

MUNICIPAL YEAR 2015/2016 REPORT NO. **8**

MEETING TITLE AND DATE:

Cabinet
17 June 2015

REPORT OF:

Director – Regeneration &
Environment

Contact officer and telephone number:

Gerry Ansell 0208 379 3865
Gerry.ansell@enfield.gov.uk
Natalie Broughton 0208 379 1451
Natalie.broughton@enfield.gov.uk

Agenda - Part: 1	Item: 9
Subject: Revised Terms of Reference For Local Plan Cabinet Sub Committee	
Wards: ALL	
Cabinet Member consulted:	Councillor Sitkin

1. EXECUTIVE SUMMARY

- 1.1 At its meeting on 14th November 2012 Cabinet agreed the current terms of reference for the Local Plan Cabinet Sub Committee. This report seeks agreement to revise the terms of reference for the Local Plan Sub Committee in relation to neighbourhood planning, the Community Infrastructure Levy Regulation 123 list (CIL expenditure) and Memorandum of Understandings for plan making.

2. RECOMMENDATION

- 2.1 That Cabinet approve the revised terms of reference for the Local Plan Cabinet Sub Committee as set out in Table 1 Proposed Terms of Reference in Section 4 of this report.

3. BACKGROUND

- 3.1 The Local Plan Cabinet Sub Committee (LPCSC) [originally named the LDF Cabinet Sub Committee] was established when changes to the planning system were formally introduced by the Planning and Compulsory Purchase Act 2004. The terms of reference of the LPCSC were originally agreed by Cabinet in February 2005 and amendments were subsequently agreed by Cabinet in September 2010 and November 2012 following changes to legislative procedures for plan making. The existing terms of reference are attached as Appendix 1.
- 3.2 Further changes to the terms of reference are now required because of amendments to Government legislation (including changes to neighbourhood planning regulations); developments on the community infrastructure levy and emerging procedures to be undertaken to comply with the duty to cooperate.

Neighbourhood Planning

- 3.3 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.
- 3.4 The first stage 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.
- 3.5 In February 2015 the Government introduced changes to neighbourhood planning legislation. The amendment to the Neighbourhood Planning (General) (Amendment) Regulations 2015 introduced a new requirement that from the date when an application for a neighbourhood area is first publicised the Council must determine the application within 13 weeks (or 20 weeks if it is an application which falls within two or more Local Planning Authority boundaries).

- 3.6 Under current Council procedures, detailed in the existing Terms of Reference it will not be possible to determine applications for neighbourhood planning within 13 weeks due to the need for a statutory 6 week consultation period and current committee process.
- 3.7 The Government is proposing changes to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (“the Regulations”), whose effect will be to provide, inter alia, that functions relating to neighbourhood development plans or orders may be functions either of the executive or of the Council and its committees and sub-committees. These draft amendments will aim to consolidate the Regulations and subsequent amendments, which specify the functions that should be exercised by local authority executives and those that should be the responsibility of the full Council under Part 1A of the Local Government Act 2000.

Community Infrastructure Levy

- 3.8 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. To sit alongside the CIL Charging Schedule, the Council is required to produce a Regulation 123 List to set out which pieces of infrastructure will be funded from CIL monies accrued. Following independent examination, the Council is due to adopt its first CIL Charging Schedule (which sets the CIL rates) and Regulation 123 list in Autumn/Winter 2015.

Duty to Cooperate and Memorandum of Understanding

- 3.9 The “duty to co-operate” is a statutory duty introduced in 2011. It imposes a duty on a local planning authority to co-operate with other local planning authorities, county councils and bodies or other prescribed persons.
- 3.10 The duty to co-operate requires a local planning authority to engage constructively, actively and on an on-going basis on strategic cross boundary matters to maximise the effectiveness of Local Plan preparation. If a local planning authority cannot demonstrate that it has complied with the duty then the Local Plan will not be able to proceed further in examination.
- 3.11 National guidance suggests a number of ways to demonstrate effective co-operation; this includes: forming a joint committee, preparing joint plans and the use of formal agreements such as a Memorandum of Understanding (MoU). Formal agreements between local planning authorities, signed by elected members, demonstrate a long term commitment to a jointly agreed strategy on cross boundary matters. These agreements can be submitted to planning inspectors examining Local Plan documents as part of the evidence to demonstrate compliance with the duty.

- 3.12 A MoU has already been agreed to establish the joint working arrangements for preparing the North London Waste Plan (NLWP) – a joint plan between the 7 north london boroughs of Enfield, Barnet, Camden, Hackney, Haringey, Islington and Waltham Forest. Further MOUs with other authorities and prescribed bodies will be required for the NLWP and other local plan documents in the future.

