

MUNICIPAL YEAR 2012/2013 REPORT NO. **101**

MEETING TITLE AND DATE:
14th NOVEMBER 2012

REPORT OF:
Director of Regeneration,
Culture & Leisure

Agenda – Part: 1

Item: 8

**Subject: Revised Terms of Reference for
Local Plan (formerly LDF) Cabinet Sub-
Committee**

Wards: All

Cabinet Member consulted: Cllr Goddard

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1. EXECUTIVE SUMMARY

- 1.1 At its meeting on 17th July 2012 the LDF Cabinet Sub Committee agreed, subject to Cabinet approval, to change its name to the 'Local Plan Cabinet Sub Committee' to reflect new terminology introduced through Government legislation and guidance.
- 1.2 This report seeks agreement to revised terms of reference for the newly named Local Plan Cabinet Sub Committee to reflect changes to plan making legislation, including the introduction of the Community Infrastructure Levy and neighbourhood planning. The report also puts forward a recommendation to increase the Sub-Committee membership from three to four voting members.

2. RECOMMENDATIONS

- 2.1 That Cabinet:
 - (a) Agree that the LDF Cabinet Sub Committee is renamed the Local Plan Sub Committee.
 - (b) Approve the revised terms of reference for the Local Plan Cabinet Sub Committee as set out in Section 4 of this report.
 - (c) Extend the membership of the Local Plan Cabinet Sub Committee to four voting members.

3. BACKGROUND

- 3.1 The LDF Cabinet Sub Committee was established when changes to the town planning system were formally introduced by the Planning and Compulsory Purchase Act 2004. The terms of reference of the Council's LDF Cabinet Sub Committee were originally agreed by the Cabinet in February 2005. Amendments were subsequently agreed by Cabinet in September 2010 following changes to legislative procedures for plan making. The existing terms of reference are attached as Appendix 1. Membership of the Local Plan Cabinet Sub Committee for the municipal year 2012/13 was agreed at the Cabinet meeting held on the 20th June 2012 as comprising Councillors Goddard (Chairman), Oykenner and Bond with one non-voting Opposition Councillor.
- 3.2 Further changes to Government legislation including changes to Local Plan making regulations, legislation for the preparation of Community Infrastructure Levy (CIL) charging schedule and the introduction of neighbourhood planning mean that further changes to the terms of reference are now required.

The Local Plan

- 3.3 Following the publication of Government's National Planning Policy Framework in March 2012, revised regulations for plan making came into force on 6th April 2012 (Town and Country Planning (Local Planning) (England) Regulations 2012). This guidance and legislation introduced new terminology and procedures for plan-making. The term Local Development Framework, which comprised of a suite of documents including Development Plan Documents and Supplementary Planning Documents, is no longer used by the Government. Instead, the term Local Plan is used to describe Development Plan Documents.

Community Infrastructure Levy

- 3.4 The Community Infrastructure Levy was introduced by the 2008 Planning Act and is a tariff based approach to raise funds for new infrastructure. The levy is charged in pounds per square metre of floorspace arising from new development. CIL Regulations came into force in April 2010 and were subsequently amended in April 2011 and 2012.

Neighbourhood Planning

- 3.5 Part 6 of the Localism Act 2011 introduced legislation for neighbourhood planning, enabling local communities to prepare Neighbourhood Plans, Neighbourhood Development Orders and Community Right to Build Orders. The Neighbourhood Planning (General) (Regulations) 2012 and Neighbourhood Planning (Referendum) Regulations 2012 set out procedures for the preparation, consultation, examination, referendum and adoption of Neighbourhood Development Plans and Orders (including Community Right to Build Order).
- 3.6 Neighbourhood Plans are planning documents that allow communities to set out their vision for their local area and the general planning policies to shape and direct development in their neighbourhood. They are led and written by the community. Neighbourhood Plans can provide detail on how the Council's borough-wide planning policies should be applied in a local area, to

reflect the aspirations of the community and local circumstances. Neighbourhood Plans must be in line with the strategic policies within Enfield's Local Plan and national policy and are subject to examination. If a Neighbourhood Plan is prepared in line with the legal requirements and then supported at a local referendum (by more than 50% of those voting) it must be formally adopted by the Council as a planning policy document. Once adopted, it will have development plan status and must be taken into account during consideration of planning applications in that area

- 3.7 The first stages in producing a Neighbourhood Plan is for a Local Planning Authority, following applications by the community, to establish a Neighbourhood Area and Neighbourhood Forum. Criteria for assessing applications for Neighbourhood Areas and Forums are set out in Schedule 9 of the Localism Act 2011. There can be only one Neighbourhood Forum for each Neighbourhood Area. The Forum must comprise not less than 21 persons comprising of people who live or work in the Neighbourhood Plan area and it may include ward councillors.
- 3.8 Neighbourhood Development Orders grant planning permission for specific types of development within a Neighbourhood Area. Community Right to Build Orders are a type of Neighbourhood Development Order which can be made by any local community organisation, not just a Neighbourhood Forum. To be eligible to develop a Community Right to Build Order at least one half of the community organisation's members must live in the area and the process is similar to that of a Neighbourhood Development Plan.

