

scrumptious (ˈskɹʌmpjʊəs) *adj.* *Inf.* very pleasing; delicious — ‘scrumptiously *adv.*

scrumpy (ˈskɹʌmpɪ) *n.* a rough dry cider, brewed esp. in the West Country of England.

scrunch (skɹʌntʃ) *vb.* **1.** to crumple or crunch or to be crumpled or crunched. —*n.* **2.** the act or sound of scrunching.

scruple (ˈskru:pəl) *n.* **1.** a doubt or hesitation as to what is morally right in a certain situation. **2.** *Arch.* a very small amount. **3.** a unit of weight equal to 20 grains (1.296 grams). —*vb.* **4.** (*obs.* when *tr.*) to have doubts (about), esp. from a moral compunction.

scrupulous (ˈskru:pjuləs) *adj.* **1.** characterized by careful observation of what is morally right. **2.** very careful or precise. — ‘scrupulously *adv.* — ‘scrupulousness *n.*

scrutinise or **-nize** (ˈskru:tɪnaɪz) *vb.* (*tr.*) to examine carefully or in minute detail. — ‘scruti.niser or **-nizer** *n.*

scrutiny (ˈskru:tɪni) *n.* **1.** close or minute examination. **2.** a searching look. **3.** official examination of votes [from Latin *scrūtiniū* and *scrūtārī* to search even to the rags, from *scrūta*, rags, trash.]

scuba (ˈskju:bə) *n.* an apparatus used in scindiving, consisting of a cylinder or cylinders containing compressed air attached to a breathing apparatus.

scud (skʌd) *vb.* **scudding**, **scudded**. (*intr.*) **1.** (esp. of clouds) to move along swiftly and smoothly. **2.** *Naut.* to run before a gale. —*n.* **3.** the act of scudding. **4. a.** a formation of low ragged clouds driven by a strong wind beneath rain-bearing clouds. **b.** a sudden shower or gust of wind.

scuff (skʌf) *vb.* **1.** to drag (the feet) while walking. **2.** to scratch (a surface) or (of a surface) to become scratched. **3.** (*tr.*) *U.S.* to poke at (something) with the foot. —*n.* **4.** the act or sound of scuffing. **5.** a rubbed place caused by scuffing. **6.** a backless slipper.

scuffle (ˈskʌfl) *vb.* (*intr.*) **1.** to fight in a disorderly manner. **2.** to move by shuffling. —*n.* **3.** a disorderly struggle, or the sound made by scuffling.

scull (skʌl) *n.* **1.** a single oar moved from the stern of a boat to propel it. **2.** one of a pair of single-handed oars, both of which are pulled by the same person. **3.** a racing shell propelled by a single oar. **4.** an act, instance, period, or distance. **5.** to propel (a boat) with a scull. — ‘sculler *n.*

scullery (skʌləri) *n.*, *pl.* **-leries**. *Chiefly Brit.* a small part of a kitchen where kitchen utensils are kept.

scoundrel (ˈskaʊndrəl) *n.*, **1.** a mean or despicable person employed to work in a kitchen.

sculpt (skʌlp) *v.* **1.** to create by cutting or carving, or by other means, a work of art, esp. a statue or a relief. —*n.* **2.** the art of making such a work of art.

sculptress (ˈskʌlpres) *n.* a person who sculpts.

sculpture (ˈskʌljʊə) *n.* **1.** the art of making a work of art by carving wood, stone, or metal, or by modelling wax, clay, or plaster. **2.** a work of art so made.

by natural processes. —*vb.* (*mainly tr.*) **4.** (*also intr.*) to carve, cast, or fashion (stone, bronze etc) three-dimensionally. **5.** to portray (a person, etc.) by means of sculpture. **6.** to form in the manner of sculpture. **7.** to decorate with sculpture. — ‘**sculptural** *adj.*

scumble (ˈskʌmbəl) *vb.* **1.** (in painting and drawing) to soften or blend (an outline or colour) with an upper coat of opaque colour, applied very thinly. **2.** to produce an effect of broken colour on doors, panelling, etc. by exposing coats of paint below the top coat. —*n.* **3.** the upper layer of colour applied in this way.

