

Report for: Overview and Scrutiny Committee – 25 November 2019

Title: Scrutiny Review on Wards Corner

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Lead Officers: Ayshe Simsek (Acting Democratic Services and Scrutiny Manager) and Dominic O'Brien (Principal Scrutiny Officer)

Ward(s) affected: All

**Report for Key/
Non Key Decision:**

1. Describe the issue under consideration

- 1.1 On 15th October 2019 the Overview and Scrutiny Committee considered the scrutiny review of the Wards Corner development and agreed; a) to accept the review reports findings and recommendations; b) that third parties be allowed to make representations relating to accuracy of the review report. Authority be granted to the Chair and Vice-Chair in consultation with Committee members to consider the representations and make any additions to the report, if required; c) to publish the final report and put it before the executive for a response at the December Cabinet meeting.
- 1.2 Following this meeting, the Monitoring Officer advised that any amendments made to the scrutiny review report should be agreed at a meeting of the Committee. The purpose of this report is to seek the Committee approval of the amendments made to the scrutiny review report as a result of comments received from third parties and Assistant Director responsible for the Planning Service.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 To approve the amendments outlined in track changes to the Wards Corner scrutiny review findings (which is attached as Appendix 1).
- 3.2 To publish the updated review report and for Cabinet to consider and respond to the findings and recommendations.

4. Reasons for decision

- 4.1 Following a scrutiny review, the Committee may make reports and recommendations to the Full Council, the Cabinet or relevant non-Executive Committee in connection with the discharge of any functions. It may also make reports or recommendations on matters affecting the area or its inhabitants.
- 4.2 The Council's Constitution (Overview & Scrutiny Procedure Rules) provides that prior to publication, draft reports will be sent to the relevant chief officers or where relevant, officers of the NHS, for checking for inaccuracies and the presence of exempt and/or confidential information. Their responses will then be considered in finalising the review findings and recommendations. It is considered that a similar approach should be adopted to private third parties involved in this scrutiny review and in relation to whom adverse findings and recommendation are proposed. The Statutory Guidance for Overview and Scrutiny in Local and Combined Authorities 2019 provides that for scrutiny review recommendations "67 ...Where appropriate, committees may wish to consider sharing them in draft with interested parties".
- 4.3 The key third parties affected by the scrutiny review findings and recommendations have now had the opportunity to comment on any factual inaccuracy in the review report. The comments have been considered and as a consequence, further amendments have been made to the review report which is now before the Committee for approval.

5. Alternative options considered

- 5.1 The Committee could decide not to agree the proposed changes to the report. However, this would not be in keeping with the Statutory Guidance for Overview and Scrutiny in Local and Combined Authorities 2019.

6. Background information

- 6.1 The Committee is aware of the background information to the Wards Corner review which are set out in the Officer report to the Committee meeting on 15th October 2019 at Section 6.
- 6.2 On 18th of October 2019 the key third parties i.e. Grainger, QuarterBridge and Clarion affected by the scrutiny review findings and recommendations were advised of the Committee decision of 15th October 2019 and invited to comment on any factual inaccuracies in the review report. Representatives of Grainger and Quarterbridge provided detailed comments on the review report.
- 6.3 In light of the comments made by statutory officers that there were aspects of the review lines of enquiries and findings that were not put to the Assistant Director when she gave evidence to the HRSP, the Planning service were provided with a further opportunity to provide comments in relation to the factual accuracy of the report. The Planning service also provided detailed comments.

- 6.4 These comments received were collated and distributed to the Chair and Vice Chair for consideration.
- 6.5 In considering these comments, account was given to the considerable amount of evidence, both verbal and in writing that had been received. The review's main purpose was to seek to make recommendations on how the issues raised could be resolved. Scrutiny reviews are first and foremost policy development and review exercises and the final report aims to be a working document that proposes a way forward. Not every individual contribution and point of detail that was received by the review has been included for reasons of space and to ensure that the focus of the report is on potential solutions. The review findings aimed to summarise all the evidence that was received and which led the Committee to reach its conclusions and prompt its recommendations. Nevertheless, the review sought to include the matters that the Panel and Committee considered to be most significant.
- 6.6 With the above in mind, each comment received was given serious consideration and also considered with the following context in mind; a) its connection to the accuracy of the report findings; b) the actual evidence considered by the Scrutiny Review Panel and Overview and Scrutiny Committee over the course of the review; c) Where a clarification was required to more accurately reflect the factual information considered in the review; and d) where the response was a comment and was better placed for inclusion in the Cabinet response to the recommendations due for consideration at the Cabinet meeting in December.
- 6.7 The result of these considerations, along with the correspondence from the third parties and officers was circulated to Committee Members and the proposed amendments are set out in the review findings in appendix 1 and in tracked changes.
- 6.8 The committee are asked to agree these amendments and put forward the final review on the Wards Corner Development to Cabinet for consideration and response.
- 7. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

