Scrutiny Review – Wards Corner

A Review by the Overview & Scrutiny Committee (2019/20) and the Housing & Regeneration Scrutiny Panel (2018/19)	
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CONTENTS

1. **Chair's Foreword ..... Page 3**
2. **Recommendations ..... Page 7**

BACKGROUND INFORMATION

3. **Historical Context and Background to the Review ..... Page 10**
4. **Terms of Reference ..... Page 13**
5. **Chronology ..... Page 13**
6. **Background to Key Issues ..... Page 17**

EVIDENCE RECEIVED

7. **The Section 106 Agreement ..... Page 27**
8. **Steering Group ..... Page 33**
9. **Market Facilitator Role ..... Page 43**
10. **Enforcement of S106 Agreement ..... Page 48**
11. **Maintenance Issues at Seven Sisters Market ..... Page 56**
12. **Eviction of Housing Association Tenants ..... Page 58**
13. **Distribution of CPO Notices ..... Page 60**
14. **Conservation Issues and Value of Existing Site ..... Page 61**
15. **United Nations interventions ..... Page 68**
16. **Alternative Community Plan ..... Page 69**
17. **Consequences of Withdrawing from the Development Agreement ..... Page 74**

Appendix 1 – Review contributors ..... Page 78

1. Chair's Foreword

Cllr Lucia das Neves
Chair of Overview and Scrutiny

This report is the culmination of many months of work on the part of officers and elected members, drawing on some 36 hours of evidence heard from a range of parties involved in Wards Corner.

The members of the Housing and Regeneration Scrutiny Panel who heard this evidence have been responsible for the drafting of this report. They have found the evidence at times emotionally demanding.

To avoid misunderstanding or the raising of expectations, we should remind the reader and parties concerned that this report does not represent the views of the council, but is instead a set of views created by a group of elected councillors based on the evidence they heard, as are all scrutiny reviews.

We welcome comments and feedback at all times and will discuss any issues raised when the report is received for discussion at our overview and scrutiny committee meeting.

One of the key pillars of scrutiny is giving voice to the community, especially when other avenues have failed. It is also our duty to open up the opportunity for learning. We believe this report provides for both of these.

Cllr Ruth Gordon
Chair Housing and Regeneration Scrutiny Panel 2018-2019.

The issue of how neglected areas of our cities are regenerated has long been a controversial topic in London and indeed in cities across the world. Debate has raged about how to make positive change that meets the objectives of public authorities but protects all that is valued in the existing fabric of the local community.

The decision to review the Seven Sisters development took into account the lengthy and ongoing expressions of public concern, the intervention of the United Nations Special Rapporteur and investigations carried out by TfL into the management of the market. A number of representations were received at scrutiny public consultation exercises and via direct deputation to the Panel. The Panel thought it necessary to consider these issues within their historical context and attempt to recommend actions that would contribute to a positive outcome.

The Housing and Regeneration Scrutiny Panel initiated the review under the framework provided by the Centre for Public Scrutiny guidance. This rests on four principles, namely: providing constructive "critical friend" challenge; amplifying the voices and concerns of the public; being led by independent people and driving improvement in public services. The guidance deems good scrutiny is about ensuring "the publication, proactively, of information relating to services and decisions to allow local people, and others, to hold policy makers and decision-makers to account". It was on the basis of these principles and guidance that the Panel mapped out its rationale for the review and formulated its terms of reference.

Identification of the site for regeneration dates to 2002 and the Panel heard that since that time residents, traders and community groups had campaigned against the plans. The Council's decision to grant planning permission to Grainger was quashed by the Court of Appeal in 2010 on the basis that the Authority had not discharged its duty under section 71 of the Race Relations Act. (This Act was superseded by the Equality Act 2010).

A revised planning application from Grainger received consent from Haringey's Planning Committee in 2012. This enshrined safeguards in relation to equalities obligations to ensure the continuation of what had become known as the Latin Market. These safeguards made provision for a Community Engagement Strategy which included diversity monitoring and the appointment of a Market Facilitator to "work with traders and market employees, promote their interests, and give support and advice". Panel members viewed this set of obligations as innovative and should have been the means by which community cohesion was improved. The task of reviewing the regeneration scheme needed to include an examination of the checks and balances provided for by the S106 and the related statutory

protections of the Authority's Public Sector Equalities Duties. The Panel also needed to consider whether the associated monitoring and implementation had been robust.

The Panel noted that the Market Facilitator, Quarterbridge, was appointed by Grainger in May 2016. Market Asset Management (MAM) had been leasing the market from TfL since September 2015 and had responsibility for overall management of the market and issuing licences to stall holders and so had a commercial relationship with the traders. The Market Facilitator role on the other hand was to advocate on behalf of the traders. The ownership of both of these companies rests in the same hands and both roles were undertaken by the same person. This represented a conflict of interest which ended when Quarterbridge stepped down as Facilitator in November 2018.

The Panel noted that the breakdown of relations between traders and the Market Operator/Facilitator was apparent from October 2016. This was expressed at the first of 21 meetings of the Market Steering Group which were attended by an officer of the Council. The Panel was concerned that traders' complaints were not acted upon in a timely manner by the Council and signaled to the planning authority that the S106 obligations may be in danger of being breached.

The Panel noted that the Inspector during the CPO Public Inquiry (in July 2017) made the assumption that the S106 was operative. The Panel found that the Council's Legal Services officers were working under the assumption up until September 2018 that the S106 obligations relating to the Market Facilitator were not operative or enforceable. The Council's Deputy Monitoring Officer changed the legal position in March 2019 to state that the obligations relating to the Market Facilitator in the S106 were "now" operative.

The Panel concluded that shortcomings were apparent and that having achieved agreement on a comprehensive S106 the Council had fallen short in ensuring that the letter and spirit of the S106 was carried out.

When the review process began the Council had a Development Agreement in place with Grainger plc and he Council had approved the use of its compulsory purchase powers to facilitate site assembly. At the time of starting the scrutiny review the Secretary of State's confirmation of the CPO following the Public Inquiry had not been received. This was to happen during the course of the review and CPO notices were issued to interested parties at the market in a way that caused concern to the panel members.

The rationale underpinning the Scrutiny Review also included consideration of the competing aspirations for the site between the developer's plans and a community coalition that had submitted a rival planning application. The Panel has made recommendations that

suggest alternative ways forward and hopes that the Executive can energetically pursue a solution that will lead to the satisfaction of all stakeholders.

The Seven Sisters development site lies at the south-eastern gateway into Tottenham and Panel members believe that the Latin market should be seen by Haringey Council as a valuable asset to the borough's cultural heritage. It was the view of the Panel that the aspirations within the Council's Borough Plan allows for policy that builds on the cultural hub already in existence and that through close collaboration with the traders, local residents and the Latin American community it would be possible to promote and enhance a Latin Quarter in Tottenham. In the opinion of the Panel, regeneration in South Tottenham should be viewed through the prism of this cultural heartland to ensure that the development is sympathetic to and builds from this starting point.

The Panel wishes to express its appreciation to all the witnesses who provided evidence. The Panel's thanks extends to the organisations who agreed to take part including Grainger plc, Market Asset Management, TfL, Tottenham Civic Society, Save Britain's Heritage, academics from the University of Leeds and Brunel Law School and the Wards Corner Community Coalition as well as Cabinet members and senior council officers. In particular, the Panel wishes to express its sincere gratitude to those witnesses who came from the local community, former residents from the site and the traders, all of whom articulated their concerns with clarity. Panel members were made aware of the distress and anxiety that is caused when a section of the community feels it has not been listened to and hopes that the review process has lived up to the aspirations expressed in the statutory guidance that provides for the voice of the public to be amplified.

Last but by no means least, I would like to express my sincere and heartfelt thanks to all the members of the Panel who have offered insightful and reflective contributions throughout the process. I am confident that the report represents the collective opinion of the Panel. I am particularly grateful for the encouragement and support I have personally received throughout the course of leading this review. I would also like to express my grateful thanks to the Scrutiny officer, Dominic O'Brien, who has worked tirelessly not only to facilitate meetings but to accommodate endless questions and requests for calls on his time. The Panel hopes that the Cabinet will now consider the report's findings carefully and respond positively to its recommendations.

2. Recommendations

Steering Group	
1	The Council should negotiate with its development partner Grainger to revise the terms of reference for the Market Traders Steering Group to cover the following: • Democratic elections of trader representatives. • Appointment of Independent Chair [acceptable to the trader representatives]. • Role of the Council's Town Centre manager to be clearly defined. • Regularised reporting arrangements between the Steering Group and the Council to allow any relevant issues where the Council has a regulatory role to be communicated promptly to appropriate departments and service areas. • The agenda items, minutes and actions arising from meetings of the steering group to be shared with senior managers at the Council.
2	The Standards Committee to review Part Four (Rules of Procedure), Section G (Overview & Scrutiny Procedure Rules), and the section under which officers are expected to provide evidence in Scrutiny Reviews. The presumption should be that officers should be expected to provide evidence to Scrutiny Reviews unless there are strong reasons for refusal. In reviewing this section, the opinion of the trade unions should be sought to ensure the protection of staff at all levels of the organisation.
Market facilitator role	
3	The Council should ensure that the ongoing investigation into the compliance with the section 106 obligations should include the following: • How the conflict of interest between the market facilitator role and market operator role, when they were the same person, could not have been recognised earlier. • What due diligence had been undertaken in the appointment of the Market Facilitator. • What checks and balances were in place to ensure that the Market Facilitator is acting fairly, independently and in the interests of the traders as outlined in the S106 conditions. • When the S106 obligations commenced and what the causal factors were in their becoming operational. • To identify any procedural failings in the prescribed six-monthly reporting arrangements for the section 106 agreement and take action if the report back obligation is incomplete. • To publicly clarify the position on the section 106 agreement, given the Panel heard evidence suggesting there had been a breach.

