

Submission to the Working Group for the Re Contract Review 20/4/17

Submission concerns the contract for Re Planning.

In Barnet, if you try to sneak your child into a particular school, by lying on the admissions form, or use Grandad's Blue Badge to park where you want, you could very well find yourself investigated by the Council's Corporate Anti-Fraud Team and prosecuted. Curiously, if you <sup>are dishonest</sup> on a planning application this is not likely to happen. In the words of the Chair of the Audit Committee, "a suspicious planning application is not fraud against the council and would not be escalated on the fraud system." (30/1/17).

It is worth asking yourselves, what is most damaging to residents and this area, dishonesty in the school admissions system, blue badge mis-use or dishonesty in the planning system?

I have been involved in lengthy interaction with Barnet Council and Re/Planning since 2015, as a private citizen, and have a considerable amount of correspondence from senior management and senior planning personnel. It is all available to whoever wishes to see it, indeed Barnet Council management have most of it. An important strand through all of this is that Barnet Planning personnel do not necessarily have to follow the council wide, clear, robust Fraud Policy, even though they are clearly included in its wide scope: "full time employees, part-time employees, partners, contractors," right through to even "volunteers."

This is something which has come about quietly, because at no point have residents ever been told that planning officers are or can be exempt. Residents would have been, and should be now, horrified to discover that their protection from fraud/ dishonesty/ wrongdoing in the planning system does not exist. But, they are given every impression, upon reading the Fraud Policy, that it does. Planning staff appear to be the only staff who can side step this policy, despite planning's immense vulnerability to fraud, dishonesty and wrong doing. This just does not make sense. Residents have been deceived. When I asked the Chair of the Audit Committee about this, I was refused a response.

Vitaly, it also demands that officers act within the LETTER and SPIRIT of the laws and regulations with which they are concerned. If you are not necessarily subject to the Fraud Policy, you do not necessarily have to do this.

### What are the consequences of all this?

1 Instead of a specified system of internal control, officers use their discretion to choose how to check suspicious applications, on a case by case basis. But, officer discretion is phenomenally dangerous. Quite unacceptably, it lays officers wide open to internal and external pressures, which have nothing to do with good planning service for the community and area. Externally: [REDACTED] Internally: pressures of time, staffing, resources, needs to meet silly statistics or matters of money and profit.

Officer discretion, where the system does not compel him/her to do certain things or take certain steps, is wide open to fraud and terrible inconsistency. My document, provided to the Chair of the Audit Committee, "Barnet Planning...a bespoke planning system," demonstrates how the planning system has been manipulated in a variety of ways, to allow applications, [REDACTED] [REDACTED] to easily move through the process.

Further, whilst some of an officer's discretionary checks are robust, some are incredibly weak. The most commonly described one to me, is simply asking the applicant again! Even where the consultation has thrown deep suspicion over that applicant. It tends to be phrased as "... the application is queried with the applicant.." or "...the applicant was asked for confirmation.."and is described as "normal procedure." In other words, whilst initially in planning, the application is taken in "good faith," here in Barnet, where the consultation throws suspicion over the applicant, their word is taken in "good faith" again. This is nonsense, puts all the power in the hands of the applicant and disregards any information provided by the consultees, who will generally be ordinary concerned or harmed residents. Imagine the situation if a developer is allowed to benefit from this method of check.

To this day, it remains one of the officers' methods of check and is extraordinarily dangerous. It should be abolished now, but why no senior manager, on their six figure salary, has not suggested a simple tweak, of compelling the applicant to provide proof if asked again, remains a mystery.

That would turn an appallingly weak check into a robust one. Maybe Planning /Re want at least one weak check on their menu, for convenience.

2 If the CAF Team are not involved, then robust checking is not guaranteed and, as the only body able to investigate fraud ,planning officers can convince themselves that inaccuracies on planning applications are innocent "errors" or "omissions," words used many times in correspondence to me. These "errors" or "omissions" must be verified with the applicant, of course, to ensure accuracy. Now, no-one is looking for fraud, dishonesty or wrongdoing. In the real world where you and I live, "errors" and "omissions" on planning applications are most likely to be deliberate, to cheat others or the council. If you are not looking for fraud or wrongdoing, you won't find it! Normal, honest people fill planning applications out very, very carefully. An expensive agent would not make a mistake.

An FOI request of July 2016 revealed that no fraudulent planning applications were exposed between July 2011 and July 2016..None!!

"We know of no case where it was determined that inaccuracies in submissions on planning applications were determined to be due to fraud, as opposed to omissions or mistakes."

In the last five years, no-one has lied on a planning application in Barnet!!