Legal

- 7.1 Under Section 9F Local Government Act 2000 ("the Act"), Overview and Scrutiny Committee have the powers to review or scrutinise decisions made or other action taken in connection with the discharge of any executive and non-executive functions and to make reports or recommendations to the executive

or to the authority with respect to the discharge of those functions. Overview and Scrutiny Committee also have the powers to make reports or recommendations to the executive or to the authority on matters which affect the authority's area or the inhabitants of its area. Under Section 9FA (1) of the Act, Overview and Scrutiny Committee has the power to appoint a sub-committee to assist with the discharge of its scrutiny functions. Such sub-committee, in this instance the HRSP, may not discharge any functions other than those conferred on it. The HRSP should keep to the review terms of reference and on which officers and other private third parties has given evidence. Under Section 9FA (11), Overview and Scrutiny Committee and HRSP in exercising their functions, must have regard to guidance issued by the Secretary of State.

- 7.2 Section 9FE of the Act provides that Overview and Scrutiny Committee may publish its scrutiny report or recommendation. The Council's Constitution (Overview & Scrutiny Procedure Rules) provides that prior to publication, draft reports should be sent to the relevant chief officers for checking for inaccuracies and the presence of exempt and/or confidential information. This will then be considered in finalising the review findings and recommendations. Although not provided for in the Constitution, it is considered that the same approach should apply to private third parties involved in the scrutiny review, in particular where adverse findings and recommendation are proposed to be made. The Statutory Guidance for Overview and Scrutiny in Local and Combined Authorities 2019 provides that for scrutiny review recommendations "67 ...Where appropriate, committees may wish to consider sharing them in draft with interested parties". Where, as here, it is not possible to understand the reasoned basis for the recommendations without considering the evidence considered and findings which have led to them, it is considered that this also requires sharing the draft review itself. Further, "68 sharing draft recommendations with executive members should not provide an opportunity for them to revise or block recommendations before they are made. It should, however, provide an opportunity for errors to be identified and corrected, and for a more general sense check
- 7.3 If Overview and Scrutiny Committee approve the proposed amendments to the review report, then under Section 9FE (3), (4) and (5) of the Act, Overview and Scrutiny Committee must by notice in writing require the authority or executive to consider the report or recommendations and respond within 2 months indicating what (if any) action the authority, or the executive, proposes to take. The authority or the executive must comply with the requirements stated in the notice. Overview and Scrutiny Committee do not have any decision making powers. The draft scrutiny review report and recommendations at this stage cannot be relied upon as showing the Council's and Cabinet's thinking or position on the Wards Corner development.

Equality

- 7.4 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

- 7.5 Haringey Council has governance arrangements, policies, and procedures in place in order to ensure that due regard is given to the need to achieve the three aims of the Public Sector Equality Duty. The Public Sector Equality Duty is considered in the course of all policy development and at the points at which decisions are made, and records are kept to document this consideration. The Council uses Equality Impact Assessments to ensure that there is evidence-based consideration of the impacts of a decision on individuals and groups who share protected characteristics.
- 7.6 A number of the Scrutiny Panel’s recommendations seek to drive improvements in the Council’s approach to its duties under the Equality Act (2010). These recommendations support the equalities principles in the Haringey Borough Plan 2019-23 to “continuously seek to improve our approach to promoting equality, drawing on best practice from elsewhere, input from our staff equality networks and feedback from our residents” and to “fostering an environment where everyone understands their responsibilities under the [Equalities] Act.”
- 7.7 In the course of its review and the formulation of its recommendations, the Scrutiny Panel has had due regard for the need to achieve the three aims of the Public Sector Equality Duty, noted above. A number of the Scrutiny Panel’s recommendations seek to ensure that Haringey Council progresses efforts to prevent discrimination, advance equality of opportunity, and foster good relations between communities. These recommendations align with the equalities principles and objectives outlined in the Haringey Borough Plan 2019-23.
- 7.8 Cabinet will have due regard for the need to achieve the three aims of the Public Sector Equality Duty in developing its response to the review. Haringey Council will equally have due regard for the need to achieve the three aims of the Public Sector Equality Duty in the full course of any implementation of any of the Scrutiny Panel’s recommendations.

8. Use of Appendices

Appendix 1: Amended report of Wards Corner Review

9. Local Government (Access to Information) Act 1985

Background papers are embedded in the footnotes of the Scrutiny Review