report are:
- Deloitte have not identified any evidence to support the allegation of the existence of an Early Movers List, VIP list or priority listing by any other name
 - Deloitte acknowledge that, based on the interviews conducted, there may have been a perception that one existed and more could have been done to dispel this.
- 1.5. The Committee must now decide whether or not to accept the report and determine that the original allegations have been satisfactorily enquired into, or to commission further work from Deloitte or another party. A number of considerations to inform this decision are set out in the report.

2. RECOMMENDATIONS

- 2.1. It is recommended that the Committee accepts the findings of Deloitte as set out in their report recognising that the Deloitte report is credible and sufficient, and accept, on behalf of the Council, that there is no case for further enquiries at public expense.

3. INTRODUCTION AND BACKGROUND

- 3.1. On 11th of September 2012, a package of papers was delivered with a covering letter signed by Mr Rosenberg, to Hammersmith and Fulham Police Force. Copies were sent to other parties, including the Hammersmith and Fulham Council Chief Executive.
- 3.2. The local Borough Commander of the Police Force forwarded the papers to senior officers at Metropolitan Police Headquarters and the paperwork was eventually sent to the Special Enquiry Team
- 3.3. Officers from this unit asked to see senior staff of the Council, and a meeting was held with the Chief Executive, Executive Director of Finance and Corporate Governance and Executive Director of Housing and Regeneration.
- 3.4. At that meeting the Chief Executive indicated that he was proposing to commission an independent third party to review the paperwork to see whether or not there was evidence that any staff had been involved in any conduct which might plausibly be described as unlawful, illegal or such that a disciplinary enquiry under the Council's disciplinary rules ought to be commenced. He offered that such a report, once completed, would be shared with the Metropolitan Police if they would find that helpful.
- 3.5. As confirmed in Detective Inspector Holt's Letter addressed to the Executive Director of Finance and Corporate Governance, dated 8th

November 2012, that in order for the police assessment to be meaningful, considered and structured the Metropolitan Police Service decided that it was “in the interests of transparency and proportionality to agree on this course of action” and that they would subsequently assess the findings of the independent report.

- 3.6. The Chief Executive and Executive Director of Finance and Corporate Governance considered how to source an independent third party to complete the agreed enquiries. We identified that we wanted an organisation which was experienced in work of a similar nature; had a brand and reputation that would ensure high standards and had sufficient familiarity with the policy context in local government. We decided that an audit firm would meet these expectations and proposed to use the Framework Agreement which we use to source our internal audit service from Deloitte. This framework had been set up following a formal procurement exercise led by the London Borough of Croydon which can assure the Council that it is achieving value for money.
- 3.7. Consideration was given as to whether Deloitte had any substantial conflict of interest in any other relationships with the Council. Given the size and scale and reputation of Deloitte, the conclusion was that Deloitte could be trusted to manage the work in a professional, objective and independent fashion.
- 3.8. Deloitte were invited in to discuss the possible commission and made it clear from the outset that if they were to be appointed they would expect operational independence. This had been the intention all along and it was proposed that Deloitte should draft their own terms of reference and determine a schedule of those that they thought they would need to interview.
- 3.9. After finalising terms of reference, Deloitte were so appointed. Mr Piero Ionta, the Council’s Principal Litigation Lawyer was appointed as liaison with the Deloitte team. The judgement was that his line of management duties to the Council’s Monitoring Officer (Tasnim Shawkat, Director of Law) offered additional assurance that the Council would make good its promise on complete co-operation with Deloitte in relation to any enquiries they felt necessary to make.
- 3.10. Deloitte proposed that they complete a first phase of enquiries on the basis of fact finding and evaluation of what they had heard and would then report to the Council and the Council would need to decide whether or not to instruct them for any further enquiries thereafter.
- 3.11. The Deloitte work was delayed from an original timetable due to having the reschedule a number of interviews for dates later than proposed in addition to the ill health of one of the parties that they wished to interview. Three extra individuals were added to the interview schedule during the course of their Investigation.

4. PROPOSAL AND ISSUES

- 4.1. A redacted version of the report of Deloitte is attached to this report as **Appendix A**. Members have received the full version of the report as part of the exempt supplementary agenda.

5. OPTIONS AND ANALYSIS OF OPTIONS

- 5.1. There would appear to be two options that the Members of this Committee can consider.

First Option

- 5.2. A first option is that the Committee can conclude that the Deloitte report is credible and sufficient and accept, on behalf of the Council, that there is no case for further enquiries at public expense.
- 5.3. The Committee would know that the Deloitte report will, in due course, be considered by the Metropolitan Police and they of course can make up their own mind as to whether or not to initiate any further enquiries or investigation.
- 5.4. The Council has special duties towards the cohort of statutory tenants living in homes that it owns. The Council has more general duties towards other parts of the local population and indeed the wider population of the borough who will also be affected by the benefits and collateral impacts of both the building works and the built development, if it proceeds.
- 5.5. The Council has been transparent in its presentation of the facts around the consultation. The analysis of the consultation put to Cabinet on 3 September showed that 18% of the statutory tenants consulted are in favour of the development and that 35% were against but that 45% offered no opinion and 2% offered an opinion which suggested they were uncertain.
- 5.6. Honourable Mr Justice Mitting's Order (attached at Appendix C), which refused an application for Judicial Review against the Council, states that the Council's "...analysis of the consultation responses put to Cabinet on 23 April 2012 and 3 September 2012 was balanced and fair." This affirms the Council's position that concerns reported on behalf of the minority of the cohort who said they were against the development were balanced with the Council's responsibilities towards other sectors of the local population.
- 5.7. The Council has recently announced that it has signed the Conditional Land Sale Agreement with Capital and Counties plc. This is a strong signal from the Council that it wishes the development to go ahead. The Planning Committees of Kensington and Chelsea and Hammersmith and

Fulham Councils have resolved to grant planning permission, subject to the finalisation of Section 106 Agreements and a referral to the Mayor of London for his consideration. The Secretary of State at the Department for Communities and Local Government has also asked for detail and has the right to “call in” one or both of the planning applications and cause a public enquiry to be held.

- 5.8. All of these issues have inevitably caused extended concern and uncertainty for the larger group of local residents and the Committee will want to consider how to balance the need for a proportionate response to concern expressed on behalf of the minority, with the legitimate expectations of others that there will be the earliest clarity on whether or not the scheme will proceed and that therefore they can begin to plan their individual futures, within such a context.
- 5.9. Finally staff of the Council have been put to great anxiety over the suggestion that they might be guilty of some criminal misconduct. Whilst staff must expect to co-operate fully with any enquiry which follows, they are entitled to think that their employer will not permit such anxiety to continue indefinitely or endorse such allegations without proper cause. A number of the staff most directly involved in past events have now, further to natural career development, moved to other employment. A wide range of other staff are watching with interest. Such staff, employed to do complex work in demanding circumstances, are entitled to know that their reasonable efforts will not be constantly undermined and they are not required to work in a climate of fear where their reasonable efforts are maligned and deliberately misrepresented.

Second Option

- 5.10. A second option would be to ask the Chief Executive to commission further work from Deloitte or any other appropriate party which is agreed, to conduct further enquiries. These enquiries would focus on interviewing all the tenants on the estate on the basis that Mr Rosenberg suggested that the allegations are based on accounts of 22 residents whose identity he has not disclosed to Deloitte.
- 5.11. Such further enquiries might be deemed necessary further to consideration of Deloitte’s report, should the Committee be of the view that the Investigation Remit that Deloitte set itself does not adequately deal with all of the allegations made by Mr Rosenberg relating to the Earl’s Court Regeneration Scheme.
- 5.12. When considering this option, The Committee will also wish to pay particular regard to the fact that Deloitte have not found any evidence that letters were sent to any tenants which set out any inducements or commitments which were in any way improper. No tenant has come forward, showing such a letter was received and no tenant has contacted the Council, in the absence of a complaint, to confirm their expectation of a

particular allocation or commitment by the Council which they wish to confirm.

- 5.13. Members may wish to consider whether or not the absence of any such evidence means that the case made out as cause for concern simply fails to meet the threshold required to consider it both reasonable and proportionate to spend further public money on further enquiries.

Monitoring Officer's Comment

- 5.14. The investigation undertaken by Deloitte has not identified any evidence to support the allegation that there existed an Early Movers List or a VIP list. It has been alleged that officers promised new Council homes in Seagrave Road development to certain residents in exchange for them supporting the demolition. Based on the investigation undertaken by Deloitte these allegations cannot be substantiated.
- 5.15. The allegations made were of the most serious nature and if found to be true could have led to disciplinary action and possible criminal proceedings against individuals. When such serious allegations are made the threshold for the required evidence is high. The more serious the allegation the more cogent the evidence needs to be to establish wrongdoing.
- 5.16. This report has set out two options for Members to consider. One option would be to accept the findings of Deloitte and the other would be to commission further work. It is a matter for Members whether they wish to explore the option of commissioning further work. However, Members will have to consider the following issues:
- Quality of the investigation undertaken so far
 - Intrusive nature of such investigation
 - Proportionality of further investigation in the light of the findings in the report produced by Deloitte
 - Likelihood of finding any further evidence to support the allegation, bearing in mind the allegations are very serious and thus cogent and clear evidence would be needed
 - Justification for using further public funds in the circumstances
 - Other processes available to pursue the complaint such as possible investigation by the police, who will need to consider whether it is in the interest of justice to pursue an investigation
- 5.17. It should be noted that at para 4.4 (e) Deloitte suggest that there might be more evidence that is not being disclosed. Arguably only the police could possibly gather such evidence, possibly with an order of the court requiring a journalist to reveal his sources, which the courts are reluctant to do. Therefore Members may wish to consider the merit of any further council funded investigation other than a criminal investigation, which is a matter for the police to decide.