3 If you aren't tied to the Fraud Policy, you don't have to necessarily act within the LETTER and SPIRIT of the laws and regulations with which you are involved. This paves the way for loopholes and bends in the rules to be permitted. The classic situation here, and the cause of the horrendous enforcement figures in this borough, certainly among the highest in London, possibly the highest, are retrospective applications. Quite rightly, there are restrictions on people who break the rules and build without permission. They have " ..ONLY one opportunity to obtain planning permission after the event. This can EITHER be by means of A retrospective planning application or by means of AN appeal against AN enforcement notice." One opportunity, either /or. In Barnet, the then Head of Planning (to 2016) maintains that if you lie on a retrospective application, you could just do a new one!! Lying on a planning application is an offence and renders the application invalid. It cannot be determined.

Equally, if you build unlawfully on someone else's land, or co-owned land, without giving the other owners proper requisite notice, you can just give them requisite notice retrospectively, ie when it is completely useless to them, because given properly, how the regulations intended it to be, requisite notice acts as a warning as to someone's intention to build. [REDACTED]

[REDACTED] It is not within the spirit of the rules at all and so is outlawed by the Fraud Policy, but not if you don't have to follow that policy. It could be used as a convenient way to avoid additional action, but at the further expense of the innocent residents involved, who have already been harmed previously.

To summarise, measures to counter fraud, dishonesty and wrongdoing within the planning system seem to have been quietly watered down around 2011, to better enable Barnet Planning to focus on major projects and knock less important (to them, not residents) minor development through, quickly and hassle free. [REDACTED]

Hence, Special Measures is avoided and Capita would be much more inclined to take on Planning. Does this suggest that Capita was planned and prepared for two years in advance? If so, by whom and why?

Planning may as well have been giftwrapped, because not only did it come Special Measures free, [REDACTED] which would allow Capita also to focus on major projects, where the money is, and knock pesky little residential stuff through hassle free. They could, therefore, concentrate on major development, and input a bare minimum of staffing, time and resources on other, smaller residential work. Minimum input, maximum profit... [REDACTED]

[REDACTED] - something I believe Barnet had previously struggled with.

This is a situation that Re/ Capita would have no interest in changing, and have not done so. So, for the last seven years at least, we have had a system that [REDACTED] - prioritise (a) Capita/ Re, to maximise profit, and (b) officers to reduce workload, allowing them to focus on major projects, with

minimum effort expended on small scale stuff, particularly enforcement. And, (c) by default, wrongdoers.

At the bottom of the priority hierarchy lie residents and the beautiful area, and the evidence that this is the case is all around you – the Victoria Lodge fiasco, the £3 West Hendon development, the unacceptable level of public disgust, the unacceptable, out-of-control enforcement figures for the last two years, the profusion of illegal “beds in sheds” and, standing as a grotesque metaphor for the [redacted] broken planning system in Barnet, right in front of the Town Hall, the savagely demolished White Bear – once a seat of justice, in the 1700s, in Hendon!!

We residents have quite simply been cheated. We pay for this planning system, and should be at the centre of all it does, but we have been quietly, subtly shifted to the bottom, because Capita has to make money. This is NOT what public services are about.

Barnet Planning / Re is not “Putting the Community First” and Barnet Council is not, in terms of planning, maintaining “peace, order and good governance of the municipal district.”(Local Government Act 1989).

How has the council responded to public anger and protest?

In the last six months or so, public anger and protest have brought about a partial audit and revealed the appalling enforcement figures.

[redacted]  
[redacted]  
[redacted]

Under pressure from residents, the audit decided to declare, [redacted] that enforcement should be “high risk,” but not because there isn’t any or because Re/ Planning bends over backwards not to have to do any, nor because 80% plus of all enforcement cases end with “no further action” or the sickening idea to “authorise the breach.” But, because many files were not complete and some enforcement cases were not dealt with in a timely manner. Two months down the line, that is now all resolved. The files will be completed and future cases will be dealt with quicker. So, thats ok then. It’s easy to say we will do better from now on!

Hidden in smaller print were issues with planning applications. There is apparently a lack of clarity within the planning department about fraud indicators, who to refer suspicions to, when, and when to involve the CAF Team. One proposed action was to make staff aware of the very existence of the CAF Team! In other words, the very, very basics were unclear and this is a full three years after the commissioning out of the service! And a full ten or more years after the formation of the CAF Team. The Risk Management Framework of the time was clear:

“The council’s primary responsibilities when commissioning services and working in partnerships is to ensure that the partnership has effective risk management procedures and to provide assurance that the risks associated with working in partnership have been identified, prioritised and are being appropriately managed.”

[REDACTED]

You cannot ask residents to believe that this is due to accident and slack work.

