

<b>Committee:</b> Strategic Development	<b>Date:</b> 5 <sup>th</sup> February 2019	<b>Classification:</b> Unrestricted	
<b>Report of:</b> Corporate Director Place		<b>Title:</b> Planning Applications for Decision	
<b>Originating Officer:</b> Owen Whalley		<b>Ref No:</b> See reports attached for each item	
		<b>Ward(s):</b> See reports attached for each item	

## 1. INTRODUCTION

- 1.1 In this part of the agenda are reports on planning applications for determination by the Committee. Although the reports are ordered by application number, the Chair may reorder the agenda on the night. If you wish to be present for a particular application you need to be at the meeting from the beginning.
- 1.2 The following information and advice applies to all those reports.

## 2. FURTHER INFORMATION

- 2.1 Members are informed that all letters of representation and petitions received in relation to the items on this part of the agenda are available for inspection at the meeting.
- 2.2 Members are informed that any further letters of representation, petitions or other matters received since the publication of this part of the agenda, concerning items on it, will be reported to the Committee in an Addendum Update Report.

## 3. ADVICE OF CORPORATE DIRECTOR, GOVERNANCE

- 3.1 The Committee is required to determine planning applications in accordance with the development plan and other material planning considerations. Virtually all planning decisions involve some kind of balancing exercise and the law sets out how this balancing exercise is to be undertaken. After conducting the balancing exercise, committee is able to make a decision within the spectrum allowed by the law. The decision as to whether to grant or refuse planning permission is governed by section 70 (2) of the Town and Country Planning Act 1990(TCPA 1990. This section requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application; to have regard any local finance considerations, so far as material to the application; and to have regard to any other material considerations
- 3.2 What does it mean that members must have regard to the Development Plan? Section 38(6) of the Planning and Compulsory Purchase Act 2004 explains that having regard to the development plan means deciding in accordance with the Development Plan, unless material considerations indicate otherwise. If the Development Plan is up to date and contains material policies (policies relevant to the application) and there are no other material considerations, the application should be determined in accordance with the Development Plan. This is because it is the Council's own plan and in adopting the Plan, the Council was representing to the community and to applicants, that this plan was going to guide Committee decision making.

---

**LOCAL GOVERNMENT ACT 2000 (Section 97)**  
**LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THE REPORTS UNDER ITEM 7**

Brief Description of background papers: See Individual reports	Tick if copy supplied for register: ✓	Name and telephone no. of holder: See Individual reports
---	--	---

---

### 3.3 The Local Development Plan and Other Material Considerations

The relevant Development Plan policies against which committee is required to consider each planning application are to be found in

- The London Plan 2016
- The Tower Hamlets Core Strategy Development Plan Document 2025 adopted in 2010
- The Managing Development Document adopted in 2013

The Planning Officer's report for each application directs Members to those parts of the Development Plan which are material to each planning application, and to other material considerations. National Policy as set out in NPPF 2018 is a material consideration.

The purpose of a planning officer's report is not to decide the issue for the committee but to inform Members of the considerations relevant to their decision making and to give advice on and recommend what decision Members should take. Part of a planning officer's expert function in reporting to this committee is to make an assessment of how much information to include in the report. Applicants and Objectors may also want to direct Members to other provisions of the Development Plan (or other material considerations) which they believe to be material to the application. The purpose of officer's report is to summarise and analyse those representations, to report them fairly and accurately and to advise members what weight, in their professional opinion, to give those representations. Ultimately it is for members to decide whether the application is in accordance with the Development Plan or other material considerations

### 3.4 Local Finance Considerations.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority shall have regard to a local finance consideration as far as it is material in dealing with the application. Section 70(4) of the 1990 Act defines a local finance consideration and both New Homes Bonus payments (NHB) and Community Infrastructure Levy (CIL) fall within this definition.

Although NHB and CIL both qualify as "*local finance considerations*", the key question is whether they are "material" to the specific planning application under consideration..

The prevailing view is that "in some cases CIL and NHB can lawfully be taken into account as a material consideration where there is a direct connection between the intended use of the CIL or NHB and the proposed development. To be material a consideration must relate to the planning merits of the development in question.

Thus NHB or CIL money will be 'material' to the planning application when reinvested in the local areas in which the developments generating the money are to be located, or when used for specific projects or infrastructure items which are likely to affect the operation or impacts of those developments. Specific legal advice will be given during the consideration of each application as required.

### 3.5 Listed Buildings and Conservation Areas

Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects listed buildings or their settings, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest it possesses.

---

---

Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a conservation area, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

### **3.6 Trees and Natural Environment**

Under Section 197 of the Town and Country Planning Act 1990, in considering whether to grant planning permission for any development, the local planning authority must ensure, whenever it is appropriate, that adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.

Section 40 of the Natural Environment and Rural Communities Act 2006(Duty to conserve biodiversity) *“must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”*

Section 17 of the Crime and Disorder Act 1998(Duty to consider crime and disorder implications) *“duty .....to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment)”*

Section 144 Greater London Authority Act (to have regard to the London Mayor’s Transport strategy)

Section 149 of the Equality Act 2010 (Public Sector Equality Duty). This is a duty to have “due regard” to among other matters the need to “advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it”..

The Human Rights Act 1998. This sets out the basic rights of every person together with the limitations placed on these rights in the public interest.

### **3.7 Third Party Representations**

Under section 71(2)(a) of the Town and Country Planning Act 1990 and article 33(1) of the DMPO the Committee is required, when determining an application, to conscientiously take into account any representations made within specified time limits. The officer report directs members to those representations and provides a summary. In some cases, those who have made representations will ask to address the committee.

Members are reminded that other areas of legislation covers aspects of building and construction and therefore do not need to be considered as part of determining a planning application. Specific legal advice will be given should any of that legislation be raised in discussion.

The Committee has several choices when considering each planning application

- To grant planning permission unconditionally
  - To Grant planning permission with conditions
  - To Refuse planning permission
  - To defer the decision for more information (including a site visit)
-

---

**4. PUBLIC SPEAKING**

- 4.1 The Council's constitution allows for public speaking on these items in accordance with the rules set out in the constitution and the Committee's procedures. These are set out at the relevant Agenda Item.

**5. RECOMMENDATION**

- 5.1 The Committee to take any decisions recommended in the attached reports.
-