- 5.18. The Chief Executive's recommendation is that the Committee accepts the findings of Deloitte set out in their report. It is the view of the Monitoring Officer that in the circumstances it would be reasonable for the Committee to accept the recommendation.

6. EQUALITY IMPLICATIONS

- 6.1. Not applicable

7. LEGAL IMPLICATIONS

- 7.1. The Director of Law has considered this report and any legal comments are contained within the content of this Report.
- 7.2. Implications verified/completed by: Janette Mullins, Head of Litigation, 020 8753 2744

8. FINANCIAL AND RESOURCES IMPLICATIONS

- 8.1. The Deloitte's investigation to date has been at a cost of approximately £20,000.
- 8.2. Any further investigative work would need to be much more speculative as there are no further direct allegations or witnesses to follow up. Although difficult to project a likely cost for a further investigation, it is clear the cost would be significantly more than the Deloitte investigation to date.
- 8.3. Implications verified/completed by: Jane West, Executive Director of Finance and Corporate Governance, 020 8753 1900

LOCAL GOVERNMENT ACT 2000 **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1	Letter from DI Holt to Jane West	Jane West	FCS, Zone 3, HTH
2	Order dated 21 st January 2013 from the Honourable Mr Justice Mitting	Jane West	FCS, Zone 3, HTH



Phase 1 Report – Allegations regarding
housing allocations as part of the Earls
Court Regeneration Scheme
Hammersmith & Fulham Council

February 2013

This document has been prepared on the basis of the limitations set out on pages 3 and 30.
STRICTLY CONFIDENTIAL

This report and the work connected therewith are subject to the Terms and Conditions of the Engagement Letter dated 11 October 2012 between Hammersmith & Fulham Council and Deloitte & Touche Public Sector Internal Audit Limited. The report is produced solely for the use of Hammersmith & Fulham Council. Its contents should not be quoted or referred to in whole or in part without our prior written consent except as required by law. Deloitte & Touche Public Sector Internal Audit Limited will accept no responsibility to any third party, as the report has not been prepared, and is not intended for any other purpose.

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1. Introduction

- 1.1 This report summarises the work that has been conducted by Deloitte & Touche Public Sector Internal Audit Limited ("PSIA", "Us" or "We"), in respect of allegations surrounding housing allocations as part of the Earls Court Regeneration Scheme, as passed to us by Hammersmith & Fulham Council ("the Council", "the Client" or "You").
- 1.2 The Council received a report, dated 10 September 2012, stating *'this report supplies information about Hammersmith & Fulham Council's actions regarding the Early Movers List. It substantiates allegations that Public Officers promised new council homes in Capco's Seagrave Road development to certain residents in exchange for them supporting demolition. It supplies evidence that may contribute to a Police investigation into Misconduct in Public Office, which could lead to criminal charges, and which, furthermore, may result in civil litigation to rectify breaches of statute'*.
- 1.3 The report sets out the following under the sub heading 'The allegation': 'On 31 January 2012, [REDACTED] On the same day this person sent the following email to a Council Officer:
- "There is so much that is wrong with the relationship between the Council and CapCo that I hardly know where to begin.*
- Remember the list of about 120 VIP estate residents who have been promised priority in the move to Seagrave Road (if it ever happens) irrespective of if their homes are required for development, which [B1] of CapCo agreed to garner resident support, and which you also agreed "as [B1 of CapCo] agreed it"?*
- I was on the list, having been offered a Block D penthouse on Seagrave Road. Thanks but no thanks"*.
- 1.4 The allegations make reference to CapCo and Seagrave Road. CapCo are the developers, Capital & Counties, with whom the Council signed a collaboration agreement in September 2009 and an exclusivity agreement in July 2011. The relevance of the Seagrave Road site is that, following the publication of the initial master plan for the regeneration scheme in March 2011, CapCo submitted a planning application for a site at Seagrave Road. The master plan was then amended to include this site. The Council have suggested that its inclusion would aid the ability to deliver its commitment of 'one move' for residents, as the first group of residents could be moved to Seagrave Road, allowing their part of the existing estates to be redeveloped. The overall regeneration would therefore be undertaken on a phased basis.
- 1.5 We were engaged by the Council to ascertain whether any evidence was available which supports (or not) the allegation received. The exact scope of our engagement is summarised in section 3 of the report, with a copy of the agreed Remit attached as Appendix B.
- 1.6 Our high level findings are set out in section 4, followed by additional detail in section 5. A summary level timeline of events is attached as Appendix A.

2. Limitations

- 2.1 This report sets out the matters, which came to our attention from examination of the documents we have gathered and which were made available to us to date together with the information provided to us by Hammersmith & Fulham Council and other non-Council interviewees. Save where we have been able to corroborate information, we have had to assume that documents or information made available to us are reliable and complete. Our work is dependent on the co-operation and honesty of the people to whom we spoke and the completeness and integrity of the material provided to us. We have not independently audited, or otherwise tested or verified, any of the information with which we have been presented.
- 2.2 The sole purpose of this report is to assist Hammersmith & Fulham Council in deciding what further action it may wish to take in this matter. It was prepared for the Purpose expressed in our letter of engagement dated 11 October 2012. Save as required by law, this report should not be disclosed to any third party without prior written permission. In the event that we give our permission we cannot accept liability for the contents of this report to the recipient concerned. The exclusion of liability also covers any third party recipients of information that quotes, refers to, or publishes, our report under the Freedom of Information Act 2000. We would ask that Hammersmith & Fulham Council consults with us promptly should it receive any request for information under the Act which it considers requires disclosure of the contents of this report, whether in whole or part.
- 2.3 Our findings might change in the light of further work being performed or further information becoming available.

3. Scope of Work

- 3.1. It was agreed that the overall work to be completed may comprise a number of phases, the extent of these being dependent upon the findings that arose and the possibility that additional information may have come to light during or following the completion of our phase 1 work.
- 3.2. We have completed the agreed 'Phase 1', and this report covers our findings in relation to the steps agreed within our remit.
- 3.3. Phase 1 was focused on the examination of documents provided by, and interviews with, selected members of current Council staff and one councillor. We also approached, with a view to interviewing, former staff members / contractors who are no longer 'employed' by the Council, subject to their co-operation; individuals who are or have been engaged as members of the West Kensington and Gibbs Green Residents Steering Group ("the Steering Group"); together with the individuals named as being the co-authors of the report provided to the Council, dated 10 September 2012, setting out the allegations. The Council were responsible for contacting all external individuals directly to ascertain whether or not they were willing to talk to us.

3.4. We carried out interviews with the following individuals, the majority of which were digitally recorded, seeking to obtain information relating to the allegations in question:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

3.5. In a number of cases the interviews had to be re-arranged at the request of the interviewees.

3.6. Further context regarding the selection of each of these individuals is set out in our agreed Remit, as attached at Appendix B. [REDACTED] and [REDACTED] were not originally identified, but were added as a result of information provided to us during the course of the interviews regarding officer involvement in the regeneration project.

3.7. Various documentation was provided to us during the course of our work, including the following:

- Report titled 'Early Movers List: Homes for votes? 10 September 2012'.

- Report compiled by [REDACTED] and [REDACTED] in response to the allegations, dated 12 November 2012, plus various attachments, including:
 - Copies / extracts of local news articles and Tenant Resident Association (TRA) newsletters;
 - Copy of a letter from [REDACTED] to the Chair and Secretary of the TRAs, dated 31 March 2010;
 - Copies of a selection of the newsletters from Hammersmith & Fulham Homes / the Council;
 - Copies of the information packs sent out regarding the Consultation exercise;
 - Copy of the presentation slides from the phasing meeting that took place on 12 January 2012; and
 - Copies of letters, appearing to be from residents, commenting on contact they had received from [REDACTED]
- Stakeholder Engagement Report, dated March 2009, written by M&N Communications.
- Presentation slides titled 'Earls Court Regeneration' for the Cabinet meeting held on 3 September 2012, plus the agenda, papers and minutes of the 3 September 2012 Cabinet meeting.
- Written statement made by [REDACTED] following the 3 September 2012 Cabinet meeting.
- Agenda and minutes of the Cabinet briefing held on 28 March 2012.
- Copies of various correspondence between [REDACTED] and [REDACTED].
- Copies of blog postings by [REDACTED] – 'The [REDACTED] Report'.
- Copies of blog postings by [REDACTED].
- Documents obtained by [REDACTED] from the Council following an FOI request on 9 August 2011, including:
 - Minutes of Steering Group meetings and meetings with residents prior to the Steering Group being fully formed;
 - Presentation slides from Steering Group meetings;
 - Invoices from Holiday Inn Express for drop in session costs; and
 - Letter from [REDACTED] to the TRAs, dated 31 March 2010.
- Document said to be the Steering Group mailing list, dated December 2011.
- Newsletters from Hammersmith & Fulham Homes and/or the Council between Spring 2009 and September 2012.
- Copies of the Draft Contracts for Tenants and Leaseholders.
- [REDACTED] handwritten notes setting out the names of approximately 40 individuals said to be residents on the West Kensington and Gibbs Green estates.