scunner (ˈskʌnə) *Dialect, chiefly Scot.* —*vb.* **1.** (*intr.*) to feel aversion. **2.** (*tr.*) to produce a feeling of aversion in. —*n.* **3.** a strong aversion (often in **take a scunner**). **4.** an object of dislike.

scupper¹ (ˈskʌpə) *n.* *Naut.* a drain or spout allowing water on the deck of a vessel to flow overboard.

scupper² (ˈskʌpə) *vb.* (*tr.*) *Brit. sl.* to overwhelm, ruin, or disable.

scurry (ˈskʌrɪ) *vb.* **-rying**, **-ried**. **1.** to move about hurriedly. **2.** (*intr.*) to whirl about. *n.*, *pl.* **-ries**. **3.** the act or sound of scurrying. **4.** a brisk light whirling movement, as of snow.

scut (skʌt) *n.* any of the plates of an animal's body, esp. those of animals such as the deer or rabbit.

scuttle (ˈskʌtl) *vb.* **1.** to move quickly. **2.** *Dialect chiefly Brit.* to cut down or remove (vegetables, etc.) **3.** to run or move quickly, esp. immediately behind the enemy. **4.** to run or move at a hurried pace or to cause to do so. **5.** to cause to sink or sink.

Fulwell Golf Course/ Squires Garden Centre

Scrutiny Task Group

Final Report

TG No.22
March 2005

CONTENTS

Contents	1
Foreword	2
Introduction.....	3
Executive Summary	4
Part 1 – Role and Function of the Task Group.....	5
- Background	
- Membership	
Part 2 – Findings	7
- A Brief History	
- Methodology	
- Findings	
Conclusions.....	11
Recommendations.....	12
Appendices:.....	13
A – Timetable of Meetings	
B – Key Dates, Objections and Investigations	
C – Key Documents	



FOREWORD



I have been Chairman of the Strategy and Resources Overview and Scrutiny Committee since May 2004 and was not even a Member of the Committee when this Scrutiny Task Group was established.

The purpose of Scrutiny Task Groups is to examine identified issues in depth. I believe that this Task Group, ably chaired by Councillor Robin Jowit, has fulfilled that purpose. I am therefore pleased to commend it to you.

Councillor Simon Lamb
Chairman of the Strategy and Resources Overview and Scrutiny Committee



INTRODUCTION



A number of individuals, with considerable legal and property experience, were regularly contacting the Council with representations relating to the sale of the land. The Task Group investigation was set up in response to their regular and persistent concerns.

The Task Group investigations have taken longer than expected for the following reasons:

- the complexity of the issues
- the amount of documentation to be collated, read and considered
- the time that has elapsed since the sale of the land
- the retirement of some of the key officers since the sale of the land
- the time taken to obtain relevant data relating to events of over 20 years ago, given the other demands on officer time
- the number of people to be contacted
- no obligation on former officers to respond to all questions.

We believe that we have had the opportunity to consider all the documentation made available to us. We have discounted purely anecdotal evidence and have, at all times, taken due account of the confidentiality and sensitivity of many of the issues. Some of the allegations made by the objectors have not been proven/are unsubstantiated and have not been reproduced on legal advice.

Participating in this Task Group has been onerous in terms of time, and sometimes frustrating, and I must thank my colleagues for their commitment and tenacity, officers for their assistance, and the objectors both for the detailed information they provided and their patience. We know that the objectors will be disappointed at our findings and conclusions. There was a series of apparent coincidences, but no proof of wrong-doing, and we have no alternative but to advise the objectors that the Council can take the matter no further.

*Cllr Robin Jowit OBE
Chairman of the Fulwell Golf Course/Squires Garden Centre Scrutiny Task Group*



EXECUTIVE SUMMARY AND RECOMMENDATIONS

The London Borough of Richmond upon Thames disposed of 212 acres occupied by Fulwell Golf Course and Squires Garden Centre in March 1986 by means of a 999 year lease for £300,000.

