

Non-Executive Report of the:  <b>COUNCIL</b>  20 March 2019	
<b>Report of:</b> Asmat Hussain, Corporate Director, Governance and Monitoring Officer	<b>Classification:</b> Unrestricted
<b>Motion for debate submitted by an Opposition Group</b>	

<b>Originating Officer(s)</b>	Matthew Mannion, Head of Democratic Services
<b>Wards affected</b>	All wards

## SUMMARY

1. Council Procedure Rule 11 allows for time at each Ordinary Council meeting for the discussion of one Motion submitted by an Opposition Group. The debate will follow the rules of debate at Council Procedure Rule 13 and will last no more than 30 minutes.
2. The motion submitted is listed overleaf. In accordance with Council Procedure Rule 11, submission of the Opposition Motion for Debate will alternate in sequence between the opposition groups. This Opposition Motion is submitted by the Conservative Group.
3. Motions must be about matters for which the Council or its partners has a direct responsibility. A motion may not be moved which is substantially the same as a motion which has been put at a meeting of the Council in the previous six months; or which proposes that a decision of the Council taken in the previous six months be rescinded; unless notice of the motion is given signed by at least twenty Members.
4. Notice of any proposed amendments to the Motions must be given to the Monitoring Officer by Noon the day before the meeting.

## MOTION

Set out overleaf is the motion that has been submitted.

## **9 – Opposition Motion by the Conservative Group – regarding Planning Appeal losses.**

Proposer: Councillor Andrew Wood

Seconder: Councillor Peter Golds

### **The Council notes:**

A number of planning appeal losses in 2018/19 some as a result of planning decisions made by Councillors overturning officers' recommendations.

These are detailed in a Planning Appeals report that went to Development Committee on the 13<sup>th</sup> February 2019.

The total estimated cost (including commitments and officer time) for the last ten inquiries is anticipated to be in the region of £950,000.

The loss of 24% affordable housing at '49-59 Millharbour, 2-4 Muirfield Crescent and 23-29 Pepper Street' development when the developers final offer of 40% ended up at an agreed 16% affordable housing.

### **This council further notes:**

That planning committees often make decisions on whether to reject officers' recommendations late at night and then only have minutes in which to decide why they do not agree with the recommendations and the grounds on which they reject the application.

Those decisions are then examined by developers' lawyers and planning advisers over several months before being tested by an independent Planning Inspector at examinations which may include a week of detailed examination.

It is perhaps surprising that we do not lose more appeals.

### **This Council is concerned that;**

Councillors may now feel that they cannot overturn officer's recommendations even when decisions maybe finely balanced.

That Councillors need to have confidence that their decisions are defensible and will be defended.

That LBTH does not have to unnecessarily spend time and resources defending decisions it then loses at appeal.

That the overall quality of development maybe infringed if the Council does not feel that it can sustain its decisions.

## **This Council recommends:**

Changes to the planning process with the dual objective of:

- ensuring that developers submit planning applications which are more likely to get planning permission
- that if Councillors overturn officers' recommendations they do so on defensible grounds.

That the following changes be considered by the Director of Place in conjunction with members of the Development and Strategic Development Committees and that a report be submitted to full Council for a final agreement to any changes.

### **1. Pre-application Committee meetings**

Currently developers may meet the Mayor, Cabinet members and planning officers in pre-application meetings to discuss developments at an early stage.

It would be helpful if developers also present to the relevant planning committee if Planning Officers believe it would be prudent to do so.

This already happens at the LB of Haringey. It is also supported by Paragraph 128 of the National Planning Policy Framework which says, "*Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests.*"

While it cannot be expected that every element of the application is tested it should be possible to give Councillors a good understanding of the proposals before the details of the scheme are finalised.

The normal rules of planning committee should apply but Councillors will not vote but will make recommendations to be noted by both planning officers and the developer. They can ask to see how those recommendations have been met in the final application when it is submitted for a final decision.

Developers can submit a planning application with some comfort that key issues have been discussed with Councillors in advance of the final Committee decision.

### **2. Independent Advice**

It is of note that the Pensions Committee has an independent adviser who can provide the Pensions Committee with independent and impartial advice in addition to advice provided by officers and other advisors.

Planning committees have no alternative source of advice. Planning officers maybe conflicted in the advice they give having made a recommendation to Approve or Reject an application.

Where Councillors reject an application recommended by LBTH officers it typically returns to the Committee for a 2<sup>nd</sup> and final decision. They should be able to draw on additional advice from an external adviser who can provide them with solid reasons for sustaining a refusal or advice on why their decision may not be sustainable.

This service could be provided by a neighbouring local planning authority or by hiring an independent advisor.

### **3. Planning reports**

Many planning decisions are based on a judgement over whether a planning application confirms with the various planning policies which apply. Almost no planning application is 100% compliant with every planning policy.

Planning Officers may choose how to balance those various policies differently to Councillors in a planning committee. But typically planning committee reports will emphasise where a proposal is policy compliant and not always make clear where it is not compliant. This makes it harder for Councillors to produce reasons for rejecting an application late at night in Committee.

Planning committee reports should include a checklist summary which indicates which planning policies have been met, where they have not been met and where the differences are so small as to be a matter of judgement.

### **4. 3D model**

Now that LBTH has acquired a license to the Vu.City 3D model it is now possible to provide planning committees with an interactive demonstration of the massing and related issues of planning applications.

This should be made available to planning committees especially where massing, location, sunlight/daylight and height are issues. It will allow planning committees to put the issues into context and to make more informed decisions.

A demonstration should be made to planning committees at the earliest opportunity.

### **5. Councillor call in**

Other local planning authorities enable call ins to their Development Committee by two or more local Councillors (in addition to 20 signatures on a petition). Councillors should be able to request that particular applications are referred to a Committee. It will allow Councillors who think a development needs special consideration to be decided by other Councillors on the Development Committee.