	• How a failure to monitor the S106 agreement occurred and could continue for so long while breaches of the S106 agreement were repeatedly reported. • How failure to monitor the S106 agreement had an impact on the council's public sector equalities obligations. • The investigation should analyse the impact of this, what remedies may be available and establish measures to ensure that there is no repetition in future. The conclusions should be submitted to the Secretary of State for Housing, Communities and Local Government.
4	Any replacement market facilitator should be genuinely independent and hold the confidence of all parties. The Council, should request Grainger to appoint an independent, qualified market facilitator. This needs to be done in full consultation with the traders. It is essential that adequate due diligence is carried out ahead of any appointment.
Section 106 Agreement	
5	The Council Planning department should carry out a review of how all S106 conditions are monitored and enforced. In particular, with regard to people who share protected characteristics under S149 of the Equality Act. The public needs to be confident that the monitoring and enforcement of such conditions are rigorous, robust, and pursued in the interests of residents and that these procedures are transparent.
6	The Council should take the necessary steps to assure itself that in monitoring, reviewing and enforcing its Section 106 planning obligations, it pays due regard to its Public Sector Equality Duty. The cabinet should further ensure that these steps are taken within a reasonable period of time.
7	The Panel noted that there could be a perception of a conflict of interest between the Planning and Regeneration departments and recommends providing a separation of the two services in order to provide for clearer understanding.
Market maintenance	
8	The Council, in its regulatory health and safety role should work with TfL, Grainger and any other stakeholders to draw up a plan of action to address all outstanding and ongoing maintenance work at Seven Sisters Market in order to secure a working environment which complies with all regulations.
Evictions	
9	In light of the disturbing allegations the Panel heard in the evidence sessions from former housing association residents, we recommend that the council explore the lessons that could be learned from working with housing associations to rehouse vulnerable residents.

United Nations interventions	
10	The Panel strongly recommends that the Cabinet make a public statement in response to the Special Procedure reports from the UN, covering all the issues raised, in relation to Wards Corner.
Future options for the Wards Corner site	
11	In light of the change in emphasis towards the provision of social housing, at both local and regional levels, the Panel recommends that the Council should explore the feasibility and cost benefits of all approaches for a full or partial buy-out of interests at the Seven Sisters market and whole site
12	The Council should set up a task force to work with West Green Road/Seven Sisters Development Trust, Save Latin Village and Wards Corner CIC & relevant community groups to develop their ideas for a partnership and a plan. This will encompass all the obligations of the Council's Public Sector Equality Duty consider establishment of social housing on the site and explore the feasibility and desirability of retention of the heritage characteristics of the existing buildings.
13	If the above recommendation is not accepted, the taskforce should work with Grainger and relevant community groups such as West Green Road/Seven Sisters Development Trust, Save Latin Village and Wards Corner CIC to develop their ideas, and co-ordinate any combined solution. Any such solution should meet the obligations of the S106, take account of the many changing economic and political circumstances since 2012, include a social/affordable housing element and embrace the aspirations of the wider community in relation to the cultural heritage of the built environment.
14	The Regeneration department should ascertain and publish details on the amount of public money, including grants, which have been allocated to this development. This report should include reasons funds were allocated, the source and purpose of the funding and establish the amounts spent, what it was spent on, and how much remains.

BACKGROUND INFORMATION

3. Historical Context and Background to the Review

3.1 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)[1] 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, but the majority of traders spoken to have said that this will be disruptive and that they will be unable to afford higher levels of rent in the new development. There were seven traders spoken to in favour of the development but that have still expressed concerns about the maintenance issues at the market. Local campaigners, including the Wards Corner Community Coalition (WCCC), local businesses and many local residents have been opposing the redevelopment for some years. Formal objections to the proposed Wards Corner CPO were considered at the Public Inquiry in July 2017.

3.2 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. In April 2019, a claim was lodged in the High Court bringing a case for a Statutory Review of the Secretary of State's decision to confirm the CPO. The case was dismissed in the High Court in October 2019.

[1] The Tottenham AAP was adopted in July 2017. Prior to this, the Wards Corner site was subject to different planning policies.

3.3 At its meeting on 19th November 2018, the Overview and Scrutiny Committee agreed the scoping document for a Review of the Wards Corner regeneration proposals by the Housing and Regeneration Scrutiny Panel[2].

3.4 The rationale for the Review that was included in the scoping document said 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."[3]

Methodology

3.5 The Housing and Regeneration Scrutiny Panel began the Review by organising a site visit to Seven Sisters Market which was facilitated by one of the market traders and a prominent campaigner against the redevelopment of the site. This took place on 3rd December 2018 with all seven members of the Panel in attendance. Panel Members visited many of the units at the market, speaking to the market traders about their issues and concerns.

3.6 A number of oral evidence sessions were then organised to enable a wide range of stakeholders to speak directly to the Panel. A total of thirteen sessions were held between 6th February 2019 and 9th May 2019. A full list of witnesses who attended

[2] Item 29, Overview & Scrutiny Committee, 19th Nov 2018
http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=128&MId=8679&Ver=4
[3] Scrutiny Review on the Wards Corner regeneration – Draft Scope and Terms of Reference (2018/19)
http://www.minutes.haringey.gov.uk/documents/s105008/HR%20-%20project%20scoping%20draft.pdf

evidence sessions are provided in this report as **Appendix 1**. The Panel also received several written submissions.

Panel Membership

3.7 The membership of the Overview & Scrutiny Committee was changed following a meeting of Annual Full Council on 20th May 2019[4]. Membership of the four scrutiny Panels, including that of the Housing & Regeneration Scrutiny Panel, were then changed following a meeting of the Overview & Scrutiny Committee on 3rd June 2019[5].

3.8 In order to conclude the Scrutiny Review on Wards Corner it was agreed, at the meeting of the Overview & Scrutiny Committee on 3rd June 2019, that the Review would be transferred from the workplan of the Housing & Regeneration Scrutiny Panel to that of the Overview & Scrutiny Committee.[6] The conclusion of the review, including the drawing up of recommendations, was then overseen by the Overview & Scrutiny Committee in consultation with the previous (2018/19) membership of the Housing & Regeneration Scrutiny Panel. The OSC was of the view that the report should be led by the evidence and those that heard it on the original Panel.

3.9 The membership of the Housing & Regeneration Scrutiny Panel that conducted the site visit in December 2018 and oversaw all evidence sessions between February 2019 and May 2019 was:

- Cllr Ruth Gordon (Chair)
- Cllr Dawn Barnes
- Cllr Isidoros Diakides
- Cllr Bob Hare
- Cllr Yvonne Say
- Cllr Daniel Stone
- Cllr Sarah Williams

3.10 The membership of the Overview & Scrutiny Committee for 2019/20 that oversaw the completion of the Review from June 2019 onwards was[7]:

- Cllr Lucia das Neves (Chair)
- Cllr Pippa Connor

[4] Item 11, Annual Full Council, 20th May 2019 http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=143&MId=9145&Ver=4
[5] Item 20, Overview & Scrutiny Committee, 3rd June 2019
http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=128&MId=9102&Ver=4
[6] Item 27, Overview & Scrutiny Committee, 3rd June 2019
http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=128&MId=9102&Ver=4
[7] Cllr Khaled Moyeed is also a member of the Overview & Scrutiny Committee but recused himself from all meetings relating to Wards Corner having declared an interest. See item 4 of the minutes of the Housing & Regeneration Scrutiny Panel meeting on 10th June 2019 for more details: http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=754&MId=9119&Ver=4

- Cllr Erdal Dogan
- Cllr Adam Jogee
- Mark Chapman (Co-opted member)
- Luci Davin (Co-opted member)
- Yvonne Denny (Co-opted member)

4. Terms of reference

4.1 The terms of reference for the Review were:

1) 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.
2) 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.
3) 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.

5. Chronology

5.1 The timeline of the key events relating to this Scrutiny Review are provided below. More detailed timelines on specific issues are provided elsewhere in the report where necessary.

Key events timeline

Date	Event
2002	The site is identified for mixed-use regeneration through the Tottenham High Road Regeneration Strategy and becomes a key site being progressed by the former Bridge New Deal for Communities initiative.
July 2004	The Bridge New Deal for Communities and the Council selected Grainger plc as a development partner to bring forward proposals for the redevelopment of the Wards Corner Site.
Feb 2007	Grainger plc formed a Special Purpose Vehicle company to deliver the Wards Corner redevelopment known as Grainger Seven Sisters Limited (Grainger SSL).