4. MEMBERSHIP AND TERMS OF REFERENCE FOR THE LOCAL PLAN SUB COMMITTEE

- 4.1 The Council's commitment to bring forward a number of local plan documents is running to an ambitious timescale that will require a high number of decisions to be made at the Local Plans Sub Committee level. It is therefore recommended that the Local Plan Sub Committee be extended from a three Cabinet Member Sub Committee to a four Cabinet Member Sub Committee plus one non-voting Opposition Councillor.

PROPOSED TERMS OF REFERENCE

1. *To deal, on behalf of Cabinet, with appropriate issues concerning the preparation and review of the Council's Local Plan, Supplementary Planning Documents to the Local Plan, Neighbourhood Planning documents and the Community Infrastructure Levy charging schedule.*
2. *To consult Scrutiny Panels, the Planning Committee and the Conservation Advisory Group as appropriate on the preparation and contents of the Council's Local Plan, Supplementary Planning Documents to the Local Plan, Neighbourhood Planning documents and the Community Infrastructure Levy charging schedule.*

Local Plan

- 3 *To approve, on behalf of Cabinet, Local Plan documents prepared for consultation in accordance with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012.*
- 4 *To make recommendations to Cabinet (and ultimately Council) on the contents of Local Plan documents produced for submission to the Secretary of State ('Proposed Submission Documents') in accordance with Section 20 of the Planning and Compulsory Purchase Act 2004 as amended.*
5. *To make recommendations to Cabinet (and ultimately Council) on the adoption of Local Plan documents in accordance with Section 23 of the Planning and Compulsory Purchase Act 2004 as amended.*
6. *To adopt, on behalf of Cabinet, Supplementary Planning Documents to the Local Plan, in accordance with Section 23 of the Planning and Compulsory Purchase Act 2004 as amended.*
7. *To approve, on behalf of Cabinet, the Local Development Scheme and Monitoring Report for the Local Plan in accordance with Sections 15 and 35 respectively of the Planning and Compulsory Purchase Act as amended.*
8. *To adopt, on behalf of Cabinet, the Statement of Community Involvement for the Local Plan prepared in accordance with section 18 of the Planning and Compulsory Purchase Act 2004 as amended.*

Community Infrastructure Levy

9. *To approve, on behalf of Cabinet, the Preliminary Draft Community Infrastructure Levy Charging Schedules prepared for consultation in accordance with Regulation 15 of the Community Infrastructure Levy Regulations 2010 as amended.*

10. *To make recommendations to Cabinet (and ultimately Council) on the approval to publish and submit for examination the Draft Community Infrastructure Levy Charging Schedule, in accordance with Regulations 16 and 19 of the Community Infrastructure Levy Regulations 2010 as amended and section 212 of the Planning Act 2008.*
11. *To approve on behalf of Cabinet and make recommendations to Council on the publication of the Charging Schedule; the Regulation 123 List (the types of infrastructure that is planned to be funded from CIL); discretionary charitable relief; exceptional circumstances, and the Council's instalments policy for CIL in accordance with section 213 of the Planning Act 2008 and Regulations 25, 46, 55 and 69 of the Community Infrastructure Levy Regulations 2010 and (as amended) 201.1*

Neighbourhood Planning

12. *To recommend to Council on behalf of Cabinet the designation of Neighbourhood Areas and Neighbourhood Forums in accordance with the Town and Country Planning Act 1990 (as amended by the Section 116 and Schedule 9 of the Localism Act 2011).*
13. *To agree, on behalf of Cabinet, proposed Neighbourhood Development Plans for consultation and publicity, in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012.*
14. *To make recommendations to Cabinet (and ultimately Council) the acceptance of the Neighbourhood Forum and Neighbourhood Area and the submission to independent examination of Neighbourhood Development Plans in accordance with the Neighbourhood Planning (General) Regulations 2012*
15. *To make recommendations to Cabinet to undertake referendum on a Neighbourhood Development Plan following independent examination in accordance with the Neighbourhood Planning (Referendum) Regulations 2012.*
16. *To make recommendations to Cabinet (and ultimately Council) on whether or not to make Neighbourhood Development Plans in accordance with the Neighbourhood Planning (General) Regulations 2012.*
17. *To agree, on behalf of Cabinet, proposed Neighbourhood Development Orders (including Community Right to Build Orders) for consultation and publicity, in accordance with Regulation 23 of the Neighbourhood Planning (General) Regulations 2012.*

18. *To make recommendations to Cabinet (and ultimately Council), on the acceptance of the Neighbourhood Development Orders (including Community Right to Build Orders) and the submission (to independent examination) of Neighbourhood Development Orders (including Community Right to Build Orders) in accordance with the Neighbourhood Planning (General) Regulations 2012.*
19. *To make recommendations to Cabinet to undertake referendum on a Neighbourhood Development Orders (including Community Right to Build Orders) following independent examination in accordance with the Neighbourhood Planning (Referendum) Regulations 2012.*
20. *To make recommendations to Cabinet (and ultimately Council) on whether or not to make Neighbourhood Development Orders (including Community Right to Build Orders), in accordance with the Neighbourhood Planning (General) Regulations 2012.*

5. ALTERNATIVE OPTIONS CONSIDERED

None

6. REASONS FOR RECOMMENDATIONS

- 6.1 Changes to the name of the sub committee and its terms of reference are necessary to ensure that decisions are made in accordance with the Government legislation and the Council's Constitution. The terms of reference seek to secure the optimum balance between accountability, efficiency and speed in preparing local planning documents and the Community Infrastructure Levy charging schedule, and responding to neighbourhood planning.

7. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

a. Financial Implications

There are no direct financial implications arising from this review. However there may be resource implications as a result of the requirement to devote resources to neighbourhood planning. This will involve supporting plan making, and managing the submission of documents for examination, the referendum and adoption process.

b. Legal Implications

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 set out which functions are not to be the responsibility of the Executive and provides scope for the Council to determine arrangements for the discharge of those functions. Matters relating to the formulation of planning

policy are matters which may be delegated to the Executive while matters relating to development management applications remains a matter for Council (usually by delegation to planning committee).

Part 3 of the Constitution provides that Cabinet have the power to set up sub-committees for the efficient conduct of business. Amendments to the terms of reference for their sub-committees are therefore a matter for Cabinet. Part 3 also provides that the Cabinet is responsible for proposing the Policy Framework to Council. The terms of reference proposed provide that where alterations and additions affecting the Local Plan as part of the Policy Framework are recommended these changes will be recommended to Cabinet for approval by Council.

The Town and Country Planning (Local Planning) (England) Regulations 2012 came in to effect on 6th April 2012 and introduced new terminology and procedures for plan-making. The Localism Act 2011 introduced the concept of Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders and provided a framework in which Neighbourhood Forums could plan make for their areas. The recommendations contained within the report and the revised terms of reference incorporate the revised terminology and production processes for Local Plans.

The changes to the planning regime arising from the Localism Act and the Neighbourhood Planning Regulations 2012 may require consequential update amendments to the Council's Constitution and should be reviewed by Members and the Democratic Services Group. Any consequential amendments identified will be subject to approval by Council.

c. Property Implications

There are no direct property implications arising from this report. However, the introduction of a Community Infrastructure Levy Charging Schedule will have implications that will require further consideration at the relevant time.

8. KEY RISKS

Suggested changes are necessary in order to obviate the risk of non-compliance with legislation and the Council's Constitution. The aim is to achieve the optimal balance between accountability, efficiency, and speed in the preparation of local planning documents.

9. IMPACT ON COUNCIL PRIORITIES

Growth and Sustainability

Local plan documents are crucial to delivering growth and regeneration in the borough and in ensuring sustainable development. Revisions to the terms of reference are required to support the production of Local Plan documents.

10. EQUALITIES IMPACT IMPLICATIONS

It is not relevant or proportionate to undertake an equality impact assessment/analysis for the approval of new terms of reference and other changes to arrangements for the Local Plan Sub Committee. It is, however, noted that the Government has undertaken an Equality Impact of Assessment of neighbourhood planning which concludes that where any group within the community participates less in the preparation of a neighbourhood plan there is a risk that plans will not reflect the needs and wishes of that group. The Council in preparing its own Local Plan documents undertakes an Equalities Impact Assessments to ensure that community engagement is inclusive.

11. PERFORMANCE MANAGEMENT IMPLICATIONS

There are no direct performance management implications arising from the recommendations. However, it is noted that there are resource implications associated with neighbourhood planning which will place additional pressures on the service, which could affect the delivery of the Council's Local Plan.

12. PUBLIC HEALTH IMPLICATIONS

There are no public health implications directly related to this report. The public health implications of neighbourhood planning have yet to be determined. It is noted that neighbourhood plans must be in conformity with strategic policies in the Local Plan, of which the adopted Core Strategy has a robust policy on wider determinants of health. Neighbourhood Plans should have appropriate regard to this policy.

Background Papers

None.

APPENDIX 1

TERMS OF REFERENCE FOR LDF CABINET SUB-COMMITTEE (as agreed by Cabinet on the 21st September 2010)

1. To deal, on behalf of the Cabinet, with appropriate issues concerning strategic planning, and the preparation and review of the Council's Local Development Framework and related strategies.
2. To approve documents and draft Sustainability Appraisal reports for public consultation, in accordance with Regulation 25 of the Town and Country Planning (Local Development) (England) (Amendment) Regulations June 2008, for all Development Plan Documents.
3. To approve Supplementary Planning Documents as and when required.
4. To consult Scrutiny Panels, the Planning Committee and the Conservation Advisory Group as appropriate on the preparation and contents of Local Development Documents.
5. To make recommendations to Cabinet on the contents of Development Plan Documents following public consultation.
6. To approve the draft Statement of Community Involvement for public consultation and adoption of the finalised Statement of Community Involvement.
7. To approve submission of the draft Local Development Scheme to the Secretary of State, and to bring the Local Development Scheme into effect on approval by the Secretary of State.