- Examples of Tenant/Leaseholder Enquiry Record Sheets used to record information when [REDACTED] spoke with residents.
 - Maps of the estates used to explain indicative phasing plans.
- 3.8. Where documentation has been provided, we have examined this to determine its relevance in relation to the allegations and also to further our understanding of the regeneration project and various contextual elements surrounding this. In addition, we have used it to confirm elements of the verbal accounts provided to us by interviewees, and for the purposes of analysing elements of available data where we have considered this to be relevant to our remit.
- 3.9. Given that our remit was to identify, through the completion of the agreed interviews and examination of any documentation provided to us, whether any evidence was available to substantiate the allegations raised, we have not sought to go beyond this and examine email accounts or electronic records for any of the individuals listed at 3.4 above, or for any other unnamed individuals. However, the Council has assured us that such records are secured and can be accessed.
- 3.10. The only exception with regard to the consideration of evidence held in electronic records is the Access database held within Housing and Regeneration, which we were told by [REDACTED] is used to record information relating to residents the Council have engaged with in relation to the regeneration project. Further details regarding this are given in sections 4 and 5.
- 3.11. Other than [REDACTED], we have not sought to contact any other residents from either the West Kensington or Gibbs Green Estates. The co-authors of the report provided to the Council on 10 September 2012 declined to provide us with the identities or contact details of any of the residents said to have been interviewed for the purposes of that report, as they stated that the individuals had agreed to be interviewed on the basis of their identities being protected.

4. Executive Summary

- 4.1. Our overall conclusion is that, based on the work undertaken, we have not identified any evidence to support the allegation of the existence of an Early Movers List ("EML"), VIP list, or priority listing by any other name. However, we acknowledge that, based on the interviews conducted, there may have been a perception that one existed and that more could have been done to dispel this.
- 4.2. We have confirmed the existence of the following:
- a) Handwritten notes, [REDACTED], setting out the names of approximately 40 individuals said to be residents on the West Kensington and Gibbs Green estates; and
 - b) An Access database held by the Council which records a tick in a field marked 'Seagrave Road' against 38 individuals said to be residents of the West Kensington and Gibbs Green estates.
- 4.3. The above two sets of records have been described to us as follows:
- a) [REDACTED] has informed us that [REDACTED] handwritten notes were not compiled on the basis of any promises regarding housing. [REDACTED] informed us that they resulted from discussions [REDACTED] had with fellow residents and that [REDACTED] passed the notes to the Council to demonstrate that there would be residents who were happy to move there. The notes have been referred to by others as [REDACTED]. Elements of the notes are unclear, but do indicate that the individuals are either interested in moving to Seagrave Road or in joining the Steering Group; and
 - b) Officers / former officers of the Council have informed us that the purpose of the Access database is to maintain a record of residents they have spoken with, including any comments and queries raised, together with as much information as possible regarding their current position and likely future housing needs. Within this, a field has been included for recording any interest shown in Seagrave Road, either on the basis of [REDACTED] notes or direct conversations with residents. Officers / former officers deny that any promises have been made, only that interest has been recorded.
- 4.4. We refer below to the following evidence obtained from our work which we consider to be broadly consistent with these descriptions:
- a) [REDACTED] stated in his interview that the wording in his email of 31 January 2012, the email on which the allegations are centred, as set out at 1.3 above, was aimed at making his anger regarding the regeneration proposals clear, and that, in hindsight, it was overstated. [REDACTED] confirmed that a representative of CapCo had talked to [REDACTED] about the penthouses they were planning and had suggested to [REDACTED] that he should have one, following which [REDACTED] indicated [REDACTED] may like one. However, [REDACTED] stated that it was informal and that, in [REDACTED] view, it was not inappropriate for CapCo to be asking him [REDACTED] view on the types of property they needed to build for leaseholders such as [REDACTED]. [REDACTED] said that he hadn't seen it as a promise of a property.
 - b) [REDACTED] stated in his interview that he has never seen the alleged EML / VIP list.

- c) The number stated in [redacted] allegation of 120 residents does not accord with either [redacted] handwritten notes or the Council's Access database.
 - d) [redacted] has not provided us with any documentary evidence of an EML / VIP list.
 - e) In addition to [redacted] allegations, the allegations set out in [redacted] report are said to be based on the accounts of 22 residents, interviewed by [redacted] assistant, who claim that they were made promises of a move to Seagrave Road. However, [redacted] has declined to provide us with details of the identities of these residents and hence we are not in a position to be able to validate their accounts against those of our interviewees and our own analysis.
 - f) We undertook a comparison of the 38 residents on the Council's Access database to the responses in the Consultation exercise. Only 25 were found to have 'Supported' the proposals.
 - g) We have not been provided with any evidence to support the allegation by [redacted] that the Residents Steering Group was set up and controlled by the Council to help gain approval for their proposals. It is confirmed that they received financial assistance to pay for independent legal advice, but there is evidence that the Council initially sought to engage with the Tenant Resident Associations (TRAs) and offered the same funding to them prior to the Steering Group's formation. We were informed by the Council that that offer was not responded to.
 - h) We undertook a comparison of the Steering Group mailing list to the Consultation responses. Only 37 of the 83 on the mailing list were found to have 'Supported' the proposals. This appears to accord with [redacted] account that membership of the Steering Group is open to all, not just supporters of the scheme, although it is noted that [redacted] challenged the accuracy of the mailing list in his interview.
 - i) [redacted] has not provided us with any documentary evidence of an EML / VIP list. From [redacted] interview and reference to the email sent to [redacted] on 22 June 2012, we understand that [redacted] complaint has escalated due to his belief that [redacted] request for a response from the Council, regarding the allegation set out in [redacted] email of 31 January 2012, has not been adequately dealt with. Our findings do not lead us to question the response provided by [redacted], although we have not sought to assess the extent to which [redacted] complaint was dealt with in accordance with the Council's complaints procedure and the steps taken by [redacted] to determine their response.
 - j) We have been informed by [redacted] that, as far as he is aware, other than the complaint raised by [redacted], and comments raised by opposition councillors at the Cabinet meeting of 3 September 2012, there have been no other formal complaints received regarding any housing promises or priority listing from any of the residents of the West Kensington and Gibbs Green estates, or from any of the Councillors for the North End ward, the ward in which the two estates sit. The Council's Regeneration Team confirmed that they are not aware of any other complaints.
- 4.5. In addition to the above points, it is noted that the last general and local elections took place in May 2010 followed by the London Mayoral election in May 2012. A number of interviewees have suggested that the presence of

Councillors and other political representatives on the estates could have impacted on the messages given to residents and it is possible that promises regarding re-housing could have been made by any of these individuals. We have not been provided with any evidence to either support or discount this, but if it did happen then it could have led residents to believe that they had been made a promise by the Council.

- 4.6. The discussions that took place at a meeting with the Steering Group on 12 January 2012, the purpose of which was to discuss how the phasing may work, appear to have made a significant contribution to the allegations raised by [REDACTED] regarding the existence of an EML. The presentation slides refer to the *'need for an open and transparent Local Lettings Policy'*. However, the slides also make reference to *'accommodate those who have expressed an interest in Seagrave Road'*. [REDACTED] deny that any commitment was made to an EML and state that it was made clear that any surplus properties would need to be allocated on the basis of a Local Lettings Policy. There are no minutes of the meeting and therefore we are unable to comment on the likely impact of any statements or representations made at the meeting and the extent to which they were consistent (or not) with the slides presented.
- 4.7. Through our interviews, we have been made aware of wider concerns / allegations regarding the regeneration scheme. We have not explored any of these, as this was not part of our remit, but they are noted in section 5.

5. Detailed Findings

- 5.1. We have expanded upon our summary findings below. These are directly referenced to the points set out in the Executive Summary, with the exception of the initial sub-section on 'Stakeholder Engagement'. Whilst this does not directly link to our overall conclusion regarding the allegations raised, we do believe that it is of relevance from the perspective of understanding the background to the proposals and providing an insight into the activities undertaken by the Council to seek to engage residents, to inform them of the proposals and encourage them to provide feedback on these.
- 5.2. We have included a sub-section on 'Perception'. This is a point that has been put forward by [REDACTED] and is one which we have considered from an overarching perspective in relation to the various accounts of interviewees. We acknowledge the potential importance of perception and the way in which this could have impacted on responses to the Consultation exercise. However, perception is difficult to establish retrospectively and very subjective.
- 5.3. A further contextual point of note is covered under the sub-section on 'Wider Concerns / Allegations', highlighting additional points raised with us regarding the regeneration project during the course of our work, which were outside of our agreed Remit.
- 5.4. To conclude our detailed findings, we have included a sub-section on 'Observations', in which we set out two areas where the Council's processes could have been stronger. The first has been put forward by [REDACTED], the second is our own observation.