Aug 2007	Grainger SSL enter into a Development Agreement with the Council.
Dec 2008	Grainger SSL is granted planning permission for the redevelopment.
June 2010	The decision to grant planning permission is quashed by the Court of Appeal on the basis that the Planning Committee had not fully discharged its duty under section 71 of the Race Relations Act 1976.
August 2011	Following the Court of Appeal's decision, the application for planning permission was redetermined by the Council's planning committee and it was refused.
July 2012	Grainger SSL is granted planning permission for the redevelopment with a revised version of the application. This was subject to a judicial review.
July 2012	Section 106 agreement is signed.
Oct 2012	Haringey Council announces the appointment of Quarterbridge Project Management to design the new market and to help traders move to the Temporary Market.
August 2013	Following the judicial review, the High Court ruled out any further appeal of the planning decision.
April 2014	Planning permission is granted to the Wards Corner Community Coalition (WCCC) for its alternative Community Plan which related to the former Wards Corner department store building only.
Jan 2015	The Development Agreement is varied through a Supplemental Agreement. A separate CPO Indemnity Agreement is also entered into.
Sep 2015	Market Asset Management (Seven Sisters) is assigned the lease for Seven Sisters Market.
Nov 2015	The Council's Cabinet approved the use of its CPO powers to acquire the property interests required to facilitate the delivery of the development.
May 2016	Quarterbridge Project Management Ltd is appointed by Grainger to the role of Market Facilitator.
Sep 2016	The Council makes the Compulsory Purchase Order (CPO) to acquire the land required for the redevelopment scheme.
Oct 2016	First meeting of the Seven Sisters Market Traders Steering Group takes place.
April 2017	TfL publishes the report of its first investigation into Market Asset Management's (MAM) role as market operator.
April 2017	Planning permission for the WCCC's alternative Community Plan expires.
July 2017	Public Inquiry on the CPO is held.
July 2017	Deed of Variation to the existing S106 agreement is completed.
July 2017	Letter sent from Special Rapporteurs of the United Nations Human Rights

	Committee to HM Government and to Grainger.
Aug 2018	Bindmans LLP writes to Haringey Council to request an assessment of Grainger's compliance with its S106 obligations.
Sep 2018	Haringey Council responds to Bindmans LLP to say that most S106 obligations are not yet active.
Oct 2018	TfL publishes the report of its second investigation into MAM's role as market operator. Letter sent to TfL from the Cabinet Member for Strategic Regeneration on behalf of the council, in response to traders concerns and to ask for more information and an independent investigation. TfL provided the council with a copy of its second SSM investigation report. The investigation report in October 2018 concluded that there was no evidence that MAM's action had been unfair or in breach of any contractual relationships that were in place with the traders. In recognition of the need to improve relations, MAM recruited additional staff of Latin American origin with whom the traders could better communicate in their first language.
Nov 2018	On the 19th of November 2018 there was a meeting held between Grainger, the Council, TfL and the GLA where the Council agreed the following actions with Grainger: • appointment of a new independent market facilitator to replace Quarterbridge, • appointment of Spanish speaking mediator, maintaining a Spanish translator on the steering group, • working with the MAM to increase the frequency of the all traders meeting to progress health and safety issues and repairs that are most important to traders so that these issues can be separated from and enable the future of the market discussions to take place at the Steering group. Quarterbridge Project Management Ltd resigns from the role of Market Facilitator.
Dec 2018	A number of traders resign from the Steering Group. Grainger announces its intention to replace the market facilitator.
Jan 2019	The Secretary of State for Communities and Local Government confirms the approval of the CPO.
Feb 2019	The Head of Area Regeneration and Assistant Director of Regeneration met with Grainger - purpose of the meeting was to re-iterate /discuss the importance of the appointment of an independent Market Facilitator, Independent mediator and the need to hold regular management meetings.

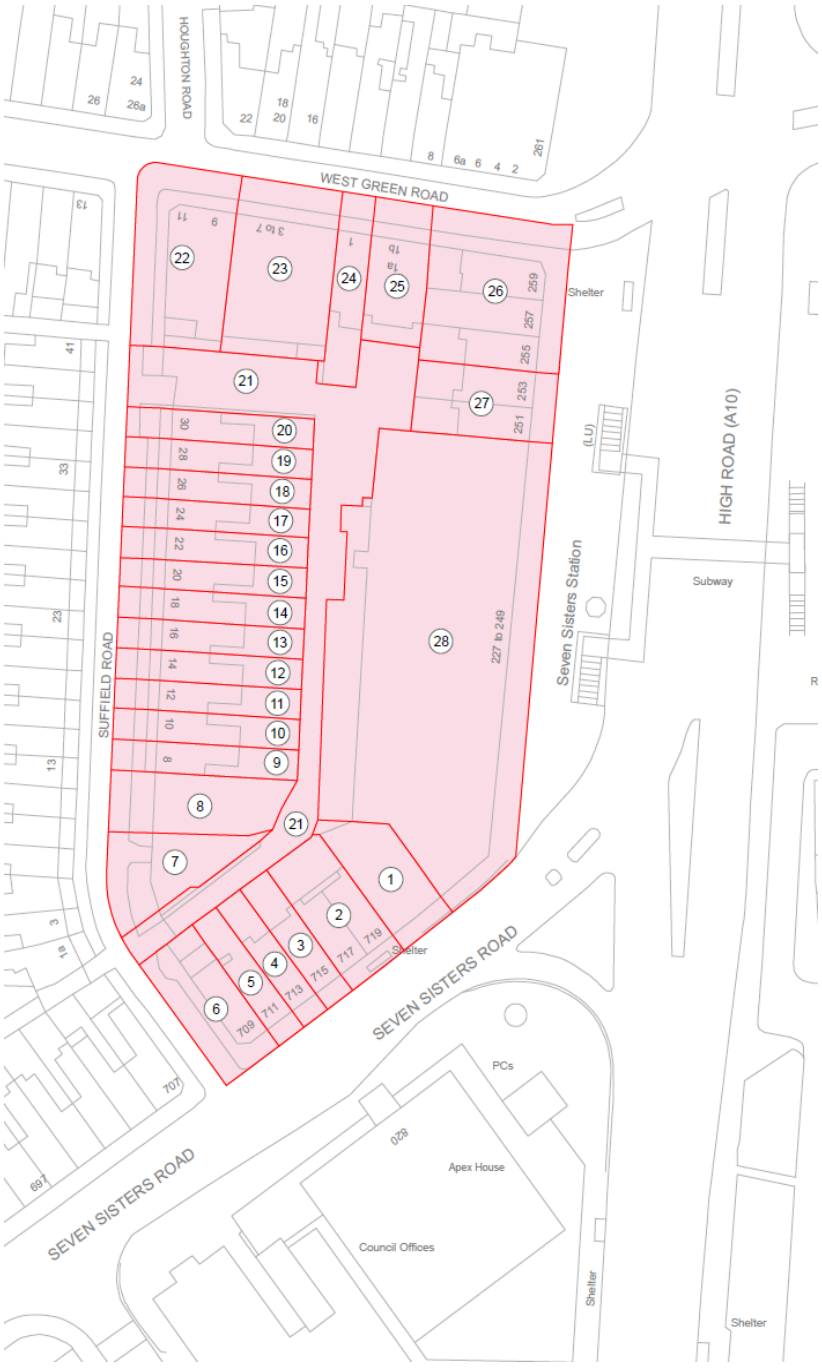
	All trader meeting held on operational and management issues.
Mar 2019	Haringey Council writes to Bindmans LLP to acknowledge that the obligations at paragraph 2.1 of schedule 3 of the deed of variation in relation to the section 106 agreement are active. Grainger organised two sessions to visit the temporary market at Apex House.
Apr 2019	Notice is given of a legal challenge by way of a Statutory Review of the Secretary of State's decision to confirm the CPO.
May 2019	Planning Department of Haringey Council opens investigation into the way that the S106 agreement was applied.

6. Background to Key Issues

<u>The site</u>

6.1 The site is a portion of land with a size of around 0.65 hectares comprising of 227-259 High Road, 709-723 Seven Sisters Road, 1a-11 West Green Road and 8-30 Suffield Road. It is situated in Tottenham Green ward and is next to Seven Sisters underground station.

FIGURE A: Site map



1 – 721-723 Seven Sisters Road (DEMOLISHED)
2 – 717-719 Seven Sisters Road (retail)
3 - 715 Seven Sisters Road (retail)
4 - 713 Seven Sisters Road (retail)
5 - 711 Seven Sisters Road (retail)
6 - 709 Seven Sisters (retail)
7 – 2 & 2a Suffield Road (DEMOLISHED)
8 – 4-6 Suffield Road (DEMOLISHED)
9 – 8 Suffield Road (residential)
10 – 10 Suffield Road (residential)
11 – 12 Suffield Road (residential)
12 – 14 Suffield Road (residential)
13 – 16 Suffield Road (residential)
14 – 18 Suffield Road (residential)
15 – 20 Suffield Road (residential)
16 – 22 Suffield Road (residential)
17 – 24 Suffield Road (residential)
18 – 26 Suffield Road (residential)
19 – 28 Suffield Road (residential)
20 – 30 Suffield Road (residential)
21 – Parking area
22 – 9-11 West Green Road (retail)
23 – 3-7 West Green Road (retail)
24 – 1 West Green Road (retail)
25 - 1a-1b West Green Road (retail)
26 – 255-259 High Road
27 – 251-253 High Road (DEMOLISHED)
28 – 227-249 High Road (Seven Sisters Market and Wards Corner building)

6.2 The block of buildings that form the site face out onto the four roads that surround it:

- To the east is the main High Road frontage directly opposite the entrances to Seven Sisters underground station. The main section is 227-249 High Road represented by plot 28 on the map which was previously the Wards Department Store. At the south of this plot is a disused three-storey corner building (See PICTURE 1). The main section of the plot, which runs from 231-243 High Road, is the Seven Sisters Market main premises with retail units facing onto the road and several entrances to the indoor market behind these. At the north of the plot are more terraced properties at 245-249 High Road with retail units on the ground floor. Most of the upper floors of plot 28 are vacant. Other buildings on this side of the site have been demolished (plot 27) leaving an empty space and there are other terraced buildings (plot 26) which comprise of retail units on the ground floor and a mix of retail, residential and other uses on the upper floors.
- To the north the terraced buildings on West Green Road (plots 22 to 25) comprise of retail units on the ground floor and a mix of retail, residential and other uses on the upper floors.
- To the west the terraced buildings on Suffield Road (plots 9 to 20) are residential properties. Entrances to the parking area (plot 21) are also accessible from here. Some buildings have been demolished (plots 7 and 8) with the space now used mainly for parking.
- To the south the terraced buildings on Seven Sisters Road (plots 2 to 6) comprise of retail units on the ground floor and a mix of retail, residential and other uses on the upper floors. Some buildings have been demolished (plot 1) leaving an empty space.
- On the opposite site of Seven Sisters Road is Apex House, the newly developed building which has the ground floor earmarked for use as the temporary market site.

PICTURE 1: The vacant three-storey Corner building

6.3 As can be seen from the site ownership map below **(FIGURE B)**, as of August 2018, Grainger plc had already acquired the freehold for a large proportion of the site with most of the rest owned by the London Borough of Haringey and London Underground Limited (LUL).