4. 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. In addition the Council is at an advanced stage in the preparation of CIL and has a live application for a neighbourhood area and forum.
- 4.2 In order to ensure efficient progression in producing plans it is recommended that the terms of reference be amended. The changes are as set out in full in Table 1: Proposed Terms of Reference. The underlined text indicates proposed additions. The strikethrough text indicates proposed deletions. These changes are detailed below.

Neighbourhood Planning

- 4.3 Decisions on neighbourhood areas and forums are currently made at full Council. It is not possible under this current decision making route to determine applications for neighbourhood planning within the new statutory 13 weeks period (detailed in paragraph 3.5 of this report) having regard for the need for a statutory 6 week consultation period. A benchmarking exercise has been undertaken which has found that for the majority of Local Planning Authorities in London decisions on Neighbourhood Area and Forums are made by the Executive. To ensure that Enfield is able to meet its statutory requirement it is recommended decision making is delegated to the Local Plan Cabinet Sub Committee for both Neighbourhood Areas and Forums. Other decisions on neighbourhood planning would remain the same. This would be consistent with the changes proposed to the Local Authorities Functions and Responsibilities regulations detailed in paragraph 3.7 of this report.

Community Infrastructure Levy – Regulation 123 List

- 4.4 The decision on the content of the Regulation 123 list is an executive decision. However, as the Regulation 123 list is first agreed upon adoption of the CIL Charging Schedule (a Council decision) it is considered appropriate for the initial Regulation 123 list to be taken to Council alongside the Charging Schedule. Thereafter any amendments to the Regulation 123 would be made by Cabinet.

Memorandum of Understanding

- 4.5 It is recommended that the Terms of Reference of the Sub Committee are expanded so that the Sub Committee agrees MOUs, with relevant statutory authorities and stakeholders, which are entered into to discharge the duty to cooperate. This will include any amendments to the MOU already signed to support the production of the North London Waste Plan (NLWP).

TABLE 1: 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 and guidance to the Local Plan, including Memorandums of Understanding with other Local Authorities and stakeholders; 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 and other planning guidance 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:
 - a) on the publication of the CIL Charging Schedule in accordance with section 213 of the Planning Act 2008 and Regulation 25, of the Community Infrastructure Levy Regulations 2010 as amended;
 - b) on the initial Regulation 123 List (setting out the types of infrastructure that is planned to be funded from CIL) and
 - c) if deemed necessary on the CIL discretionary charitable relief, the exceptional circumstances relief, and the instalments policies, in accordance with Regulations 46, 55 and 69 Community Infrastructure Levy Regulations 2010 as amended.

Neighbourhood Planning

~~12. To recommend to Council on behalf of Cabinet To decide~~ To approve 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 on 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

5.1 None.

6. REASONS FOR RECOMMENDATIONS

6.1 Changes to the terms of reference are necessary to ensure that decisions are made in the most efficient way 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

7.1 Financial Implications

7.1.1 There are no direct financial implications arising from this review. Any future proposals with cost implications would need to be subject to separate reports and full financial appraisal.

7.2 Legal Implications

- 7.2.1 The Council operates under executive arrangements in accordance with s9D(2) of the Local Government Act 2000 (“the Act”). Where executive arrangements are in place under the Act, there is a presumption that all local authority functions not specified in the Regulations, will be the responsibility of the executive, rather than the full Council. The matters subject of this report are not local authority functions specified in the Regulations, and are therefore within the remit of the executive.

The recommendations in this report accord with the Regulations and the Act.

7.3 Property Implications

There are no direct property implications arising from this report

8 KEY RISKS

- 8.1 Suggested changes are necessary in order to obviate the risk of non-compliance with legislation and have regard to 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

9.1 Fairness for All

- 9.1.1 Local plan documents are important in addressing inequalities and in themselves are subject to equalities impact assessments. Ensuring an efficient and legally compliant system of decision making supports this process.

9.2 Growth and Sustainability

- 9.2.1 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.

9.3 Strong Communities

- 9.3.1 The planning system plays a key role in building strong communities. In that regard ensuring the system of decision making is effective in line with legal requirements is consistent with that.

10 EQUALITIES IMPACT IMPLICATIONS

- 10.1 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.

11 PERFORMANCE MANAGEMENT IMPLICATIONS

- 11.1 The performance management implications arising from the recommendation are set out in 4.3 of this report.

12 PUBLIC HEALTH IMPLICATIONS

- 12.1 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

EXISTING TERMS OF REFERENCE (as approved by Local Plan Cabinet Sub Committee 14th November 2012)

- 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) 2011.*

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.*