Stakeholder Engagement

- 5.5. As a background to the origins of the Earls Court Regeneration Project, [REDACTED] made us aware of a stakeholder engagement exercise undertaken by external consultants, M&N Communications, in November 2008.
- 5.6. We have been provided with a copy of the report for this exercise. The three principal objectives of the exercise are recorded as having been:
- *'To carry out a major 'listening exercise' to understand if/how residents felt they could benefit from major investment from the Earls Court and TfL depot redevelopment;*
 - *To encourage as widespread involvement of residents from the estates as possible in the programme, and give everyone the opportunity to take part and respond; and*
 - *Provide a clear summary of issues and feedback to LBHF to help them plan for the future to ensure that residents benefit from the investment opportunities around them'.*
- 5.7. The report states that everyone living on the estates was given the opportunity to get involved in the exercise, *'either verbally as part of group discussions, or by themselves in a written format through the questionnaire'.*
- 5.8. We make no comment on the significance or implications of the findings from this exercise against the detailed scheme proposals now planned to be taken forward. In addition, we have in no way sought to validate the findings.

However, we do note that they suggest both positive views regarding the estates and views that improvements could be made to them, on the basis of the feedback provided. The report indicates the 'key findings' as being the following (emboldened text is as per the original report):

- *'Whilst West Kensington residents were mixed about feeling pride in their estate, Gibbs Green residents were almost unanimous in this. However, across both estates, there was **general agreement that 'sense of community' could be better.***
- *There was **an obvious commitment demonstrated by residents to the estates and the area.** Whilst residents did not, on the whole, wish to buy their current rented property, around half said they would wish to buy a property in the area if possible. Over half also said they would not want to leave the estates.*
- *The majority of residents felt it was **important to have mixed communities to prevent 'ghettos' being created** – aside from issues with transient communities or overcrowding (private renting), residents felt the current mix is good.*
- *Safety in open spaces / play areas is good but on the whole, **the use of open spaces across both estates is largely very poor.** The main reasons voiced for this were lack of defined uses, dog usage and early closing / locking of sports areas.*
- *On the whole, a **significant majority of residents felt either 'quite safe' or 'very safe'.** There are some issues with drug dealing on some stairwells / open spaces but no specific 'hot spots' were noted.*
- *An overwhelming number of residents felt that **both of the estates were very easy to navigate** and found getting around within the estates easy.*
- *Residents felt **access to public transport connections was one of the most attractive reasons for living in the estates.** All forms of transport were considered easy to access meaning better access to more jobs further afield.*
- *Community halls are underused however generally, the **lack of community facilities on the estates was not considered to be a major problem** due to access / excellent links to "everything we could need" in the wider area.*
- *About a quarter of the respondents were unemployed, not due to health or age. The **majority expressed the need for more employment opportunities for local people in the immediate area.***
- *There was a **mixed response to how much obvious benefit there had been from Earls Court** with only around a third seeing obvious benefits for the community.*
- *Predominantly **residents were uncertain about whether redevelopment of Earls Court would be good or bad** until more detailed plans are seen. Many expressed a desire not to lose any social housing or demolish relatively new, quality buildings (e.g. on Gibbs Green).*

- 5.9. Following the above report, a series of newsletters were published by the Council and Hammersmith & Fulham Homes to communicate the findings of the exercise and the plans at that time for the estates. Further newsletters have been published in relation to the regeneration project since the first one in Spring 2009. Copies of these are available through the Council's website and we have identified and reviewed 23 such newsletters in the period through to September 2012.
- 5.10. Our general observations are that the newsletters did make clear the Council's stated desire for residents to give their views on the proposed developments and the options for asking questions and seeking additional information. From Autumn 2009 onwards, the newsletters included details of the Council's stated commitments to both tenants and leaseholders/freeholders. In addition, they explained that housing allocations would be on the basis of a formal policy.
- 5.11. Other ways in which the Council sought to engage and communicate with residents included surgeries and drop in sessions. These took place on a number of occasions from November 2009 through to February 2012, as shown in the timeline at Appendix A.
- 5.12. We were informed by several interviewees [REDACTED] that a number of the surgeries and drop in sessions were disrupted by [REDACTED] and members of the TRAs, including one which was held at a local hotel in February 2012 and had to be closed on the instruction of hotel staff. [REDACTED] confirmed that [REDACTED] and a group of residents did plan to "impose" themselves on the February 2012 session, including taking a nine year old girl to read a letter asking that the Council do not demolish her home. However, [REDACTED] claimed that the session was different to those held previously. [REDACTED] said that all previous sessions had been open to anyone wishing to attend, whereas this session was closed from the point at which they arrived. We are unable to confirm the exact circumstances surrounding either the February 2012 session or earlier sessions, although the accounts given by officers regarding disruption are consistent with each other.
- 5.13. [REDACTED] has alleged that residents were seen through the closed doors being signed up to the EML at the February 2012 session. Whilst it cannot be confirmed, a possible explanation for this is that [REDACTED] informed us that [REDACTED] and [REDACTED] used a feedback form to record comments and queries raised by residents at this session. [REDACTED] also explained that they would often draw maps of the estates to help demonstrate, during discussions with residents, how the phasing may work. Examples of such forms and drawings have been observed. [REDACTED] also informed us that some residents chose to complete the Consultation form during the February 2012 drop in session, as that was held during the consultation period.
- 5.14. Resident engagement has also taken place through the Steering Group, following what we understand to have been initial unsuccessful attempts to engage with the TRAs. Further details regarding the Steering Group are set out at 5.46 to 5.49 below.

██████ List (Executive Summary – 4.2(a) and 4.3(a))

- 5.15. We have been provided with a copy of handwritten notes confirmed as having been taken by ██████ and to which the reference ██████ is believed to be associated. The notes record the names and addresses of individuals said to be residents on the estates who have informed ██████ of their interest in moving to Seagrave Road. The first page of the notes are headed as follows: "Tenants who wish to move to Seagrave Rd site if development goes ahead". The notes also record names which are indicated as being leaseholders and freeholders, together with those interested in joining the Steering Group. Elements of the notes are difficult to read, but there appear to be approximately 40 residents listed in total.
- 5.16. ██████ have confirmed that the notes were passed from ██████ in June 2011. They have also confirmed that both ██████ explained to ██████ at the time that ██████ could not make any promises to residents of any form of priority move to Seagrave Road. ██████ informed us that ██████ explained this to ██████ when ██████ was passed the notes, but asked ██████ to reinforce this with ██████, which both ██████ and ██████ confirmed took place.
- 5.17. ██████ informed us that ██████ notes were not compiled on the basis of any form of promises regarding housing. She informed us that they resulted from discussions she had with fellow residents following the first mention of the possible use of the Seagrave Road site. ██████ said that ██████ would be interested in moving there and others indicated to her that they would like to do the same. ██████ explained to us that she passed the notes to ██████ to demonstrate that there would be residents who were happy to move there.

Council's Access Database (Executive Summary – 4.2(b) and 4.3(b))

- 5.18. In addition to ██████ handwritten notes, we have been shown an Access database held within Housing & Regeneration. We have been informed that ██████ and an Administrative Assistant had access to the database (whilst employed by the Council) and that the purpose of it was to maintain a record of residents they had spoken with, including any comments made by the residents and/or any requests for further information. We were informed by ██████, that, given the scale of the proposed regeneration project and the level of engagement with residents, maintaining such a record is crucial in helping to better understand the needs and views of residents as part of the ongoing development of plans, and in ensuring that ongoing communications are appropriately targeted and informative.
- 5.19. As well as recording free-form comments, the database has a number of "tick box" fields within it. One of these is marked "Seagrave Road". We were informed by ██████ that this was updated largely on the basis of ██████ handwritten notes, although there may have been other occasions when residents indicated directly to ██████ that they were interested in Seagrave Road.
- 5.20. With the assistance of ██████, and with our direct observation, we obtained a report of all residents on the database with a tick in the "Seagrave Road" field. A total of 39 residents were listed on the report, although one of these was noted as being recorded twice, leaving a total of 38. We reconciled this to ██████ handwritten notes. Of the 38 listed on the database report, 29 were

identified on the handwritten notes (although elements of the handwritten notes are not clear). As per 5.19 above, this suggest that additional residents indicated an interest in moving to Seagrave Road directly to [REDACTED].

[REDACTED] List and the Council's Access Database (*Executive Summary – 4.2, 4.3 and 4.4(c)*)

- 5.21. We have not identified or been provided with any evidence to suggest that either [REDACTED] handwritten notes or the Council's Access database represent a list of residents who have been made any form of promise regarding a priority move to Seagrave Road. The content of [REDACTED] handwritten notes and the database record appear to accord with the response given by [REDACTED] on 4 April 2012: *'As part of the lengthy consultation process some residents have registered an interest in moving to Seagrave Road. While we have noted that interest, and will continue to note any further interest, no promises have been made'*.
- 5.22. It is noted that the number of residents recorded in [REDACTED] notes and on the Council's database appears to differ significantly to the alleged *'list of about 120 VIP estate residents who have been promised priority in the move to Seagrave Road'*, as set out in the email from [REDACTED] on 31 January 2012. We have not been provided with any evidence of the existence of a list of residents of this magnitude.
- 5.23. [REDACTED] have raised the possibility of confusion with a document which serves as the mailing list for the Steering Group. We have been provided with a copy of this, titled *'Earls Court Steering Group Mailing List for Mailmerge'*. The list records the names and addresses of a total of 83 residents, although both [REDACTED] have informed us that [REDACTED] has further residents to add to this.
- 5.24. In his interview, [REDACTED] challenged the accuracy of the mailing list, informing us that approximately half of those listed were members of the TRA who are against the scheme. He suggested that their names had been used to give the impression that the membership of the Steering Group is bigger than it actually is, and links this to his allegation that the Council set up and have controlled the Steering Group to help garner support for their proposals. We have not sought to contact any of the residents included on the mailing list and hence cannot confirm whether it is accurate or not. However, on the basis of 5.46 to 5.49 below, we have seen no evidence to support this allegation regarding the control of the Steering Group.