6.4 A representative of Grainger PLC confirmed to the Panel that, the company has binding legal agreements in place to acquire the freehold interests held by Haringey Council and LUL, and only 5% of the freehold interests (three terraced houses on Suffield Road) are outside of their control. In addition to this there are six leaseholds interests located within properties where Grainger owns the freehold. The CPO powers are required for Grainger to acquire these three freehold interests and six leasehold interests.

FIGURE B: Site Ownership map (as of August 2018)

Wards Corner site - Past, current and future uses of buildings

6.5 Though the site as a whole includes a number of retail and residential properties facing onto all four of the roads surrounding it, the focus of much of the debate over the proposed redevelopment has been over the future of the former Ward's Department Store buildings which runs from 227 to 249 High Road (Plot 28 on **FIGURE A**). This comprises of the row of former terraced housing which makes up

the main frontage of this section of the High Road and the three-storey building on the corner of the High Road and Seven Sisters Road (227 High Road and 275 Seven Sisters Road). According to the Wards Corner Community Coalition (WCCC) the original residential brick terraces were built in around 1885 while the three-storey corner building was added in the early 1900s.

6.6 The Ward's Department Store closed down in 1972 and the corner building has remained derelict ever since. However, the ground floor of the other part of the site, comprising of 231-243 and 249a High Road, has been occupied and operational as Seven Sisters Market since the 1980s.

6.7 The freehold to the Wards Corner buildings is owned by LUL, as they acquired it as part of the construction of the Victoria Line, and is managed by Transport for London. Large sections of transport infrastructure, including parts of the ticket office and concourse of Seven Sisters underground station along with parts of the platforms and tunnels themselves are situated directly beneath the Wards Corner site. The main entrances to the station itself is via two stairways located on the High Road directly in front of the entrances to Seven Sisters Market. There is also a further entrance to the station accessed from Seven Sisters Road.

6.8 The buildings now used as the Market were originally leased by LUL in 1984 at which point, according to TfL, it was a *"derelict structural shell without any service supplies, shopfronts or internal fixtures"*.[8] The Market was then developed and established. Jill Oakley held the lease from October 2005 until September 2015 when she sold it, by way of assignment, to Market Asset Management Seven Sisters Ltd (MAM). MAM now owns the title to all the existing trader licences and also to the Tenant improvements including service intakes, sub-mains distribution, heating and ventilation, lighting and fire alarms, etc. TfL says that, as of October 2018, the Market building is understood to comprise of 61 single-storey lock-up kiosks (though many of these have been combined to form larger units) which are let by MAM to 38 traders. The Council is not party to the contractual arrangement between LUL and MAM and the Market Traders.

6.9 TfL provided the Panel with a timeline of the leasing history of the Market buildings. MAM became leaseholder in September 2015.

6.10 The Wards Corner site was originally identified for mixed-use regeneration through the Tottenham High Road Regeneration Strategy in 2002. It then became one of the key sites being progressed by the former Bridge New Deal for Communities which was, at the time, a multi-agency regeneration partnership programme focused on

[8] p.1, TfL's second investigation report into Seven Sisters Market (Oct 2018)

the South Tottenham and Seven Sisters area. Haringey Council selected Grainger plc as the preferred development partner for the regeneration project in 2004 and Grainger then proceeded to start the process of acquiring the land within the site.

6.11 The Development Agreement between Haringey Council and Grainger for the redevelopment of the site was formally entered into in August 2007. Planning permission was granted to Grainger in December 2008 but, following a legal challenge, this was later quashed by the Court of Appeal on the grounds that the Planning Committee had not fully discharged its duty under section 71 of the Race Relations Act 1976.

6.12 Planning permission for a revised scheme was granted in July 2012. This was also subject to a legal challenge but was rejected by the Court of Appeal in August 2013. At an evidence session of the Panel, a representative of Grainger described the main benefits of the regeneration scheme as being:

- 196 new homes that he described as being "homes available to rent at sensible prices", typically on long leases of three to five years. Under current market conditions this would mean rent levels would be approximately £1,300 per month for a 1-bedroom flat and £1,800 per month for a 2-bedroom flat. This equates to around 40% of the average salary of the target market.
- 40,000 sq. ft. of retail space including a new space for Seven Sisters market, six retail spaces for local independent retailers on West Green Road and some retail spaces on the High Road intended for High Street chains.[9]

6.13 The maximum height of the new development would be the equivalent of 8 storeys on the High Road and Seven Sisters Road, 7 storeys on West Green Road and 5 storeys on Suffield Road. The proposed height is lower in the central part of the High Road section as it is necessary to reduce the loading on top of the underground station infrastructure below.

PICTURE 2: Impression of completed regeneration of site

[9] Oral Evidence given by Senior Development Manager, Grainger to a session of the Housing & Regeneration Scrutiny Panel, 27th March 2019

The Section 106 Agreement

6.14 A Section 106 (S106) agreement was entered into between Haringey Council and Grainger in July 2012. This imposed various requirements on the developer including:

- for existing traders to be offered a lease or licence in the new market and for a temporary market to be established to accommodate the traders while the new market is being constructed
- for a Market Facilitator to be appointed to work with traders, promote their interests, and give support and advice
- to implement a Community Engagement Strategy, including diversity monitoring

6.15 A range of new provisions were then added to the S106 through a Deed of Variation in July 2017 including:

- that the temporary market be located at Apex House
- free relocation for the traders to the temporary and new markets (including removal costs, expenses and fit-out costs)
- three months of free rent for traders at the temporary market and a 30% reduction on licence fees for the first 18 months at the new market
- that Grainger ensures that the move to the temporary market is advertised to raise awareness

6.16 The terms of the S106 agreement specify that all those trading in the market at the time when Grainger serves notice on Haringey Council that the market will be closed

(which will be at least 6 months in advance), and have been trading continuously for the 3 months preceding the notice being served, would qualify for the move to the temporary market and the new market.

6.17 The requirement in the S106 agreement for a Market Facilitator led to the appointment of Quarterbridge Project Management Ltd to this role by Grainger in May 2016. A Director of Quarterbridge, also became a Director of Market Asset Management (Seven Sisters) Ltd which has been the Market Operator since September 2015. The Director of Quarterbridge Project Management informed the Panel that the company is *"an entirely independent professional consultancy and advisor to many Market authorities"* and that Market Asset Management (Seven Sisters) Ltd is *"the owner of the business known as 'Seven Sisters Market'" which "manages the business through on-site staff acting in accordance with industry best practice."* The Panel acknowledges the distinction between the two companies and the description of these companies functions as set out above but also believes that it is important to note that the two companies share Directors. For the avoidance of doubt, this report refers throughout to the role played by the Director of Quarterbridge Project Management Ltd as that of "market facilitator", and to the role played by the Director of Market Asset Management (Seven Sisters) Ltd as that of "market operator" as these were their main functions as commonly understood by the range of witnesses that gave evidence to the Panel.

6.18 The S106 agreement required Grainger to produce a Community Engagement Strategy which was published in February 2016. Grainger included an initiative within the strategy to start a new Steering Group as a mechanism for dialogue between the market traders, Grainger and Quarterbridge/MAM. The Steering Group was later established with its inaugural meeting taking place in October 2016. A total of 21 meetings of the Steering Group took place between October 2016 and December 2018.

<u>Apex House – Temporary Market site</u>

6.19 The location for the temporary market was identified as the lower floors of Apex House, a former Council office building recently purchased by Grainger on the other side of Seven Sisters Road from the existing market. The building was demolished and a new mixed use development is being constructed with 222 housing units and commercial space on the lower floors. The Panel understands that the temporary market space in Apex House would be ready for traders to move into by the summer of 2020 and that traders would then occupy the temporary market for around two and a half years before being moved to the new market on the redeveloped Wards Corner site.

Compulsory Purchase Order (CPO)

6.20 In November 2015, Haringey Council's Cabinet agreed to make a Compulsory Purchase Order (CPO) to assist in assembling the land needed to implement the Wards Corner development for the properties that Grainger had been unable to acquire by private agreement. In September 2016, the CPO order was made and submitted to the Secretary of State for Communities and Local Government. An extended period for the receipt of objections to the CPO was held until 28th October 2016 and a total of 164 objections were received.

6.21 An inquiry on the CPO Order was then held by the Planning Inspectorate which opened on 11th July 2017 and concluded on 27th July 2017. The inquiry was overseen by planning inspector John Felgate who reported his conclusions to the Secretary of State for Communities and Local Government in January 2018[10].

6.22 The Panel notes that within the Planning Inspectors report, key areas were highlighted."[11] The positive factors cited included that the proposed scheme would *"positively advance the area's economic, social and environmental well-being"* and would *"act as a catalyst for renewal elsewhere around Seven Sisters and in adjoining area throughout South Tottenham"*[12] which is needed in the public interest.