[REDACTED]

[REDACTED]

As to the planning applications, and remember, they are the cause of the terrible enforcement problems, with enforcement itself only the symptom, it is all ok now because: Re and Barnet Council’s anti-fraud training manuals have been “aligned” and there is to be co-operation between the CAF Team and Re! How come they weren’t in tune three years ago? At the disinterested, thoughtless, ruthless tick of some silly box, the issues are declared “implemented” or “no longer applicable.”

This partial audit was [REDACTED] designed to appease residents and, at the same time, say nothing and do nothing.

[REDACTED]

[REDACTED] I wonder why.

Equally, at the recent Extraordinary Council Meeting, [REDACTED] 60% of the enforcement cases <sup>were described</sup> as “insignificant.” They are not insignificant to the harmed residents who reported them, they would not be insignificant if they affected his property and 1900 insignificancies ARE significant.

It seems that officers and the controlling administration are working together, to ensure that the planning system stays exactly the same as it is now. But, why on earth would anyone wish to do that?

[REDACTED]

If a structure is erected "prior to the submission of inaccurate information" then that information does not "enable or lead" to the structure being erected." It does not, therefore, "contribute to a physical gain" and the council "does not suffer loss."

In Barnet, in such a situation, you will not be prosecuted or otherwise sanctioned, if you [REDACTED] are exposed. (But, remember, if you mis-use grandad's Blue Badge, you will be.) and you will benefit from those [REDACTED]

The reader can work out what precedent that sets, but you cannot work out where the information came from: [REDACTED]

[REDACTED] And that is what residents encounter time and time and time again, and that is why there is such anger and distrust.

Barnet is the borough where it is well known that you MUST build first and worry about permissions, consents, rules later, if you have to. You know you will most likely get away with your wrongdoing, despite any detrimental effects on others and/ or the area. [REDACTED]

How can the service/ system be improved?

[REDACTED]



[REDACTED] The wrongdoing feeds off itself, is not enforced

and goes on increasing. That pernicious cycle must be broken and could be, if the council has the appetite to do so.

Where does this wrongdoing come from?

- Complete and utter lack of enforcement
- A failure to check suspicious planning applications properly
- A failure to follow the planning rules and regulations properly, in order and strictly. This is particularly the case with retrospective applications.
- And, most importantly, a failure to place residents and the welfare of the area at the very centre of the planning system, bearing in mind that the residents pay for that system.

There are many ways in which the service could be improved, but "improved" is not the right word to use, because the ways in which the service could be "improved" are simply the standard ways in which it should have been run over the last many, many years, including, of course, the years where Capita/Re has run it.

- The Nolan Principles should be central to it: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership
  - The Constitution, Ethics and Probity committee should be involved to ensure that the conduct of Re/ Planning is ethical.
  - Planning Officers should be compelled to follow the Fraud Policy, strictly, and planning applications which may be inaccurate/ wrong/ suspicious must be checked robustly.
  - Officer discretion in this is absolutely unacceptable and officers must be compelled to check robustly, through strict, anti-fraud guidelines
  - Checking a suspicious application by simply asking the applicant again is utterly dangerous and unacceptable. It must be abolished as a form of check immediately. If applicants are asked again, they must be compelled to provide irrefutable proof of their "word."
  - Inaccuracies/ suspected inaccuracies on planning applications must be regarded as suspicious and deliberate, until proved otherwise
  - There must be strict application of planning rules and enforcement for breaches of those rules. 
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- Officers must act within the LETTER and SPIRIT of the laws and regulations with which they deal, as per the Fraud Policy, and outlaw the use of any rule bending or breaches or loopholes, from which wrongdoers can benefit.
- Wrongdoers should never, ever be allowed to benefit from cheating the council or others through the planning system. There is now case law to support the council in this.
- Officers should [REDACTED] their care of residents and their unique position as guardians of this borough. They should never allow themselves to be fooled by dishonest residents or greedy developers. They should be at the top of their game to ensure that everything is done properly, honestly and to the rules.
- There should be more of them, paid for by Capita as compensation for the immense harm done on Capita/ Re`s watch.
- Specifically, the abhorrent scam of building first and giving others requisite notice retrospectively should be recognised for the scam it is, and outlawed immediately. Wrongdoers should NEVER be able to gain from cheating others or the council and/or causing harm. No council should allow or condone scams. It is unacceptable and unethical.
- Innocent residents` rights within the planning system should NEVER be brushed aside in favour of a wrongdoer.
- There should be much more resourcing of planning and enforcement, funded by Capita, to make up for the harm they have caused and to pay for remedying it.
- Developers could be compelled to contribute to this, in return for being allowed to build in Barnet, properly and ethically of course.

There are a lot of bullet points here, but they should be easy to implement, for one simple reason: they are basic, they are how any reputable planning system should be run and they are how any ordinary resident would expect the planning system to be run. They should not constitute "improvement" because they should be, and are, standard.

[REDACTED]

[REDACTED]

17/4/17