

Non-Executive Report of the: COUNCIL 19 th January 2022	 TOWER HAMLETS
Report of: Janet Fasan, Director of, Legal and Monitoring Officer	Classification: Unrestricted
Motion for debate submitted by an Opposition Group	

Originating Officer(s)	Matthew Mannion, Head of Democratic Services
Wards affected	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in the previous six months; or which proposes that a decision of the Council taken in the previous six months be rescinded; unless notice of the motion is given signed by at least twenty Members.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.

8 – Opposition Motion for Debate from the Conservative Group - Regarding Spitalfields Neighbourhood Plan

Proposer: Councillor Peter Golds
Seconder: Councillor Andrew Wood

This Council notes:

That after a long and extensive period of consultation, independent examination, and several Cabinet meetings that on Thursday 11th November 2021 the Spitalfields Neighbourhood Plan had its referendum, the vote was whether or not to adopt the Neighbourhood Plan policies as part of the Councils own development plan to sit alongside the Local Plan which Councillors voted to approve last January. As Neighbourhood Plans are written by residents and local businesses they get the final vote.

552 residents voted in the referendum
298 or 54% voted Yes, to approve the Neighbourhood Plan
252 voted No and there were 2 void ballots

That the weekend before the referendum households in a number of postal areas received 1st class envelopes containing a leaflet campaigning against the Spitalfields Neighbourhood Plan. The envelopes had been sent from a communications business based in Romford.

We consider that:

- The leaflet did not contain a full imprint required under election law.
- It did contain a number of inaccurate and misleading claims about Neighbourhood Plans in general and the Spitalfields Neighbourhood Plan in particular.
- The leaflet was designed to divide the community along ethnic lines and to create confusion and fear among parts of the community.
- It also seems to have been written by people who do not understand what Neighbourhood Plans can actually do or not.

Because the Neighbourhood Plan area is also a Business Area there was also a Business Referendum on the same day.

97 business votes were submitted, nine were rejected on adjudication, leaving 88 votes counted.

70 were No votes
18 were Yes votes

This is the first time in the country that businesses have voted No in a Neighbourhood Plan referendum.

And the first time that a local authority therefore has to choose whether to accept the resident Yes vote or the business No vote, again the first time that any local authority has had to make this decision.

This Council further notes:

That our analysis of the business marked register shows the following:

49.5% of the total cast business votes came from one building (53% of those who voted by post came from the same building)

22.5% of the total cast business votes came from one family and five other individuals

That our analysis suggests that the business vote was disproportionately from offices based at one address in Spitalfields, that the votes largely came from small offices and was not representative of the wider business community or business building types.

That the Neighbourhood Plan contains this policy

POLICY SPITAL7: AFFORDABLE WORKSPACE

As required by Tower Hamlets Local Plan Policy D.EMP219 (New employment space), major development of commercial and mixed-use schemes must provide at least 10% of new employment floorspace as affordable workspace for a minimum of 10 years. In Spitalfields, this provision should be let at an affordable rate at least 45% below the Neighbourhood Area's indicative market rate for a minimum of 12 years, subject to viability (which must clearly be demonstrated by an open book viability appraisal).

This Council finally notes:

The consequences of the council attempting to negate the decision of the Referendum.

The council notes that the Spitalfields Neighbourhood Referendum was conducted in full accordance of the law and that the question in which electors were asked to vote on were in accordance with local, regional, and national policy and had been submitted after a lengthy public consultation exercise and an independent inspection.

The council further notes that the proposals were endorsed by voters in a poll and therefore any attempt by council members to negate the decision of the electorate, will potentially lead those members subject to a Judicial Review on the grounds that their decision is potentially, illegal, irrational and is considered to be a procedural impropriety (background guidance on Judicial Review being available in the House of Commons library).

The council concludes that any attempt to negate the decision of the Spitalfields Neighbourhood Planning Referendum, by resolution of the council will subject individual councillors who vote for this to be open to Judicial Review and that, as the both the Plan and the Referendum, were legal, there can be no rational reason to reject the decision of the electorate. Consequently, there is a strong likelihood that the High Court would quash such a decision of the council, leading to costs against the council and reputational damage to the authority and the individual members voting for the decision.

This Council therefore recommends:

That this Council condemn any abuse of the Spitalfields Neighbourhood Plan referendum.