6.23 However, the report also concluded that *"the remaining residential occupiers at up to 14 properties within the Order site would lose their homes, and thus suffer a serious interference with their rights under Article 8 [of the Human Rights Act] to respect for private and family life"* and that the acquisition of the freehold and leasehold interest would be *"an interference with those owners' Article 1 rights to the peaceful enjoyment of their possessions"*.[13]

6.24 The Market Traders were not judged to suffer any interference with their rights under Article 8, mainly because in terms of their private and family lives, the social interactions that occur at their place of work are likely to be secondary to those that take place at home.[14] They were not judged to have their Article 1 rights interfered

[10] CPO Report to the Secretary of State for Communities and Local Government, The Planning Inspectorate (Jan 2018) https://www.haringey.gov.uk/sites/haringeygovuk/files/inspectors_report_wards_corner_cpo_redacted.pdf
[11] p.66, paragraph 381, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)
[12] p.65, paragraphs 376-377, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)
[13] p.65, paragraphs 376-377, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)
[14] p.61, paragraphs 352, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)

with as their licences are terminable at short notice and that the CPO does not seek the power to acquire any licences because no such power is necessary.[15]

6.25 The report also addressed the issue of minority rights under international law, specifically Article 27 of the International Covenant on Civil and Political Rights which covers the right for ethnic and other minority groups to practice their own culture, language and religion. It concluded that if the existing market is able to perform a role as a social and cultural hub, there seems to be no reason why the same role could not also be played by the new one. The loss of one particular venue cannot be equated with a general prohibition of culture and traditions.[16]

6.26 Overall the report concluded that, taking all factors into account, *"whilst any infringement of human rights is a matter for regret, in this case the public benefits accruing from the Order scheme are substantial enough to outweigh the loss of private rights. As such, the infringement would be proportionate to the public benefits, and thus would be justified. I conclude that a compelling case for the confirmation of the Order, in the public interest, has been demonstrated."*[17]

6.27 While the CPO inquiry was held in July 2017, the Secretary of State for Housing, Communities and Local Government did not confirm the CPO[18] until 23 Jan 2019. An appeal period ran for six weeks from 27th February 2019 to 10th April 2019 during which time a legal challenge was made by way of a Statutory Review of the Secretary of State's decision in the High Court. The CPO will not be implemented until the courts have made a decision on this.

Market traders' complaints

6.28 Many of the market traders and other members of the local community have been campaigning to express their concerns not just about the plans for the redevelopment of the market but also regarding a range of complaints about the alleged conduct of the market facilitator/market operator. In their evidence they shared these complaints and have also included issues concerning unfair increases in utilities charges, problems with maintenance of the communal areas of the current market and the ineffective nature of the Steering Group.

[15] p.62, paragraphs 355, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)
[16] p.64, paragraphs 370-371, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)
[17] p.66, paragraphs 381-382, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)
[18] CPO decision letter (MHCLG, 23rd Jan 2019) https://www.haringey.gov.uk/sites/haringeygovuk/files/190123_decision_letter.pdf

EVIDENCE RECEIVED

7. The Section 106 Agreement

Original planning permission (2008)

7.1 Planning permission for the Wards Corner redevelopment was originally granted in December 2008. However, this was later quashed following an application for a judicial review of Haringey Council's decision. The application was made by Janet Harris, a local resident and community activist who was involved with the establishment of the Tottenham Civic Society.

7.2 The application for judicial review was initially considered by a Deputy High Court Judge in July 2009 who rejected the application. However, following an appeal, the Court of Appeal reversed the Deputy High Court Judge's decision and quashed the planning permission in May 2010 on the grounds that the Planning Committee had not fully discharged its duty under section 71 of the Race Relations Act 1976.

7.3 Section 71 of the Race Relations Act 1976 states:

Without prejudice to their obligation to comply with any other provision of this Act, it shall be the duty of every local authority to make appropriate arrangements with a view to securing that their various functions are carried out with due regard to the need—

- to eliminate unlawful racial discrimination; and
- to promote equality of opportunity, and good relations, between persons of different racial groups.[19]

7.4 Section 71 of the Race Relations Act 1976 was subsequently replaced by Section 149 of the Equality Act 2010, subsection 1 of which states:

A public authority must, in the exercise of its functions, have due regard to the need to—

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.[20]

[19] Race Relations Act 1976, Section 71 http://www.legislation.gov.uk/ukpga/1976/74/enacted
[20] Equality Act 2010, Section 149 http://www.legislation.gov.uk/ukpga/2010/15/section/149

7.5 The decision of the Court of Appeal in May 2010, given by Lord Justice Pill, included the following conclusions:

"I am satisfied that, on the material before the council, there was sufficient potential impact on equality of opportunity between persons of different racial groups, and on good relations between such groups, to require that the impact of the decision on those aspects of social and economic life be considered …

I have come to the conclusion that the section 71(1) duty was not discharged by the council when granting this planning permission … The council policies to which reference has been made may be admirable in terms of proposing assistance for ethnic minority communities, and it can be assumed that they are, but they do not address specifically the requirements imposed upon the council by section 71(1)."

Not only is there no reference to section 71 in the report to committee, or in the deliberations of the committee, but the required 'due regard' for the need to "promote equality of opportunity and good relations between persons of different racial groups" is not demonstrated in the decision making process."[21]

7.6 The Panel heard that the Harris v LBH (2010) case precipitated the inclusion of S106 conditions on the developer Grainger when the revised application for planning permission was made and granted in 2012. These conditions were designed specifically to meet the requirements of the Equality Act 2010 and their inclusion ensured that the Planning Committee at that time was able to assent to the application. The Panel understands that several equality impact assessments had been commissioned by both Grainger and the Council at the time.

<u>Planning permission for revised scheme (2012)</u>

7.7 On 25th June 2012, Haringey Council's Planning Sub Committee resolved to grant planning permission for a revised Wards Corner planning application subject to a number of conditions including a Section 106 agreement. The S106 agreement, which was subsequently entered into by Haringey Council and Grainger on 11th July 2012 specified the following provisions[22]:

- the developer to use reasonable endeavours to enter into a lease with a market operator, for the provision of the new market;
- a right for existing traders to be offered a lease or licence in the new market;
- consultation with the traders over the new market's layout;

[21] The full judgement can be found at: http://www.bailii.org/ew/cases/EWCA/Civ/2010/703.html

[22] This is a summary of the main provisions as set out in the Planning Inspector's CPO Report. p.8, paragraph 39, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)

- consultation with the London Mayor over the terms of the market operator's lease;
- a temporary market to be established, and existing traders to be offered a stall in it, with a 3-month rent-free period;
- the appointment of a Market Facilitator to work with traders and market employees, promote their interests, and give support and advice;
- marketing and letting of the retail units in West Green Road to focus on independent traders; with a right for the Council to approve any non-local tenants, and controls on the amalgamation of units;
- marketing of the residential units to be targeted initially at local residents;
- the developer to implement a community engagement strategy, including diversity monitoring; and
- job and training opportunities within the development to be made available to Haringey residents; contractors and suppliers to be chosen from local businesses where possible.

Deed of Variation (2017)

7.8 On 25th July 2017, at a time when the CPO Public Inquiry was open and hearing evidence[23], a Deed of Variation to the existing S106 agreement from July 2012 was completed between Haringey Council and Grainger. The main new provisions, which were added to the provisions of the existing S106 agreement, were[24]:

- the temporary market to be located in the commercial space on the ground and mezzanine floors of the Apex House redevelopment scheme;
- a requirement for the Market Facilitator to advertise the temporary and new markets to the public;
- a requirement to consult traders about the location of the unit offered to them;
- a guarantee that the size of unit offered in the temporary market will be no less than 90% of the trader's existing licensed unit;
- a scale of licence fees, ranging from £35 per square foot for mezzanine units, and £65 or £75 for zones B and A, to £80 for catering uses; such fees to be fixed for the duration of the temporary market (after the 3-month rent-free period);

[23] The London Borough of Haringey (Wards Corner Regeneration Project) Compulsory Purchase Order 2016 Public Inquiry was held between 11th July 2017 and 27th July 2017.
[24] This is a summary of the main provisions as set out in the Planning Inspector's CPO Report. p.8, paragraph 40, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)

- the same licence fee to apply at the new market, subject to an initial 30% discount for the first 18-months, then reverting to the full licence fee until the end of month 30;
- thereafter, the licence fee to increase by no more than 2% per annum;
- free relocation, including the costs of removal, fitting out and replacement of non-demountable fixtures and fittings;
- an obligation to set future licence fees at a level to attract and promote local independent traders;
- a commitment that the temporary market will stay open until the new market is ready for occupation;
- a guarantee that once the new market is open, the temporary market will cease to operate; and
- provision for a financial contribution to affordable housing (off-site), if the developer's profit on costs exceeds 20%.

Requirement to appoint Market Facilitator

7.9 A key element of the S106 agreement that the Scrutiny Panel has focused on during the course of its Review is the provisions which require the appointment of a Market Facilitator to work with traders and market employees, promote their interests, and give support and advice. The specific clause in the original S106 agreement in 2012 appears at section 24, which relates to the Temporary Market, under Schedule 4, which specifies the Developer's Covenants[25]:

To appoint a Market Facilitator to work with the Traders in order to:

- identify a location for the Temporary Market with the borough of Haringey (or such other location as may be agreed in writing with the Council);
- promote the interests of Spanish-speaking Traders in the Temporary Market;
- provide appropriate business support and advice to all Traders with the objective of maximising the number of Traders and other independent local traders who elect to trade from the temporary market and return to the New Market Area;
- assist Traders in continuing to trade from the Market for so long as it is open for trading purposes; and
- assist individuals working at the Market to find suitable alternative employment in the event that they decide not to relocate to the Temporary Market and/or the New Market Area.

[25] Paragraph 24.3, Schedule 4 (Developer's Covenants), S106 agreement on the Wards Corner site, 11th July 2012

7.10 A location for the Temporary Market was subsequently identified as the ground floor of the nearby new development at Apex House. Grainger appointed Quarterbridge as the market facilitator in May 2016. The provisions of the S106 agreement were subsequently amended by the Deed of Variation in July 2017 and appears in section 2 (with the heading 'Market Facilitator and Temporary Market') of 'Schedule 3 – Variation'[26]:

To procure that the Market Facilitator works with the Traders in order to:

- promote the interests of non-English speaking Traders in the Temporary Market and the New Market Area;
- provide appropriate business support and advice to
    i) all Traders;
    ii) all other persons working at the Market
    iii) such other local independent traders who may express an interest in trading from the Temporary Market and the New Market Area;
- assist Traders in continuing to trade from the Market and the Temporary Market for so long as the Market and the Temporary Market respectively are open for trading purposes;
- advertise the proposed relocation from the Market to the Temporary Market and from the Temporary Market to the New Market Area (as the case may be) so as to raise awareness about the proposed location and opening of the Temporary Market and the New Market Area, respectively;
- advertise the Temporary Market and the New Market Area once each facility has been opened to the public; and
- assist individuals working at the Market to find suitable alternative employment in the event that they decide not to relocate to the Temporary Market and/or the New Market Area (as the case may be).