Public objections to the disposal were investigated by District Auditor (who issued a Public Interest Report in 1999, finding no evidence of wilful misconduct and that there had been no loss to the Council). In 2001, the Audit Commission reported on complaints against the District Auditor, not upholding almost all of them.

The Scrutiny Task Group has reviewed papers relating to the matter and considered new representations from the objectors and has found no proof of wrong-doing, although Members do understand why the objectors believe that the Council was, at the very least, unprofessional/incompetent. It concludes that a line should now be drawn and the objectors informed that the Council can take the matter no further.

Recognising that much has changed in the last 20+ years, the Task Group has made a number of recommendations in relation to the Scheme of Delegation; records management; comparables in property disposals; and declarations of interest (see page 12).



PART I – ROLE AND FUNCTION OF THE TASK GROUP

BACKGROUND TO THE TASK GROUP

The Strategy and Resources Overview and Scrutiny Committee on 23 May 2002 resolved to undertake three reviews of issues of continuing public concern, one of which was Fulwell Golf Course/Squires Garden Centre. The Council's dealings with the Golf Course and the Garden Centre, both as landlord and planning authority, over the period 1981 – 1993 had been the subject of a Public Interest Report by the District Auditor in November 1999 which had concluded that officers and Members were not guilty of wilful misconduct and that there had been no loss to the Council. Nevertheless, public concern about the propriety of the disposal and subsequent development of part of the site had continued, evidenced by the correspondence which the Chief Executive continued to receive. The O&S Committee accordingly agreed to establish a Scrutiny Task Group "to examine all the papers relating to this matter, invite the original objectors to submit any further evidence they may have, and hear evidence from any other relevant parties".

Although the Committee intended that the enquiry should be completed by the end of July 2002, it quickly became apparent to the Task Group that it would take many weeks simply to familiarise themselves with all the relevant issues, reviewing existing documentation and identifying the areas of concern they wished to pursue further. Six such areas were identified at the Group's second meeting, viz:

- 1. the fact that the Council's Consultant Surveyors (Gerald Eve) were not advised of the change in the Metropolitan Open Land (MOL) status of the site;**
- 2. the fact that the valuation did not increase over the three years of negotiations (1983-86);**
- 3. trying to establish why and by whom the decision to remove MOL status was made [including clarification of the Local Plan preparation/amendment process];**
- 4. the assertion that the Audit Commission had criticised the District Auditor for not taking professional advice in respect of the valuation;**
- 5. the allegation that the then Chief Planning Officer had been obstructive in not releasing documents to the objectors [including checking whether any destruction of documents had been in accordance with procedures in place at the time, and who had authorised their destruction];**
- 6. the (new) allegation that the legal documentation relating to the 1986 transaction [i.e. the lease arrangements] was fraudulent.**



TASK GROUP MEMBERSHIP



Cllr Robin
Jowit
(Chairman)



Cllr Frances
Bouchier



Cllr Alan Butler



Cllr Max
Hoskinson



Cllr Brian
Miller¹

Officer support was provided by the Democratic Services Manager, Mary Collins.

¹ Cllr Miller was appointed to the Task Group in place of Cllr Knight before the Group's first meeting.



PART II – FINDINGS

A Brief History

The decision to purchase the freehold of, and then dispose of, the land occupied by Fulwell Golf Course and Squires Garden Centre was taken by the Council in 1980. The Freehold was duly purchased from the Greater London Council in April 1981 for £159,750. The broad terms of the disposal were agreed by the Policy and Resources Committee in 1983, and consent was obtained from the GLC and the Secretary of State for the disposal of Green Belt Land. A 999 year lease with D J Squire and Company (“Squires”) was finally signed on 12 March 1986. On the same date, Squires assigned the golf course area to the trustees of Fulwell Golf Club.