[REDACTED] Allegations (*Executive Summary – 4.4(a), 4.4(b) and 4.6*)

- 5.25. With regard to the initial allegation raised by [REDACTED] in [REDACTED] email to [REDACTED] on 31 January 2012, as detailed at 1.3 above, [REDACTED] has informed us that his wording in that email was aimed at making his anger clear and that, in hindsight, it was overstated. He confirmed that [REDACTED] had discussed a penthouse with CapCo, but that it was, in his view, informal and he didn't believe it to be inappropriate for CapCo to be seeking his view on the types of property they needed to build for leaseholders, of which [REDACTED] is one. He said that he hadn't seen it as a promise of a property.

- 5.26. In an interview held on 15 May 2012, as documented within [REDACTED] report, dated 10 September 2012, [REDACTED] is recorded as saying that *'I have never seen the list and I do not know who is on it, although I know I was on it'*. He says that he knows he was on it because [REDACTED] told [REDACTED] as much when they were "joking" about it, but that [REDACTED] did not take it seriously until a meeting held on 12 January 2012.
- 5.27. [REDACTED] informed us that [REDACTED] resignation from the Steering Group came following meetings on 11 and 12 January 2012. He explained that he found out on 11 January 2012 that, if it went ahead, the project could have a 20 year build period rather than the five year period he had previously understood it to be. Then, on 12 January 2012, at a meeting held with the Steering Group to discuss how phasing may work, [REDACTED] alleges that [REDACTED] *'said that they were starting small because of the "Early Movers List"'* (quoted from [REDACTED] reported record of his interview with [REDACTED] on 15 May 2012, although consistent with [REDACTED] interview with us).
- 5.28. In their interviews, [REDACTED] denied that this was said. Their accounts of the meeting and their explanation to us of what was discussed regarding possible phasing suggest that this was a difficult meeting, covering a complex topic and one which led to [REDACTED] and other members of the Steering Group saying that the indicative first phase was too small.
- 5.29. [REDACTED] account of what was explained in the meeting regarding indicative phasing, which is consistent with [REDACTED], is summarised as follows:
- There are currently 180 houses on the two estates, the majority of which are concentrated in the middle of the site.
 - 103 of these houses are occupied by secure tenants.
 - The Council had made a commitment that any secure tenants currently in a three or four bed house, who were assessed as still needing a property of that size at the time of the move, would be entitled to a house.
 - Although a full housing needs assessment had not been undertaken at that stage, and is still yet to be completed, [REDACTED] completed an analysis using available housing benefit and council tax data, from which they estimated that approximately 40% of residents were under occupying.
 - On the basis of their analysis, they therefore estimated that they needed approximately 60 houses as part of the regeneration scheme in order to meet the above commitment.
 - A total provision of 75 houses for the Council was included within the draft Conditional Land Sale Agreement ("CLSA"), to allow an element of leeway on the estimated requirement.
 - The application made by CapCo for planning permission for Seagrave Road included 14 houses.
 - On the basis of the envisaged total of 14 houses at Seagrave Road and on various infrastructural requirements and commercial preferences of CapCo, an indicative first phase was presented to the meeting. The property makeup captured by the indicative phase was believed to allow the Council to meet its commitment on houses, given the estimated

percentage of over occupiers. It would also not fill all of the planned properties at Seagrave Road.

- The surplus properties that would result from the indicative first phase could then be offered to other residents across the estates who had a desire to move to Seagrave Road. However, [REDACTED] stated that it was made clear in the meeting that any such allocation would need to be done on the basis of an open and transparent Local Lettings Policy.
 - [REDACTED] response to the suggested first phase was that it wasn't large enough. She suggested widening it to cut across the middle of the site, thereby picking up more of the elderly residents. This was confirmed by [REDACTED] in her interview.
 - [REDACTED] responded by explaining that [REDACTED] suggested larger phase wouldn't be possible, because it encompassed many of the estates' houses and, with the envisaged total of 14 houses at Seagrave Road, they wouldn't be able to meet their commitment to those who continued to need a three or four bed house.
 - [REDACTED] response was that many of the residents in her suggested larger phase didn't need a house, and that she and other members of the Steering Group would help explain the position to residents and encourage them to accept smaller properties.
 - Connected to this, [REDACTED] asked why the Council hadn't conducted a needs assessment. As part of giving us her account of this meeting, [REDACTED] explained to us that, whilst a housing needs assessment would have helped with better understanding the exact requirements for re-housing, it is not normal to conduct one until approximately six months prior to a move.
 - To help ease the tension in the meeting, a representative from CapCo suggested that there may be options to build additional houses away from the Seagrave Road site. Sites at Farm Lane and 70 Lillie Road were discussed and CapCo agreed to go away from the meeting and explore these further in order to determine whether it may be possible to expand the indicative first phase.
 - If the larger first phase wasn't possible, [REDACTED] suggested that those who had expressed an interest in moving to Seagrave Road could be given the surplus properties. However, [REDACTED] again confirmed that any such allocation would need to be done on the basis of a Local Lettings Policy.
- 5.30. [REDACTED] provided us with the presentation slides used at the meeting. These include a list of 'Phase 1 Key criteria', of which it is noted that one is recorded as being 'accommodate those who have expressed an interest in Seagrave Road'. In her interview, [REDACTED] confirmed to us that it was made clear that this would have to be done on the basis of a Local Lettings Policy, not simply on the basis of those residents that had already expressed an interest in moving to Seagrave Road. The presentation slides go on to include two bullet points linked to this criteria, as follows:
- *'Small phase one allows for other estate residents to move to surplus Seagrave Road properties (approx 130).'*

- *Need for an open and transparent Local Lettings Policy*.
- 5.31. It is not possible for us to confirm exactly what was or wasn't said at the 12 January 2012 meeting. [REDACTED] account of the meeting, as summarised above, was detailed and explained using the presentation slides and a map of the site. The details given to us were understood, but were seen to be relatively complex. Whilst the slides do note the '*need for an open and transparent Local Lettings Policy*', which would appear to counter [REDACTED] allegation that [REDACTED] said that there was a commitment to an EML, the inclusion of the words '*accommodate those who have expressed an interest in Seagrave Road*' could be taken, at face value, as suggesting such a commitment.
- 5.32. In [REDACTED] interview, [REDACTED] informed us that his anger that led to [REDACTED] resignation was more focused on discovering the 20 year build period than the alleged EML.

[REDACTED] Report and Resident Accounts (Executive Summary – 4.4(d) and (e))

- 5.33. As set out at 1.3, the allegation in [REDACTED] report of the existence of an EML is partly based on [REDACTED] email of 31 January 2012. [REDACTED] has not provided us with any documentary evidence of an EML, VIP list, or any equivalent priority listing.
- 5.34. The allegations in [REDACTED] report are also stated as being based on the accounts of 22 residents said to have been interviewed by [REDACTED]. As noted at 3.11 above, [REDACTED] declined to provide us with the identities or contact details of any of these 22 residents as he stated that they had agreed to be interviewed on the basis of their identities being protected. Given this, we are not able to corroborate any of the accounts set out in his report.
- 5.35. Whilst [REDACTED] are not in a position to corroborate or otherwise the above resident accounts, they did inform us that, in their opinion, a number of residents have been confused about the proposals and the Council's commitments to residents as a whole. [REDACTED] described a number of examples of residents who would ask repeat questions at each drop in session and who would appear to understand the answer, but then raise the same concerns again the next time she saw them. [REDACTED] informed us that, in her opinion, there is a lot of confusion on the estates, and referred to newsletters from the TRAs which she believes have given misleading information. [REDACTED] informed us that these were the reason [REDACTED] originally resigned from the TRA. The newsletters were evidenced by [REDACTED] as part of their own written response to the allegations. [REDACTED] referred to complaints from residents about [REDACTED] pressuring them to record their objections to the proposals. [REDACTED] provided us with copies of two such letters from residents, although, in the same way that we have not been able to validate the accounts of the 22 residents, the veracity of these and the claims from [REDACTED] cannot be confirmed.

Perception

- 5.36. [REDACTED] informed us that, following the Cabinet meeting on 3 September 2012, he doesn't believe that housing allocations will be made on the basis of an EML. However, he raised the issue of perception and suggests that residents on the estates may have believed themselves to be on an EML at the time of the

Consultation exercise, and hence may have voted on that basis. ■ suggests that it was in the interests of the Council not to correct any such perception.

