

Report for: Overview and Scrutiny Committee – 15 October 2019

Title: Scrutiny Review on Wards Corner

Report authorised by: Bernie Ryan, Assistant Director, Corporate Governance

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 Overview and Scrutiny Committee (OSC) may review and scrutinise decisions made or actions taken in connection with the discharge of any of the Cabinet's or Council's function. OSC 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. In the exercise of this function, at the OSC meeting on 19th November 2018, it commissioned the review of the Wards Corners development by the Housing and Regeneration Scrutiny Panel (HRSP). On 3rd June 2019, following a change in the membership of the HRSP membership for the 2019 municipal year, OSC assumed responsibility for concluding the review.
- 1.2 The purpose of this report is to consider the scrutiny review of the Wards Corner development which is attached as Appendix 1 and determine whether to approve the review findings and the recommendations to Cabinet and Council.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 Overview and Scrutiny Committee defer approval of the draft Wards Corner scrutiny review findings and recommendation (which is attached as Appendix 1) to its next meeting in November 2019 to allow for private third parties to comment on its accuracy, findings and recommendations and for these to be considered in finalising the review report.

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 Wards Corner scrutiny review heard evidence from private third parties. The draft review report acknowledges allegations against third parties and proposes findings and recommendations that could potentially adversely affect their interests in the event that Cabinet was to accept any of them. It would therefore be appropriate for them to be offered a reasonable opportunity to comment on the draft report, in advance of any formal decision of this Committee. This will enable them to highlight factual inaccuracies and comment on findings and/or recommendations they may consider to be adverse to them. The Committee will then be able to consider their comments in finalising the review report.

5. Alternative options considered

- 5.1 The Committee could decide not to agree the Officer recommendation above and approve the review report findings and recommendations.

6. Background information

- 6.1 The Wards Corner regeneration project, near Seven Sisters underground station in Tottenham Green ward, is intended to deliver 196 new homes and around 40,000 sq ft of new retail space as part of Haringey Council's Tottenham Area Action Plan (AAP) with Grainger plc selected as the development partner. There are currently a significant number of retail units on the site including an indoor market that hosts around 40 businesses of mainly Latin American origin. These businesses have been offered a temporary space to use while the redevelopment goes ahead in Apex House, a new building located opposite the current market site which was part of a separate recent redevelopment carried out by Grainger. The temporary market is intended to operate until a new market space is built in the redeveloped space.
- 6.2 Plans for regeneration of the site date back to 2002, with planning permission for the site first granted in 2008 and then planning permission for a revised application granted in 2012. A Compulsory Purchase Order (CPO) was issued by Haringey Council in September 2016 to enable the acquisition of the remaining properties required for Grainger to go ahead with the redevelopment.

Objections to the CPO led to the establishment of a Public Local Inquiry heard by a Planning Inspector which was held in July 2017. The Planning Inspector recommended that the CPO should go ahead and, in January 2019, the Secretary of State for Housing, Communities and Local Government (MHCLG) confirmed the Planning Inspector's recommendation.

- 6.3 At its meeting on 19th November 2018, the Overview and Scrutiny Committee agreed the scoping document for a Review of the Wards Corner development by the Housing and Regeneration Scrutiny Panel. The rationale for the Review that was included in the scoping document was that it had been:

“15 years since the process to regenerate the Wards Corner site began, without a satisfactory outcome being achieved. The Panel believes that a scrutiny review that takes into account the historical context on this deadlocked issue will enhance the potential for the Council to bring about the best possible outcome for local residents, traders and for meeting the Council's objectives.

Concerns have been raised by local residents, traders and civic organisations about various aspects of the current plan for the development of the market. Given the long passage of time, including over seven years since the most recent planning application was granted, the Panel considered that the existing agreement must therefore be reviewed to consider what other factors have come into play since then and whether this represents the best option for local residents. In particular, questions over whether alternative options were adequately considered and whether current arrangements are legally compliant have been raised. The Panel also wished to assess whether the Council's responsibilities in respect of the S106 agreement for Wards Corner have been monitored sufficiently and whether any of the parties concerned are, or have been, in breach of obligations under the agreement. The Panel's intention was therefore to consider evidence from a broad range of witnesses and then make recommendations to Cabinet.”

- 6.4 The terms of reference for the Review were:

- a) To better understand the historical context of the proposed redevelopment, to re-examine the development plan and consider any alternative options in order to establish what outcomes would be in the best interests of the local community, represent best value and ensure that the Council is in full compliance with all of its obligations.
- b) To seek clarification and assurance that the Council and its development partners are fully meeting equalities duties and responsibilities in respect of the future development at Wards Corner and any interim arrangements.

- c) To provide the Cabinet with evidence-based recommendations that seek to improve the current day to day management of the market, consider the future development of the market and ensure ongoing improved relations between the Council, the local community, market traders and development partners.
- 6.5 On 23rd January 2019, the Secretary of State for Housing, Communities and Local Government (SoS) made the decision confirming the Wards Corner development CPO.
- 6.6 The HRSP began the review evidence sessions on 6th February 2019 and completed on 9th May 2019. The HRSP also received several written submissions. HRSP took evidence from amongst other, Council Officers, Grainger, Market Traders, Market Operator and TFL.
- 6.6 Following Annual Full Council on 20th May 2019, the membership of the OSC changed and on 3rd June 2019, the membership of HRSP also changed. In order to conclude the Scrutiny Review on Wards Corner it was agreed at the meeting of the OSC on 3rd June 2019 that the Review would be transferred from the workplan of the HRSP to that of the OSC. The conclusion of the review, including the drawing up of recommendations, was then overseen by the OSC in consultation with the previous (2018/19) membership of the HRSP.
- 6.7 The SoS decision on the CPO is the subject of a statutory appeal by the Market Traders in the High Court and is listed for a hearing on the 8th of October 2019.
- 6.8. OSC in consultation with the 2018/19 HRSP members has now prepared the draft review report attached as Appendix 1 which is now before the Committee for approval. A draft of the review findings and recommendations has been shared with Council Officers for comments, in particular, on factual inaccuracies and for exempt items. However, as at the time of preparing this report, the Council's Chief Planner and Assistant Director, Planning, Building Standards and Sustainability, has not had sufficient time to provide comments on the draft review report. There are aspects of the review lines of enquiries and findings that were not put to the Assistant Director when she gave evidence to the HRSP. Otherwise, the Officers' comments (except for the AD Planning) have been considered in finalising the review report. It is important to mention that there have been requests for further comments on the report. However, the same opportunity has not been offered to private third parties who took part in the review and against some of whom adverse findings are proposed to be made. As a result of these matters, Officers are not in a position to recommend to OSC to approve the scrutiny review report attached as Appendix 1.

7. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Legal

- 8.1 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.
- 8.2 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.” The Monitoring Officer also notes that the Chief Planner and AD for Planning has not been able to comment on the draft review report and that there are findings on issues that were not put to the AD when she gave evidence.
- 8.3 If Overview and Scrutiny Committee were minded to approve the review report and its recommendation, 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

8.6 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.

8.7 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.

8.8 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."

8.9 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.

8.10 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 A: Draft report of Wards Corner Review

9. Local Government (Access to Information) Act 1985

Background papers are embedded in the footnotes of the Scrutiny Review