Since 1995, various formal objections have been raised to the disposal and external investigations have been undertaken (see Appendix B for Key Dates).

Methodology

The Task Group met on 15 occasions (see Appendix A). Both at and between those meetings, Members reviewed all the relevant existing documentation; received further detailed written submissions from objectors; heard evidence from four of the objectors (Messrs Berend, Green, Nicol-Gent and Walton); and invited responses to specific allegations from a number of parties, including former officers.

Findings

A – In respect of the six areas of concern identified at the outset of the investigation

B – In respect of other issues arising during the course of the investigation which the Task Group determined fell within their remit.

A1 Consultant Surveyors not advised of change in MOL status

- Consultant Surveyors (Gerald Eve) appointed September 1980 (and instructed to negotiate the disposal), at which point all parties believed the whole site was designated as MOL (cf letter from Chief Planning Officer (Mr Latham) to District Valuer 18 December 1978 stating that the whole site was shown as MOL in the Greater London Development Plan (GLDP)) [although at the May 2001 UDP Inquiry, the Council’s Barrister asserted that the Garden Centre site had never been MOL].
- Gerald Eve were not informed that the MOL status of the Garden Centre land changed [see A3 below], nor asked to consider the impact of such a change on their valuation. Not to have done so appears unprofessional/incompetent.



- We consider that there was officer fault for not seeking a revised valuation as it seems inconceivable to us that lifting MOL designation would not impact on the value of the site (notwithstanding the District Auditor's statement "*I am not persuaded that the omission to inform the Consultant Surveyors and members of the exclusion of the site from MOL would have led to an increased valuation and thereby a higher price for the land.*").
- One of the objectors (viz Mr Green (7 June 2002)) has offered to pay for a retrospective valuation [subject to conditions]. We have given serious consideration to this offer but cannot recommend that it be accepted because, without proof of negligence (which we have not found), the Council could have no claim against anyone.

A2 No increase in valuation over three years

- The Council agreed the sale price of £300,000 for a 999 year lease in March 1983.
- The lease was not signed until March 1986, still at £300,000 (of which £70,000 related to the Golf Course).
- Gerald Eve confirmed 18 July 1985 and 29 January 1986 that £300,000 still represented "the best terms available" (although, as indicated at A1 above, they had not been advised of the change in MOL status).
- However, bearing in mind the growing popularity of golf at the time, we consider that any reasonable person would expect the valuation to have increased over the three years March 1983 – March 1986.

A3 How/by whom decision made to remove MOL status

- The November 1982 Consultation Draft Local Plan showed the entire site (212 acres) as MOL.
- The November 1983 Deposit Draft Local Plan (and the final Local Plan, adopted 11 December 1985) show the Garden Centre (approx 3 acres) and the additional acre assigned to the Garden Centre in March 1986 without MOL designation.
- This changed proposal appears never to have been brought formally to Members' attention, nor can any authority for the change be traced [cf memo from Chief Planning Officer to Chief Consultancy Services Officer, 17 June 1996].
- We have not been able to ascertain the reasons for this change in proposed MOL status, nor who made the change.
- The lack of a satisfactory explanation has fuelled the objectors' speculation as to the motives.



A4 Audit Commission criticism of District Auditor

- The Audit Commission criticised the District Auditor for not retaining an independent professional adviser and observed that “the use of an independent professional adviser could have helped remove some of the uncertainty concerning the valuation”.
- We believe that if the District Auditor had retained such an adviser, he might have investigated more closely the change in MOL status (and its potential impact on the valuation).
- We believe that he might also have followed up with greater rigour the objectors’ criticism that comparable disposals were not investigated (evidence having been provided by one of the original objectors that Silvermere Golf Club was sold for £1.025M in 1984 and Kingswood Golf Club for £2.25M in 1987).
- Although the Audit Commission and the District Auditor believe adequate regard was had to “comparables”, we believe that any reasonable person would consider £70,000 for a 999 year lease to be a serious under-valuation of the Golf Course.