- 5.37. Whilst accepting the importance of perception and the possibility that this could have influenced the Consultation responses, this can be set against the non-binding nature of the process. ■ has informed us that he was content that there was no risk of manipulation in the process given that the subsequent decision regarding the CLSA was not directly dependent upon the outcome of the consultation. He therefore saw no motivation for the Council to seek to influence responses. In our view, whilst it is accepted that a degree of support, even if in the minority, is likely to have been more favourable than no support, there would appear to be no overriding motivation for the Council to seek to influence responses in the same way as if the consultation had been in the form of a ballot.
- 5.38. Further assessment of whether there has been a perception issue is set out in the following sub-section.

Reconciliation of the Council's Access database to Consultation responses
(Executive Summary – 4.4(f))

- 5.39. We sought to reconcile the report of 38 residents with a tick in the "Seagrave Road" field on the Council's Access database to the Consultation responses.
- 5.40. In five cases we couldn't find a completed response form. For the remaining 33, we identified the following:
- 25 were recorded as 'Supporting' the proposals;
 - 4 were recorded as 'Objecting' to them;
 - 1 was recorded as being 'Neutral'; and
 - In 3 cases, we found forms for which the address matched to the resident on the database, but the names were different. The reason for this has not been explored, but each of these was recorded as 'Objecting' to the proposals.
- 5.41. This analysis suggests that those who had been recorded by the Council as having shown an interest in moving to Seagrave Road weren't all supporters of the overall regeneration project.
- 5.42. Regardless of the reason why not all of the 38 residents on the database supported the proposals through the Consultation exercise, the fact that this occurred would seem to go against them having either been made a promise of a priority move, or having the perception that this was the case.
- 5.43. On the basis of the overall results of the Consultation exercise, as reported on at the 3 September 2012 Cabinet meeting, it is noted that the number of responses in support of the proposals exceeded the total of 38 residents recorded on the database. Of all residents, 634 were reported as supporting the proposals. Focusing only on secure tenants, in line with Section 105 of the Housing Act 1985, 103 residents were reported as supporting the proposals. These figures therefore demonstrate a level of support beyond the number of residents recorded on the Access database with a tick in the "Seagrave Road" field.

General, Local and Mayoral Elections (*Executive Summary – 4.5*)

- 5.44. Continuing on the matter of perception, if any residents did in fact believe themselves to be on an EML, VIP list or equivalent priority listing, it would appear relevant to consider how this could have been impacted on by the occurrence of the General and Local Elections in May 2010 and the London Mayoral Election in May 2012.
- 5.45. A number of the individuals interviewed have suggested that the presence of Councillors and other political representatives on the estates could have impacted on the messages given to residents and it is possible that promises regarding re-housing could have been made (or perceived to have been made) by any of these individuals. We have not been provided with any evidence to support or discount this, but, if it is assumed it did happen, then it appears foreseeable that it could have led residents to believe that they had been made a formal promise by the Council.

Residents Steering Group (*Executive Summary – 4.4(g) and 4.4(h)*)

- 5.46. In addition to allegations regarding an EML / VIP List, [REDACTED] have alleged that the Steering Group was set up by the Council and that the Council has controlled it so as to leverage support for the proposals. We have not found or been provided with any evidence to support this.
- 5.47. [REDACTED] informed us that, subsequent to their resignation from the TRAs, he met with [REDACTED] in 2010, following which these [REDACTED] residents set up the Steering Group and took on the role of directors.
- 5.48. We understand that the Council provided the Group with funding for external legal advice to assist them with developing a contract for tenants and one for leaseholders and freeholders, the purpose being to formalise the commitments the Council had made regarding re-housing and compensation. We further understand that the Council assisted the Group with administrative support through [REDACTED], and facilities for holding meetings. However, it is noted that, prior to the Steering Group being formed, [REDACTED] met with the TRAs and subsequently wrote to them on 31 March 2010 to confirm the commitments being made to all residents. That letter included an offer *'to make a grant of financial assistance to the TRAs to enable you to appoint independent legal advisors, and to assist us in concluding the necessary agreements, based on the heads of terms that you have supplied. The estimate of these costs, that you have kindly provided, would be acceptable'*. [REDACTED] informed us that no response was ever received to that letter, although this is not something we are able to confirm or otherwise.
- 5.49. We have been informed by [REDACTED] that there are no restrictions on membership of the Steering Group and that Steering Group newsletters are sent to all residents of the estates. As per 5.23 above, the Steering Group mailing list provided to us by [REDACTED] records the names and addresses of a total of 83 residents. As with the 38 residents recorded on the Council's database, we sought to reconcile these 83 residents to the Consultation responses. In 26 cases we couldn't find a completed response form. For the remaining 57, we identified the following:
- 37 were recorded as 'Supporting' the proposals;

- 12 were recorded as 'Objecting' to them;
- 1 was recorded as having raised a 'Concern';
- 1 was recorded as being 'Neutral'; and
- In 6 cases, we found forms for which the address matched to the mailing list, but the names were different. The reason for this has not been explored, but each of these was recorded as 'Objecting' to the proposals.

██████████ **Complaint** (*Executive Summary – 4.4(i) and 4.4(j)*)

- 5.50. ██████████ complaint is understood to stem from the allegations raised by ██████████ in his email of 31 January 2012. Following that, ██████████ is understood to have asked for a response from ██████████ at an Extraordinary Full Council meeting on 19 March 2012. He subsequently emailed ██████████ on 28 March 2012 chasing this.
- 5.51. ██████████ replied by way of an emailed letter to ██████████ on 4 April 2012. In it, ██████████ stated that that the Council *'does not have a list of 'VIP residents' who have been promised a move to Seagrave Road'*. The letter does say *'As part of the lengthy consultation process some residents have registered an interest in moving to Seagrave Road. While we have noted their interest, and will continue to note any further interest, no promises have been made....A Local Lettings Plan will be developed to allocate the new properties'*.
- 5.52. Further correspondence between ██████████ took place through until 22 June 2012, at which point ██████████ escalated his complaint to ██████████. ██████████ then had a series of correspondence through until 6 September 2012. Further details of all stages of the correspondence are set out in the Timeline at Appendix A, in so far as these have been made available to us.
- 5.53. ██████████ has not provided us with any documentary evidence of an EML / VIP list. As stated in his interview, and in an email sent to ██████████ on 22 June 2012, ██████████ complaint has escalated because he believes that his request for a response from the Council regarding ██████████ allegations has not been adequately dealt with.
- 5.54. It was not within our agreed remit to investigate the way in which ██████████ complaint was handled and we have not sought to assess the extent to which ██████████ acted in accordance with the Council's complaints procedure. However, our findings in relation to investigating the allegations raised in ██████████ report, as based on ██████████ allegation in his email of 31 January 2012, do not lead us to question the nature of the response provided by ██████████.
- 5.55. ██████████ did explain to us the process he followed to investigate ██████████ complaint, including the reasoning behind both this and the consequent response provided to ██████████. He explained the need to consider any complaint both on its individual merits and in the context of whether it stands alone or forms part of a wider pattern of similar complaints. ██████████ informed us that, as far as he is aware, other than comments raised by opposition councillors at the 3 September 2012 Cabinet meeting, there have been no other complaints received regarding any housing promises or priority listing from any of the residents of the West Kensington and Gibbs Green estates, or from any of the Councillors for the North End ward, the ward in which the two estates sit. The

Council's Regeneration Team confirmed that they were not aware of any other complaints.

- 5.56. [redacted] also confirmed that [redacted] had not provided [redacted] with any evidence to support the allegations raised, and hence he considered a proportionate response was to question [redacted] on the matter. On the basis of [redacted] response, [redacted] own confidence that there was no risk regarding the Consultation exercise (as covered at 5.37 above), and the contextual aspect of the General, Local and London Mayoral elections, [redacted] informed [redacted] that he considered the matter closed.

Wider Concerns / Allegations (*Executive Summary – 4.7*)

- 5.57. A further important element of context is that [redacted] have all raised wider concerns and allegations than just the one relating to an EML / VIP list. [redacted] has suggested that the EML is not his primary concern. We have not explored any of the wider concerns / allegations as this was not part of our remit. However, we note them as including the following:
- Whether it was legal for the Council to enter into an exclusivity agreement with CapCo;
 - Whether CapCo is a reputable developer, including their association with the Kwok bothers; and
 - Whether the CLSA represents good value for the Council.

Observations

- 5.58. Overall, whilst we have not identified or been provided with evidence to support the allegation that the Council holds an EML / VIP list for priority housing, we do note two areas of observation regarding the Council's processes.
- 5.59. The first has been highlighted by both [redacted] and concerns the governance and project management arrangements. [redacted] informed us that he felt the governance could have been more robust, as documentation surrounding meetings was not as comprehensive as it could have been. [redacted] also informed us that he felt the weekly Communications meetings between officers involved in the scheme lacked structure, and hence he cancelled these and took steps to implement a more structured project management framework.
- 5.60. The second area concerns the extent to which the Council took clear steps to correct any potential perception amongst residents that there was an EML / VIP list.
- 5.61. The Consultation exercise was due to end on 17 February 2012. However, a letter was sent to all residents by [redacted] on 3 February 2012 notifying them of an extension until 12 March 2012. The letter notes that *'During the course of the consultation exercise, it has become increasingly apparent to the Council that some residents have concerns about the reliability of assurances that the development will proceed in full, and about the timescale, if the Conditional Land Sale Agreement is entered into with the proposed developer'*. The letter

clarified a number of points, including that, although *'the Council anticipates that it will have received the full (approximately) £100 million by 2020.... the phases of construction and demolition may take considerably longer than that to complete, assuming that all the phases proceed as both the Council and the developer intend'*.