<u>Terms of the move to the temporary market and the new market</u>

7.11 In May 2016, planning permission was granted to redevelop Apex House, a former Haringey Council premises located opposite the Wards Corner site on the other side of Seven Sisters Road. This was for a mixed use housing and retail development including 163 new homes (39% of which are categorised as affordable) along with space on the lower floors of the new building for a temporary market space for the Seven Sisters traders. Construction work is underway and is expected to be completed by summer 2020.

7.12 Grainger told the Panel in March 2019 that the temporary market space in Apex House would be ready for traders to move into by the summer of 2020 while the

[26] Paragraph 2.1, Schedule 3 (Variation), Deed of Variation to the S106 agreement on the Wards Corner site, 25th July 2017

new market is being built. It was anticipated that traders would then occupy the temporary market for around two and a half years before being moved back to the new market on the redeveloped Wards Corner site.[27]

7.13 The Planning Inspector's report on the CPO has summarised the expected terms of the move, including rent levels, to the temporary and new markets as follows:

"Traders would be guaranteed the right to transfer to the temporary and new markets and continue trading, on favourable terms. Those terms include a rent-free period, a discounted period, a fixed-rent period, and a cap on any increases for a further period beyond that. In total, traders would benefit from these favourable terms for around 5 years, giving them sufficient certainty to be able to plan their businesses for some time ahead. In addition, traders would be fully compensated for their relocation expenses, utilising a fund of £284,000 made available by the London Mayor for this purpose. Alternatively, traders not wishing to transfer would receive a release sum. Traders would also have 6 months' notice of the closure of the existing and temporary markets, and 3 months to decide their response. All traders, whether transferring or not, would receive advice and assistance from a Market Facilitator. Traders need only have been operating in the existing market for 3 months to qualify for all these benefits.

The rent levels and discounts have been designed to ensure that they will be affordable to existing traders, taking account of comparable rent levels in other local markets. Based on Mr Saunders' figures [this refers to independent market expert Gary Saunders of Saunders Markets Limited who gave evidence to the CPO inquiry], it is argued that no existing trader is likely to face an increase of more than 33% over a 5-year period. In the longer term, it is argued that it will always be in the market operator's interest to keep rents affordable, and to set rent levels so as to retain existing traders, and the S.106 requires the operator to seek to attract and promote independent traders from the local area."[28]

7.14 The S106 agreement requires Grainger to consult each trader about the proposed location of their unit at least two months prior to the move and to have regard to any reasonable representation but Grainger and/or the Market Operator retain the discretion to allocate the units. There will be units available on the ground floor and also on a mezzanine floor above. Some traders suggested that if all units are not located on the same level it would cause issues because the businesses rely on each other for the flow of customers in the market. Grainger's response was that the units on the mezzanine floor will be rented at significantly cheaper levels than those on

[27] Written evidence to the Panel from Grainger, March 2019

[28] p.20, paragraphs 106-107, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)

the ground floor and so some traders may prefer that option. Grainger confirmed that all traders will be on the same level when they return to the permanent market.[29]

7.15 The S106 agreement also requires that the size of the unit offered in the temporary market will be no less than 90% of the trader's existing licensed unit. However, in determining the size of units, the mezzanines installed by the traders at the current market are to be disregarded. The Panel heard that at an all traders meeting organised by Grainger on 12th February 2019, some of the traders expressed the view it would be important to them to have "attic areas" in the temporary market as they do now. They were told they would only be *"provided with units which are the same size as the area they currently pay rent on i.e. the ground floor space of their current units."*[30]

7.16 When asked about this, the Director of MAM, told an evidence session of the Panel that the mezzanine levels at the existing market have been built by the traders and they are not permitted under building regulations for anything other than storage. It was suggested that some were used unlawfully by traders as sub-lettings in order to subsidise their rent on the ground floor or as office space. The Market Operator said that he could not endorse these spaces being used for anything other than storage as other uses could constitute a fire risk. There was no requirement for these spaces to be re-provided in the temporary market. When questioned, the market operator n did say that he would be happy to find provision for storage space for the traders in the temporary market and that this would be included in the rental agreement with no additional charge[31]. Traders reported to the Panel that they understood there would be additional charge for storage. It was also noted that VAT would be applied in the temporary and new market, which does not currently apply on the existing site.

8. Steering Group

8.1 In recent years perhaps the most significant mechanism for dialogue between the market traders, Grainger and Quarterbridge/MAM has been the Market Traders Steering Group. Throughout the evidence sessions that the Panel held, the Steering Group has frequently been referred to in the context of the S106 Agreement. The Steering Group is not specifically referred to in the S106 agreement, rather it was an initiative proposed by the developer as part of a wider Community Engagement Strategy that is itself a requirement of the S106 agreement.

[29] Notes provided by Incite Strategic Communications of a full traders meeting, 12th February 2019
[30] Notes provided by Incite Strategic Communications of a full traders meeting, 12th February 2019
[31] Oral evidence given by market operator to a session of the Housing & Regeneration Scrutiny Panel, 28th March 2019

8.2 Clause 21.1 of Schedule 4 (Developer's Covenants) of the original S106 agreement from 2012 requires the following:

> "No later than twelve months after the Unconditional Date or three months after the Council resolves to make a compulsory purchase order to facilitate the carrying out of the Development (whichever is the later), to submit a community engagement strategy to the Council for approval PROVIDED THAT such strategy shall demonstrate how the Developer will deal with the following matters:
> a) regular diversity monitoring regarding the impact of the Development on affected third parties (in concert with the approved Baseline Study and updates to it);
> b) reporting on the engagement process and how representations from third party stakeholders will be taken into account; and
> c) any further mitigation measures (including a programme for implementation) that are identified as a result of the ongoing monitoring and are both necessary and directly related to the Development."[32]

8.3 Grainger published its Seven Sisters Community Engagement Strategy[33] in February 2016 which set out its approach to satisfying the above requirements. In particular, it sets out proposed engagement activities for four specific identified groups:

- Property owners/lessees and tenants
- Market traders
- Community stakeholders
- Wider community engagement

8.4 The section relating to property owners/lessees and tenants centred around the ongoing negotiations to acquire the land required to go ahead with the development. This included commitments to continue engaging with affected parties through written correspondence, the offer of individual meetings, door-knocking, telephone calls and drop-in events and to provide assistance in finding alternative premises for those requiring it.

8.5 The section relating to community stakeholders included commitments to maintain ongoing contact and provide updates to various community groups such as local residents' associations.

8.6 The section relating to wider community engagement included commitments to host public events at key stages of the project and to provide information about the

[32] Paragraph 21.1, Schedule 4 (Developer's Covenants), S106 agreement on the Wards Corner site, 11th July 2012
[33] Seven Sisters Community Engagement Strategy: http://bailey.persona-pi.com/Public-Inquiries/seven-sisters/core-docs/cd4/cd4-35.pdf

project in key community venues in the immediate area including at the Seven Sisters Market and at the nearby Marcus Garvey Library.

8.7 The section relating to the market traders included specific commitments on how the developer would work with the market facilitator to engage with and support the traders. The market facilitator had already been appointed at the time that the Community Engagement Strategy was published and the requirements of the market facilitator role had been outlined in Clause 24.3 of Schedule 4 of the S106 agreement. In addition to the existing requirements of Clause 24.3, the Community Engagement Strategy also committed to the following activities.

- Have an initial meeting with market traders on the progress of the project and next steps.
- Set up a Market Traders Steering Group to meet regularly.
- Set up an onsite consultation surgery managed by the market facilitator and attended by Grainger to provide traders with the opportunity to speak about their business and options for the future.
- Provide regular updates via memo, email, the Steering Group and the market facilitator.
- Provide general information for market traders on a page of the Seven Sisters Regeneration project website.

8.8 Grainger's Community Engagement Strategy was submitted to Haringey Council together with a Diversity Monitoring Baseline Study[34] and both were approved in March 2017. However, the Market Traders Steering Group had already been established and started meeting some months before this. The first of 21 meetings of the Steering Group was held in October 2016 with the last meeting held in December 2018. The Panel heard from the Regeneration team at Haringey Council that the Council believed that these requirements of the S106 were not yet in force but that nevertheless, the establishment of the Steering Group was still seen as a good thing to do in terms of community engagement.

8.9 The Panel was told by a representative of Grainger that in previous years the engagement with traders had been in the form of large 'all trader' meetings at the market and that the aim of the Steering Group was therefore to establish a better mechanism for talking to traders.[35]

8.10 The membership of the group was specified as being the market facilitator, representatives from Seven Sisters Indoor Market, Haringey Council and Grainger.

[34] Diversity Monitoring – Baseline Study, Seven Sisters Indoor Market, *Grainger* (March 2017) https://www.haringey.gov.uk/sites/haringeygovuk/files/seven_sisters_baseline_study.pdf

[35] Oral evidence given by the Senior Development Manager, Grainger to a session of the Housing & Regeneration Scrutiny Panel, 27th March 2019

Local Ward Councillors were also invited to the meetings although this happened on only one occasion when Cllr Isidoros Diakides (who is also a member of the Housing & Regeneration Scrutiny Panel) attended a meeting in April 2017.

8.11 At the first meeting the six Steering Group members representing the market traders were:

- Mosen Khanjary
- Lita Alvarado
- Nicholas Amayo
- Chan Baker
- Farhad Zarei
- Ben Nyerende

8.12 The meeting was also attended by:

- A representative of Grainger PLC
- A representative of MAM
- Town Centre Manager (Haringey Council)
- A representative of GL Hearn - a property consultancy company which supported Grainger with communication and engagement activities.