A5 Alleged Officer Obstruction

- Objectors quoted a specific example, alleging: that they had identified five letters on a Planning Department file of which they wished to have copies; that no action was taken in respect of the request until the intervention of the then Leader of the Opposition; that two of the five letters disappeared from the file and are presumed to have been destroyed.
- Although we have found no concrete evidence of letters disappearing/being destroyed, we note the objectors’ willingness to produce sworn affidavits as to the accuracy of their claims.
- At the very least, this would appear to be a coincidence which has fuelled the objectors’ suspicions.

A6 Allegedly Fraudulent Documentation

- The objectors experienced significant problems in obtaining a copy of the golf course assignment lease, first being told it was confidential between the Garden Centre and the Golf Club, then that the Council had mislaid its copy [which it later transpired had been misfiled].



- They then established that the official copy held by the Land Registry had two pages missing and was not certified correctly; there were also differences in the presentation of the Land Registry copy and that provided by the District Auditor (which he had obtained from the Council), which the objectors allege demonstrates fraud.
- It does seem unusual that the Land Registry copy is incomplete and not certified correctly. However we are unable to reach a conclusion on this point, but would repeat the observation at A5 (above) about the apparent coincidence.

B1 Perceived Conflicts of Interest

- In the course of their investigation, the Task Group established that at least three of those involved at various stages of the disposal and subsequent development of part of the site were members of Twickenham Rotary and would, it is assumed, have known each other.
- Of itself, this association would not give rise to concern but, viewed alongside some of the other findings, the objectors' suspicion of wrong-doing can be understood.

B2 Involvement of Director of Finance

- We accept the then Director of Finance (Mr Harbord)'s assertion to the District Auditor that he played no part in the disposal of the land.
- As Members we find it difficult to understand why the Director of Finance was not involved in the most valuable land disposal of the period and believe that if he had been, he might have challenged the valuation.



CONCLUSIONS

One of the expectations of the Task Group was that they would examine “all the papers relating to this matter”. Members have examined all the documents that they have been able to trace, but recognise that with the passage of time these may not comprise “all the papers”. The Task Group were unable to reach a conclusion in respect of some of the allegations made by objectors, but they found no corroborated evidence of wrong-doing/gross misconduct/fraud nor any proof of negligence, actionable in law. Their findings do however give them cause for concern and an understanding of why some members of the public believe that the Council was, at the very least, unprofessional/incompetent, a belief fuelled by a series of apparent coincidences (including the unexplained change in MOL status of part of the site; the alleged disappearance of two documents related to the disposal; the incomplete Land Registry copy of the assignment lease).

The Task Group acknowledges that, despite their best efforts, the concerns of some members of the public will not have been assuaged by this report. Nevertheless, they believe that a line can now be drawn, in the confident expectation that the lessons learned from this and other property transactions (such as the sale of Hampton Court House) will lead to greater public trust in the Council. To facilitate this, the Task Group will invite the objectors to meet them, post-publication, to explain their findings.



RECOMMENDATIONS

Since the 1980s, there have been many changes in the way in which local authorities operate, with much greater transparency and accountability in decision-making processes and a much more tightly controlled ethical framework (particularly in respect of both Member and Officer declaration of interests). Nevertheless, in the interests of maintaining/enhancing the highest standards of corporate governance we would make the following recommendations:

1. That the Scheme of Delegation be reviewed to ensure the greatest possible transparency in the allocation/delegation of responsibilities to both Members and Officers.
2. That the Director of Finance and Corporate Services review and assess the management of legal records/documents.
3. That, where possible, reference be made to comparables in the disposal of Council land and other assets, to provide further reassurance that best value is being obtained.
4. That regular reminders be issued to Members and Officers about the vital importance of timely Declarations of Interests.
5. That the Head of Paid Service consider the need to strengthen the provisions for Declarations of Interest in the new Officer Code of Conduct (currently in preparation).