- 5.62. Given the allegations raised by [REDACTED] in [REDACTED] email to [REDACTED] on 31 January 2012, this letter provided an opportunity to make a statement to all residents that there was no EML / VIP list. Although newsletters from Hammersmith & Fulham Homes and subsequently the Council had stated that allocations would be on the basis of a local lettings policy, the only public statement we are aware of having been made to specifically deny that homes had already been allocated, other than at the Cabinet meeting on 3 September 2012, was in a Steering Group newsletter in July 2012, after the end of the Consultation period. The only other action we are aware of is the discussion that [REDACTED] [REDACTED] had with [REDACTED] when [REDACTED] first passed her handwritten notes to [REDACTED] in June 2011, as detailed at 5.16 above.
- 5.63. However, we have not identified or been provided with any evidence to distinguish between this being an intentional exclusion, or a matter of judgement, or simply something which wasn't considered.

Appendix A – Timeline of Events

The following table sets out a summary level timeline of events on the basis of the accounts and documentation provided to us through the interviews. Specific dates have been included where provided to us.

We have not sought to validate every element where it relates to an event which is said to have taken place, but documentation such as newsletters and letters have been examined where they are said to have been circulated. Verbal accounts of the same event from different individuals have been compared where possible and where relevant.

It is possible that there are additional events that took place or publications that were made which have not been raised with us and hence are excluded from the timeline.

Time Period	Activity
November 2008 – February 2009	Stakeholder engagement exercise undertaken by M&N Communications (reported on in March 2009).
December 2008	CapCo intentions made public.
Spring 2009	Newsletter from the Council summarising the results of M&N's engagement exercise.
June 2009	Newsletter from the Council setting out broad plans for regeneration.
September 2009	Council signed collaboration agreement with CapCo.
Autumn 2009	H&F Homes newsletter
17, 19, 26 November + 1, 2, 3 December 2009	Drop in sessions
5 January 2010	Meeting with the TRA
1, 3, 4 February 2010	Surgeries
11, 16, 23, 25 February + 4, 9 March 2010	Drop in sessions
February – March 2010	TRA newsletters and ██████████ resignation
31 March 2010	██████ letter to TRAs offering financial assistance for legal advice
Spring 2010	H&F Homes newsletter
May 2010	UK General and Local Elections
13 May 2010	Steering Group meeting
13 July 2010	Steering Group meeting
7, 8 July 2010	Drop in sessions
19 October 2010	Steering Group meeting
10, 16 November 2010	Drop in sessions
Winter 2010	H&F Homes newsletter
25 January 2011	Steering Group meeting
January 2011	Tenant and leaseholder assurances folder sent out

Time Period	Activity
29 February + 2 March 2011	Drop in sessions
March 2011	H&F Homes newsletter
2 March 2011	Steering Group preview of Masterplan
18, 19, 21, 22 March 2011	Masterplan exhibition
4 May 2011	Drop in session
4 May 2011	Steering Group meeting
May 2011	Steering Group newsletter (issue 1) with draft contract
18 May 2011	Steering Group meeting
June 2011	H&F Homes newsletter
9, 10, 11 June 2011	Updated Masterplan exhibition to include Seagrave Road
June 2011	█ passes handwritten notes to █
July 2011	H&F Homes newsletter
July 2011	Council signed Exclusivity Agreement with CapCo
26 July 2011	Steering Group meeting
November 2011	H&F Homes newsletter
December 2011	Consultation pack sent to residents
10, 18, 26 January + 1, 9, 29 February 2012	Consultation drop in sessions
12 January 2012	Phasing meeting
27 January 2012	Email from █ informing █ and █ resignation from the Steering Group
31 January 2012	Email from █ saying that comments published on the W14 website are incorrect and should be submitted in writing to the Council so that they can be responded to.
31 January 2012	Email from █ setting out various concerns, including <i>'Remember the list of about 120 VIP estate residents who have been promised priority in the move to Seagrave Road (if it ever happens) irrespective of if their homes are required for development, which Powell of CapCo agreed to garner resident support, and which you also agreed "as Powell agreed it"? I was on the list, having been offered a Block D penthouse on Seagrave Road. Thanks but no thanks'.</i>
3 February 2012	Letter sent to residents informing them of an extension to the Consultation deadline from 17 February 2012 to 12 March 2012.
February 2012	Seagrave Road planning application approved
28 March 2012	Email from █ referring to an Extraordinary Full Council Meeting on 19 March and a request for a written response regarding █ allegations.
4 April 2012	Letter from █ confirming that the Council <i>'does not have a list of 'VIP residents' who have been promised a move</i>

Time Period	Activity
	<i>to Seagrave Road'. The letter does say 'As part of the lengthy consultation process some residents have registered an interest in moving to Seagrave Road. While we have noted their interest, and will continue to note any further interest, no promises have been made.....A Local Lettings Plan will be developed to allocate the new properties'.</i>
17 April 2012	Further email from ██████ raising a 'formal complaint and a formal request for a full investigation'.
May 2012	London Mayoral Elections
8 May 2012	Further letter from ██████ confirming that housing allocations will not be determined by the developer or the Steering Group.
21 May 2012	Further email from ██████ asking for an explanation as to why ██████ allegations haven't been taken seriously.
14 June 2012	Further letter from ██████. Refers to earlier correspondence and suggests that further details regarding re-housing plans would be presented at Cabinet.
22 June 2012	Email from ██████ escalating his complaint and asking for an independent investigation.
5 July 2012	Steering Group meeting
July 2012	Steering Group newsletter
10 July 2012	Email from ██████ asking for any evidence ██████ has regarding the allegations.
1 August 2012	Email from ██████ stating that he had received no response from ██████ email of 10 July 2012. ██████ sets out that he has seen no evidence of corruption from his own enquiries.
1 August 2012	Email from ██████ apologising for the delayed response as he had been out of the country. ██████ sets out his dissatisfaction with the response and asks why ██████ is not investigating it further.
2 August 2012	Email from DM to CC acknowledging receipt of CC's email of 1 August 2012.
16 August 2012	Email from ██████ referring to ██████ email of 1 August 2012. ██████ sets out the basis on which he has considered the allegations and that he has no evidence to support them.
3 September 2012	Email from ██████ setting out that ██████ is still not satisfied with the response, but will ask ██████ about it in the Cabinet meeting.
3 September 2012	Cabinet approves the CLSA
4 September 2012	Email from ██████ setting out that ██████ considers the matter closed.
6 September 2012	Email from ██████ setting out that the matter is not closed and the reasons why ██████ considers that to be the case.

Time Period	Activity
6 September 2012	Email from [REDACTED] setting out that he would want to investigate the matter if there was any information regarding any member of Council staff, but that he has insufficient evidence to warrant that,
10 September 2012	Report submitted to the Council by [REDACTED] – 'Early Movers List: Homes for votes?'
12 September 2012	Council approved the proposal for outline planning permission for Seagrave Road.

Appendix B – Agreed Remit

1. Introduction

- 1.1 We understand that Hammersmith & Fulham Council (“the Council”) received a report, dated 10 September 2012, setting out suggested evidence in support of allegations that, in relation to the Earls Court Regeneration project, “Public Officers promised new council homes in Capco’s Seagrave Road development to certain residents in exchange for them supporting demolition”.
- 1.2 The allegations refer to an ‘Early Movers List’ and suggest that a number of residents from the West Kensington and Gibbs Green estates have been recorded on this.

2. Description of planned work

- 2.1 The overall work to be completed may comprise a number of phases, the extent of these being dependent upon the findings that arise and the possibility that additional information may come to light during or following the completion of any one phase.
- 2.2 Our work will be limited to carrying out the steps outlined below and reporting the results to you.

Phase 1

- 2.3 Phase 1 will be focused on the examination of documents to be provided by, and interviews with, selected members of current Council staff and one councillor. We will also approach, with a view to interviewing, former staff members / contractors who are no longer ‘employed’ by the Council, subject to their co-operation; individuals who are or have been engaged as members of the West Kensington and Gibbs Green Steering group; together with the individual named as being the author of the report provided to the Council, dated 10 September 2012, setting out the detailed allegations and supporting evidence. The Council will contact these external individuals directly to ascertain whether or not they are willing to talk to us.
- 2.4 We will examine the following documents, to the extent that they can be provided to us by the Council:
- Any records held in relation to residents and interests or otherwise in respect of a move to the Seagrave Road site, i.e. the suggested ‘Early Movers List’ in any and all its various forms.
- 2.5 In connection with an intended interview, as per 2.6 below, we will also seek to obtain any similar records suggested as being held by ██████████, and/or by any other interviewee. The purpose of this will be to determine how any such records compare to any found to be held by the Council as per 2.4 above.
- 2.6 We will carry out and document interviews with the individuals listed below to seek to obtain information relating to the allegations in question. We will propose to interviewees that these interviews be digitally recorded and that a copy of the recording be provided to them. We do not propose that the interviews are transcribed, although this could be undertaken on request (a separate charge will be levied for this service). Instead, we will document a non-verbatim record of the meeting, a copy of which will be provided to interviewees for them to sign to confirm as an accurate record of the discussions.