8.13 The Grainger representative told the Panel that he chaired the meetings, though this was "by default" as there were no other volunteers for this role from the other Steering Group members.[36]

8.14 At the inaugural Steering Group meeting in October 2016, the Panel heard that the Market Traders present gave all attendees a letter listing complaints in connection with MAM's management of the market and related maintenance and relationship concerns. Concerns were also expressed at the meeting that there were no Colombian traders on the Steering Group. Following consultation with traders at a drop-in event in November 2016, two Colombian traders, Marta Hinestroza and Martha Gilraldo were appointed to the Steering Group bringing the trader representation to eight members. Nicholas Amayo, who was one of the six original members of the Group, wrote to the Grainger representative in January 2017 on behalf of himself and other Steering Group members to complain that their own preferred candidate, Victoria Alvarez, had not been selected and that the selection process had not been fair or transparent. The Panel was told that the Grainger representative responded that the two traders selected had been nominated by the majority of traders and that, while it was unfortunate that these selections were not the same preference as that of the Steering Group members, it would not be

[36] Oral evidence given by Senior Development Manager, Grainger to a session of the Housing & Regeneration Scrutiny Panel, 27th March 2019

possible to accommodate Victoria Alvarez as well as the Group was already larger than originally intended. But, some months later, after one of the Steering Group members was failing to attend the meetings on a regular basis, it was determined that a new member should be elected to take their place. At this point Victoria Alvarez was elected and became a member of the Steering Group.

8.15 The purpose of the Steering Group was originally described as being *"to identify a location for the Temporary Market; discuss the relocation process/logistics, input into the internal layout and operations of the Temporary and New Markets."* However, at the first meeting of the Steering Group, traders expressed the view that issues of market management and maintenance should also be included within the remit of the group on the basis that these needed to be resolved first before the traders could move forward to discuss plans for the future. This was agreed and the terms of reference for the group amended to reflect this. In effect this meant that Steering Group members had determined that they would engage through this forum with the market operator (on issues relating to market maintenance) in addition to his role as market facilitator (on issues relating to the market relocation).

8.16 The Panel heard that the amended terms of reference for the Steering Group specified that the aims of the group would be:

- Establish a conducive relationship between Grainger and representatives of the market.
- Provide an opportunity for representatives of the market traders to collectively input into the temporary relocation process on behalf of ***all*** market traders in Seven Sisters Indoor Market.
- Provide representatives of the market traders with an opportunity to collectively agree and input into the design and layout of the new market on behalf of ***all*** market traders in an open and transparent forum.
- Report on progress of the Seven Sisters Regeneration project by Grainger to market representatives and consult on relevant market related issues as appropriate.
- Provide an opportunity for representatives of the market traders to discuss management and maintenance issues with market management.[37]

8.17 Concerns raised about market management and maintenance at the Steering Group included the condition of the customer toilets, pest control, heating, parking, a leaking roof and anti-social behaviour in the service yard to the rear of the market.

[37] Future of Seven Sisters Market Steering Group, updated terms of reference (version obtained by the Panel is dated 15th Oct 2017)

8.18 In his evidence to the Scrutiny Panel, Nicholas Amayo, who had been a member of the Steering Group from the outset, said that he believed the Steering Group had been flawed from its inception as it failed to advocate for or support the needs of traders Therefore, failed to meet most of its original stated aims and objectives.

8.19 The market operator in his submission to the Panel that it *"has been and remains an extremely useful forum to discuss and consult with Traders on general progress of the development, how the CPO and legal programmes affects them, the protection and concessions offered by the S106 and the design and specification of the new Market."*[38]

8.20 The Panel also received photographic evidence of traders calling for a vote of no confidence at a lobby of a Steering Group meeting held on 1st November 2018.

8.21 Written evidence was submitted to the Panel in the form of a letter from Save Latin Village & Wards Corner to the Senior Development Manager of Grainger, regarding the Seven Sisters Market Steering Group, dated 6th December 2018 It stated: *"We did not attend the last meeting of the steering group on November 1st which with us being five of the seven traders nominated to sit on the steering group as representatives of the traders at the market was a clear and unambiguous demonstration of our lack of confidence in the steering group."* The letter reported that a protest of 150 people had taken place outside the Steering Group meeting venue and called for the disbandment of the Steering Group *"until a more representative replacement can be put in place that actually fulfils the legal requirements of the developer and gives meaningful voice to the vast majority of traders that have no confidence in the current structure."*[39]

8.22 The Panel also received a copy of the letter in response to this from Grainger dated 9th January 2019. The letter reiterated the Steering Group's objectives, which includes the provision for *"representatives of the market traders to discuss management and maintenance issues with market management",* and stated that *"to allow management and maintenance issues to be discussed away from the Steering Group, we have asked [MAM] to hold meetings with traders, in the market, on a more regular basis."* The rationale for this was that the extent to which management and maintenance issues were dominating the discussions at the Steering Group was preventing the discussion of the way ahead with the move to the temporary market and new permanent market. Traders told the Panel that the Steering Group had not resolved concerns about the alleged conduct of the Market Facilitator. The letter responded to the allegations about his conduct .The Letter said

[38] Written evidence to the Panel from Market Facilitator March 26th 2019
[39] Letter from 'Save Latin Village & Wards Corner' to Grainger, 6th Dec 2018

that they had *"monitored the outcome of TfL's investigation but consider disputes between traders and Market facilitator to be precisely that. It is not Grainger's role, or that or the Steering Group to act as the dispute resolution body in relation to these issues."*[40]

8.23 This evidence suggested to the Panel that relations between the traders on the Steering Group and the Market Facilitator had irredeemably broken down. Some of these concerns were shared by the Assistant Director for Regeneration, in his evidence to the Panel in which he said that officers were aware of concerns about operational issues dominating discussions at the Steering Group and that meetings could at times have an intense atmosphere with anger on both sides[41]. Without the full confidence of all participants. The Panel drew the conclusion that the Steering Group is unable to fulfil its stated purpose in its current form.

8.24 Despite assertions that there was division between traders as to the best way forward, all 14 traders that the Panel spoke to provided evidence that the Steering Group was not fit for purpose. The traders said that complaints had been raised at the Steering Group, at which a Council officer had always been present, but that complaints had gone unheeded.

8.25 The evidence provided by the Cabinet Member for Strategic Regeneration and Leader of the Council left the Panel under the impression that there was differing knowledge in the Council about the S106 obligations that related to the Steering Group and how they are to be executed in order to fulfil the Planning Authority responsibilities.

8.26 Panel members felt that, given the consistent representations concerning the running of the market and their nature, it may have helped improve relations between the Council and the Latin American community (a group with specific protected characteristics) had senior officers visited the market to speak first hand to traders. It was noted that Steering Group meetings took place away from the market, usually at the College of Haringey, Enfield and North East London (CONEL). The main officer of the Council in contact with the traders was the Town Centre manager who was a member of the Steering Group. The Panel was not able to ascertain whether the Town Centre Manager had visited the Market site in any formal capacity.

8.27 The Panel also felt that oversight of S106 agreements could be improved by ensuring that local Councillors are fully aware of terms of the S106 agreements that are active

[40] Letter from, Senior Development Manager, Grainger to Save Latin Village & Wards Corner, 9th January 2019
[41] Oral evidence given by AD for Regeneration, Haringey Council to a session of the Housing & Regeneration Scrutiny Panel, 8th May 2019

in their ward. Panel Members felt that the online planning portal was difficult to navigate and that most Members would not automatically be aware of S106 agreements in their area. It would therefore be preferable if the terms of new S106 agreements were sent to the Councillors for the relevant ward.

Town Centre Manager

8.28 The Panel was not able to question the Town Centre Manager, who had been Haringey Council's representative at all 21 of the Steering Group meetings. The reason given for this was that the Council's Constitution only enables Scrutiny Panels to require officers at third tier or above to attend evidence sessions but the Town Centre Manager role is below this at the fourth tier level. Though officers below third tier are permitted to attend, this can only happen at the discretion of their Director and the request to speak to the Town Centre Manager was declined. The reason given was the relevant information could be obtained in writing or via senior officers without the need for a more junior officer to attend an evidence session.

8.29 The relevant section of the Council's Constitution reads:

"Power to require Members and officers to give account

(i) The Overview and Scrutiny Committee and Scrutiny Review Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions (Scrutiny Review Panels will keep to issues that fall within their terms of reference). As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Head of Paid Service and/or any senior officer (at second or third tier), and chief officers of the local National Health Service to attend before it to explain in relation to matters within their remit:

(a) any particular decision or series of decisions;
(b) the extent to which the actions taken implement Council policy (or NHS policy, where appropriate); and
(c) their performance.

It is the duty of those persons to attend if so required. At the discretion of their Director, council officers below third tier may attend, usually accompanied by a senior manager. At the discretion of the relevant Chief Executive, other NHS officers may also attend overview and scrutiny meetings."[42]

[42] London Borough of Haringey Constitution, Part Four (Rules of Procedure), Section G (Overview & Scrutiny Procedure Rules), Paragraph 13.3 (i) http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=873&MId=7972&info=1&MD=Constitution

8.30 The Panel felt strongly that the Scrutiny Review would have benefited enormously by speaking directly to the Town Centre Manager to closely understand the council's observations of how the traders' complaints had been taken forward.

8.31 The Panel tried to establish how and when the Town Centre Manager had communicated concerns about the operation of the Steering Group to senior officers. However, the Panel understands that this happened predominantly through informal conversations rather than any formal reporting mechanism. No direct officer reports from Haringey's Town Centre Manager were available to the Panel. This is particularly relevant as it would have helped to inform the Panel's inquiries on when Council officers had become aware of the difficulties in the relationship between traders and the Market Facilitator.