APPENDICES

Appendix A	Timetable of meetings
Appendix B	Key Dates, Objections and Investigations
Appendix C	Key Documents



Appendix A – Timetable of Meetings

Date	
3 rd July 2002	
15 th July 2002	
25 th July 2002	
3 rd September 2002	
4 th November 2002	
6 th February 2003	Oral evidence from Mr Berend (accompanied by Mr Green)
6 th March 2003	Oral evidence from Messrs Nicol Gent, Green and Walton
7 th April 2003	
22 nd May 2003	
13 th November 2003	
7 th January 2005	
20 th January 2005	
9 th February 2005	
1 st March 2005	
8 th March 2005	



Scrutiny in Richmond upon Thames

Appendix B – Key Dates, Objections² and Investigations

5 August 1964	Lease between GLC and Trustees of Fulwell Golf Club (expiring September 1992)
8 August 1967	Underlease between Trustees of Fulwell Golf Club and Squires (expiring 29 September 1986)
18 December 1978	Chief Planning Officer advises District Valuer that whole site is shown as Metropolitan Open Land (MOL) in the Greater London Development Plan
April 1980	Squires offer to purchase freehold interest in Garden Centre and Farmhouse (total £119,000)
June 1980	Policy and Resources Committee reject Squires' offer
September/October 1980	Gerald Eve (Chartered Surveyors) instructed to negotiate for surrender of existing leases and grant of new lease(s)
February 1981	Gerald Eve recommend "asking figure" of £163,000 for 99 year lease to Squires (Garden Centre and Farmhouse)
April 1981	Council purchase freehold of whole site (212 acres) from GLC for £159,750
September 1982	Gerald Eve negotiate 999 year lease for £270,000 (£140,000 for Garden Centre and £130,000 for Golf Club) – price rejected by Council [<i>"This figure is still below our asking terms for a new 999 year lease but in excess of our opinion of the open market value of the Council's interest subject to the existing leases, as supported by the purchase price."</i>]
November 1982	Consultation Draft Local Plan shows whole site as MOL

² Objections were made at various times by the following (either individually or in various combinations):

Anthony P Berend; Michael Gold; Solomon J Green; Ken Hathaway; W Nicol-Gent; Ian Walton



March 1983	Revised offer of £300,000 for 999 year lease for both sites accepted
November 1983	Deposit Draft Local Plan shows Garden Centre (and additional acre to be assigned to the Garden Centre) without MOL designation – confirmed in final Local Plan December 1985
18 July 1985	Gerald Eve confirm that £300,000 “represents the best terms currently available”
January 1986	GLC consent to the disposal
29 January 1986	Gerald Eve confirm that £300,000 “still represents the best terms available”
February 1986	Secretary of State’s consent to the disposal
March 1986	Lease completed with Squires; assignment lease between Squires and Golf Club
January 1993	Sale of freehold of 0.74 acres to Squires for £120,000
1995 onwards	Written and oral representations made to the District Auditor objecting to the disposal on the grounds that it had been below market value (earlier complaints having been made to the Local Government Ombudsman)
12 November 1999	District Auditor issued Public Interest Report – found no wilful misconduct; no loss to the Council; prices paid represented the best consideration reasonably obtainable by the Council at the time
18 January 2000	Full Council formally receive and note the Public Interest Report
July 2001	Audit Commission report on complaint against District Auditor – found that the DA should have retained an independent professional adviser in view of the complex planning, valuation and property-related matters, which were at the heart of the objections and which were outside an auditor’s normal sphere of operation



7 March 2002

Audit Commission rejects application for an Extraordinary Audit (under Section 25 of the Audit Commission Act 1998) on the grounds that the public interest would not be served by acceding to the electors' request in this case



Appendix C – Key Documents

12 November 1999	Public Interest Report by the District Auditor (Peter Arkell) issued under Section 8, Audit Commission Act 1998
July 2001	Audit Commission Report and findings of investigation into complaint made against Peter Arkell, District Auditor of London Borough of Richmond Upon Thames
Various	Written submissions made by Messrs Berend, Green, Nicol-Gent and Walton