2.7 Current Council staff to be interviewed include:

[REDACTED]

The purpose being to seek to determine their involvement in the regeneration scheme and the allocation of housing, including their knowledge and understanding of any records held as per 2.4 above.

2.8 In addition we may interview [REDACTED]. However, since he has provided a recent statement (on or about 3 September 2012) this may be sufficient for the purposes of reporting.

[REDACTED] inclusion is on the basis of [REDACTED] involvement in the 'central negotiating team between the Council and Capco', [REDACTED] involvement in 'meetings between the Council and residents' and [REDACTED], as noted in [REDACTED] aforementioned statement.

2.9 Former members of staff and contractors to be interviewed, subject to their agreement with the Council, include:

[REDACTED]

The purpose being to seek to determine their involvement in the regeneration scheme and the allocation of housing whilst employed/engaged by the Council, including their knowledge and understanding of any records held as per 2.4 above.

2.10 Other individuals who we would propose that the Council invite to be interviewed include:

[REDACTED]

The purpose in relation to the first three of these being to clarify our understanding of the allegations and concerns being raised regarding the allocation of housing, and the extent to which they are able to provide evidence in support of these, either in documentary form or through access to residents who are anonymously referred to in the report dated 10 September 2012.

The inclusion of the further two individuals is on the basis of their involvement, both former and current, in the West Kensington and Gibbs Green Steering Group. Again, we will seek to determine their understanding of the allocation process, and their knowledge and understanding or otherwise of any 'Early Movers List'.

2.11 Following completion of the work set out at 2.1 to 2.10 above, we will summarise the results and report the associated findings to the Chief Executive and Executive Director of Finance and Corporate Governance.

Phase 2

- 2.12 Progression to a second phase of work will be dependent upon the findings of Phase 1. A key determinant is expected to be the extent to which we are provided with the names and contact details of residents from the West Kensington and Gibbs Green estates, as referred to in the report provided to the Council, dated 10 September 2012. In the event that these are not forthcoming, any further work may be deemed unnecessary.
- 2.13 If names and contact details of residents referred to in the above report are provided, Phase 2 will include seeking to interview these individuals. In addition, consideration will be given to whether other residents are approached to determine whether they wish to be interviewed or to provide any information they deem relevant.
- 2.14 If residents are to be interviewed and/or contacted, a separate decision will be made in conjunction with the Chief Executive; the Executive Director of Finance and Corporate Governance; and the Principal Litigation Lawyer as to an appropriate sample size. The Principle Litigation Lawyer will be responsible for corresponding with any residents who are identified to us as being able to assist with the work.
- 2.15 The need to examine any additional documentation and/or to interview any other individuals, other than tenants, will also be considered as part of agreeing the scope for any Phase 2 work. The Proposed Investigation Remit will be amended to cover any such work, including agreeing an appropriate budget and target timescale for completion. The same will apply in the event that any further phases of work are required beyond that.
- 2.16 At the conclusion of our work, we will provide a written report to the Chief Executive and the Executive Director of Finance and Corporate Governance.

Statement of Responsibility

We take responsibility for this report which is prepared on the basis of the limitations set out below.

The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices. We emphasise that the responsibility for a sound system of internal controls and the prevention and detection of fraud and other irregularities rests with management and work performed by us should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify all circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud.

Deloitte & Touche Public Sector Internal Audit Limited February 2013

In this document references to Deloitte are references to Deloitte & Touche Public Sector Internal Audit Limited.

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Date: 8th November 2012

Dear Jane,

Re - Retention of Deloitte to conduct an internal investigation.

The Metropolitan Police Service (MPS) has been asked to assess allegations of crime made by Mr Rosenberg relating to the Earl's Court Regeneration Scheme proposed by the London Borough of Hammersmith and Fulham (LBHF).

Detective Chief Inspector Sumner and Detective Inspector Holt have had meetings with both Mr Rosenberg and senior members of the LBHF.

In order for the police assessment to be meaningful, considered and structured the MPS has decided to take an incremental approach to this assessment. In line with this approach the council have offered to commission an independent internal investigation of the strategy and tactics used to progress the Earls Court Regeneration Scheme.

In the interests of transparency and proportionality the MPS have agreed on this course of action and will subsequently assess the findings of the independent auditors report.

The LBHF have proposed that Deloitte conduct this task which satisfies the requirements of the MPS. Deloitte will report the findings of their investigation to the Chief Executive and Executive Director of Finance and Corporate Governance. The MPS are aware that their findings will also be reported to the Council's Audit, Pensions and Standards Committee who will have the opportunity to query any aspect of the findings.

Deloitte are the Council's internal auditors, a role which requires independence and objectivity, as per the standards set out by the Chartered Institute of Internal Auditors.

Whilst this work is separate to their internal audit delivery, the MPS understands that they will apply the same principles regarding these two requirements. Deloitte's terms of reference have been formulated by themselves, rather than by the Council.

Please do not hesitate to contact me on the any of the details shown above it I can be of any further assistance.

Yours sincerely

Howard Holt
Detective Inspector
Special Enquiry Team



**In the High Court of Justice
Queen's Bench Division
Administrative Court**

CO Ref: CO/12953/2012

In the matter of an application for Judicial Review

The Queen on the application of

HAROLD GREATWOOD

versus LONDON BOROUGH OF HAMMERSMITH AND FULHAM AND OTHERS

**Application for permission to apply for Judicial Review
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant [and the Acknowledgement of service filed by the Defendant and / or Interested Party]

Order by the Honourable Mr Justice Mitting

Permission is hereby refused.

Reasons:

Ground 1.

It is not reasonably arguable that the defendant failed to undertake a fair and proper consultation. The consultation was not undertaken too late. Although the defendant had signed an exclusivity agreement with the interested parties, under which it had received £15 million, of which £5 million was non-refundable, the defendant was not committed legally or practically to enter into the Conditional Land Sale Agreement with the interested parties. The proposal was sufficiently developed when put out for consultation, even though it was not final. The defendant did, on 3 February 2012, explain that the development, if it occurred, would be phased and that the interested parties were not legally bound to proceed with each phase; and that the imperative for them to do so was commercial not legal. The defendant was entitled not to circulate the current draft of the agreement and adequately summarised it. The defendant was under no obligation to set out a detailed precise timetable for the phasing of the development which it did not, in any event, know. The analysis of the consultation responses put to Cabinet on 23 April 2012 and 3 September 2012 was balanced and fair. The suggestion that the results of the consultation were hidden is unwarranted. The defendant was entitled to consult residents of the borough other than those on the two estates, because the proposed development would be likely to have significant impact upon them, too. The time for consultation – 9 weeks – was adequate. It is unreasonable to expect the defendant to send a printed copy of the draft Equalities Impact Assessment to every consultee. Finally, the suggestion that because the defendant did not address the consultation documents to tenants by name or to the "tenant", the process was flawed is absurd.

Ground 2

The allegation of impropriety in identifying those who would be re-housed in the first phase of development is an allegation of collateral impropriety which does not affect the decision to enter the agreement. In any event, proper steps are being taken to investigate it.

Ground 3

The Equality Impact Assessment is adequate. The underlying suggestion that the evolution of the Equality Impact Assessment is a "mere device" to avoid genuine

consideration of impacts on disadvantaged people is no more than an assertion, unsupported by any evidence, let alone cogent evidence. In the absence of such evidence, the defendant must be assumed to have attempted to fulfil its statutory duties in good faith. Articles 8 and 14 ECHR are not yet in point. They may become so if, and when, steps are taken to obtain possession of the claimant's home to permit the part of development which affects it to be undertaken.

Ground 4

The claim that the decision to enter into the agreement is motivated by improper political considerations is no more than an assertion. The material relied on, in particular pages 1759 – 1779 does not disclose any improper political motive for the decision, rather the legitimate expression of views by a variety of people concerned in the proposal. The fact that the tenants and residents associations split did not mean that the defendant was required to consult only with those who did not support the proposal.

In the light of my decision, I do not intend to make a protected costs order. Nor do I order the claimant to pay the defendants' costs of preparing and filing their acknowledgment of service, because, although the defendant is entitled to such an order, no good purpose would be served by making it at this stage. I do not certify the claim as totally without merit, because, except for the allegations of political impropriety, the claim has been moderately advanced and because the claimant has withdrawn obviously hopeless arguments, such as reliance on the lack of a strategic environmental impact assessment or an environmental impact assessment. If, contrary to my hope, the claimant does renew his application for permission to an oral hearing, the judge who determines that application will not be bound by my costs decision and may order costs to be paid by the claimant. I also make no order either way for the representation of the claimant at any hearing by Mr. Rosenberg. That will be a matter for the judge at any hearing.

The claimant has wisely not sought an interim injunction. If he had done, I would have refused it, for two reasons: the claim is not arguable; and he is in no position to give an undertaking as to damages. It follows that, even if the claimant does renew his application for permission to an oral hearing, the defendant is not prevented by any order of the court from entering into the Conditional Land Sale Agreement authorised on 3 September 2012.

Signed



Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date): **21 JAN 2013**
Solicitors: IN PERSON
Ref No. In Person

Notes for the Claimant

If you request the decision to be reconsidered at a hearing in open court, you must complete and serve the enclosed FORM within 7 days of the service of this order – CPR 54.12