8.32 The Panel sought further clarity about the chronology of when the Council was aware that the functioning of the Steering Group and the relationship between the traders and the Market Facilitator was not working as it should and that further action would therefore be required in order to properly implement the S106 agreement. The Deputy Monitoring Officer's letter to Bindmans LLP, dated 22nd March 2019, stated that:

"when colleagues replied previously they were of the view that the arrangement [with the Market Facilitator] *was working well. However, since that time colleagues have become aware of complaints with regard to the operation of the Market Facilitator."*[43]

8.33 The reference to *"when colleagues replied previously"* presumably includes the letter from Haringey Council's Legal Services to Bindmans LLP, dated 3rd September 2018, which stated that:

"The Council has received minutes of the steering group meetings, which your clients attend. These show that the Market continues to operate successfully and that the Traders are continuing to receive assistance from the Market Facilitator to enable them to trade from the Market."[44]

8.34 However, a detailed letter from Bindmans Solicitors, predating this, listing a series of complaints including those against the Market Facilitator, had been sent to the Leader of the Council and copied to the Head of Development Management and Planning Enforcement, on 15th August 2018.[45]

[43] Letter from Haringey Council Legal Services to Bindmans LLP, 22nd March 2019
[44] Letter from Haringey Council Legal Services to Bindmans LLP, 3rd September 2018
[45] Letter from Bindmans LLP to Leader of Haringey Council, 15th August 2018

8.35 The Assistant Director for Planning, whose Department is responsible for the enforcement of the S106 agreement, told the Panel that she regretted not realising early enough that there was a problem with the market facilitator role and that it would have been better if she had been alerted to this by the Regeneration department. She said that, in her Planning role, it had been necessary for her to keep separate from the CPO inquiry but the unfortunate part about that was that she didn't become aware of the issues around the market facilitator role. She acknowledged that it would therefore be necessary to reflect on how the departments maintain this separation while enabling a flow of information on matters like this where appropriate.

8.36 Elements of the S106 had been developed specifically to address any detrimental impact of the Seven Sisters development on market traders with protected characteristics. The Steering Group was a vehicle intended to deliver part of those protections described in the S106. As such any breakdown of relationships, which the Panel believes were apparent from the inaugural meeting of the Steering Group, should have been brought to the attention of the Planning department of the Council.

Recommendation 1: The Council should negotiate with its development partner Grainger to revise the terms of reference for the Market Traders Steering Group to cover the following:

- **Democratic elections of trader representatives.**
- **Appointment of Independent Chair [acceptable to the trader representatives].**
- **Role of the Council's Town Centre manager to be clearly defined.**
- **Regularised reporting arrangements between the Steering Group and the Council to allow any relevant issues where the Council has a regulatory role to be communicated promptly to appropriate departments and service areas.**
- **The agenda items, minutes and actions arising from meetings of the steering group to be shared with senior managers at the Council.**

Recommendation 2: The Standards Committee to review Part Four (Rules of Procedure), Section G (Overview & Scrutiny Procedure Rules), and the section under which officers are expected to provide evidence in Scrutiny Reviews. The presumption should be that officers should be expected to provide evidence to Scrutiny Reviews unless there are strong reasons for refusal. In reviewing this section, the opinion of the trade unions should be sought to ensure the protection of staff at all levels of the organisation.

9. Market Facilitator Role

9.1 As noted earlier in this report, the Market Facilitator role was a requirement of the S106 Agreement entered into in July 2012. This had followed the Court of Appeal decision to quash the planning permission for the scheme that was initially granted in 2008 on the basis that Haringey Council's duty under section 71 of the Race Relations Act 1976 had not been discharged by the council when granting this planning permission.

9.2 The S106 agreement requires the developer to appoint *"a Market Facilitator to work with traders and market employees, promote their interests, and give support and advice."* As noted in Section 9 of this report, the S106 agreement and the subsequent 2017 Deed of Variation also require the Market Facilitator to:

- assist the Traders in continuing to trade from the Market and Temporary Market for so long as they are open;
- advertise the proposed relocations to the Temporary Market and then the New Market; and
- assist individuals working at the market to find suitable alternative employment should they decide not to relocate.

9.3 The Panel understands that Quarterbridge Project Management Ltd was appointed to the role of Market Facilitator in May 2016 and resigned from this role in November 2018.

9.4 Shortly after the original S106 agreement was entered into in July 2012, Quarterbridge became involved with the regeneration project on a consultancy basis[46]. An article on Haringey Council's website, dated 16 October 2012, announced "Specialist Support for Seven Sisters Market" and stated that *"Grainger plc and Haringey Council have appointed Quarterbridge Project Management to work with existing traders to design the new Market Hall and help with the temporary relocation whilst the Seven Sisters Regeneration project is underway."*[47]

9.5 In the minutes of the first and second Steering Group meetings, advise the market operator's position which was made clear that, having invested a considerable amount of money in buying the market, his objective was to improve and add value to the market in order to be able to increase rents and obtain a better return. There was a desire to help and encourage the traders to develop and improve their individual businesses as this would help his business. There were a significant number of 'legacy issues' and inherited problems including a range of health and safety issues and that some traders were not complying with the estate

[46] This appointment is not to be confused with the appointment of Quarterbridge Project Management to the role of Market Facilitator which took place in May 2016.
[47] Specialist Support for Seven Sisters Market, 16th October 2012 https://www.haringey.gov.uk/news/specialist-support-seven-sisters-market

management rules or with some statutory obligations. That breaches included unauthorised sub-lettings, unauthorised sales and unauthorised alterations to the building which placed him commercially at risk and the other tenants at risk with regards to health and safety issues. His view was that a robust approach was therefore required from him as market operator to resolving health and safety issues within the market but he did not accept that this amounted to intimidation.[48] In evidence to the Panel, the market operator contended that the necessary actions taken by him to remedy breaches of statutory legislation, including health and safety risks, became a root cause in some instances of complaints from market traders who regarded such actions to be unwelcome.

9.6 In evidence submitted to the Panel, the Market Operator/Facilitator stated that the Market Facilitator appointment was funded by Grainger and that Quarterbridge Project Management *"undertook a series of exercises including attendance at Trader Steering Group meetings, confidential one-to-one interviews with all Traders to determine their business needs, a referencing exercise to identify S.106 relocation entitlement, liaison with lawyers to ensure that CPO notices and subsequent public inquiry notices and information were correctly served, collection of anonymised rental and other tenancy information for the independent expert appointed to advise the public inquiry, and finally data collation of ethnicity and employment creation to discharge the Equalities Impact Assessment required by the planning consent."*[49]

9.7 The Panel heard evidence that in relation to the business support element of the role, the Market Operator/ Facilitator said that Quarterbridge Project Management *"organised and hosted a series of individual and collective Business Development workshops which offered Traders access to free business support e.g. for Income Tax and VAT registration, access to business funding sources and advice on incorporation, food hygiene training and online promotional training in partnership with the National College for digital skills in Tottenham".*[50]

9.8 The Panel was told that since the formation of the Steering Group, one-to-one sessions with traders had been offered with the market facilitator, and separately with the Council's Tottenham Town Centre Manager, to discuss individual traders' business support needs. However, as of April 2019, none had been taken up. Grainger also informed the Panel that, as part of their engagement approach, they had held one-to-one meetings with traders in addition to whole market meetings held within the Market in order to discuss the progress of various projects.[51] In 2018, MAM had offered to run a business support programme with organised sessions at

[48] Minutes of meetings of Seven Sisters Market Traders Steering Group, 27th Oct 2016 & 24th Nov 2016
[49] Written evidence to the Panel from market operator/Facilitator, 27th August 2019
[50] Written evidence to the Panel from Market Facilitator, 27th August 2019
[51] Written evidence to the Panel from Grainger, March 2019

the market and at CONEL, but attendance was low. Traders were offered the opportunity to promote their business online through the Seven Sisters Market website but again take up was low.[52]

9.9 It was also noted that in addition to the business support offered, the Tottenham Town Centre Manager had provided the contact details of the Tottenham Green Market Operator and encouraged traders who sell food and produce to contact her for a pitch every Sunday (when the market is currently closed). However, this offer had not been taken up.[53]

9.10 The Panel were made aware of alleged incidents between the market operator and the traders which led to two investigations conducted by TfL in its role as owner of the market buildings. The Panel considered the allegations against the market operator should have been enough to initiate a separate investigation by Haringey Council into whether there had been a breach of the S106 conditions at that time by Quarterbridge (given the overlap between Quarterbridge and MAM). One of the traders put forward these complaints to both TfL and the Equalities and Human Rights Commission who subsequently wrote to TfL. At this time, evidence to the Scrutiny Panel strongly suggested that no action has been taken by the Council despite complaints being raised at the Market Traders Steering Group meetings. The Council in its Planning Authority role did not receive any complaints alleging that the Section 106 obligations had been breached until receipt of Bindman's letter of the 15th August 2018. At this point the Council's legal advice was that the Section 106 obligations were not in operation.

9.11 In a written submission to the Panel, the market operator states that these allegations are repeated *"even following two inquiries by TfL which acknowledged an apology for inappropriate language at a public meeting. Since then [MAM] has continued to develop an Action Plan with TfL to improve the Market."*[54]

9.12 The Panel was concerned that the Market Facilitator was formally a consultant to the developer and that the same person, under a different corporate identity became the market operator with a commercial interest in the market. This conflict of interest should have been foreseen by both the developer and the Council. The conflict was only latterly recognised in the autumn of 2018, after the scrutiny review had commenced, when it was announced that the facilitator would be stepping down from the role. Participants within the market Steering Group gave evidence that numerous complaints had been raised at the Steering Group about the market facilitator/market operator but did not feel that their complaints had been

[52] Written evidence to the Panel from the Housing, Regeneration & Planning Department, Haringey Council, April 2019
[53] Written evidence to the Panel from the Housing, Regeneration & Planning Department, Haringey Council, April 2019
[54] Written evidence to the Panel from 26th March 2019

acknowledged or answered by either the developer or the Council who had a representative on the Steering Group.

9.13 The Panel believes that this conflict of interest should have been anticipated and that the Facilitator role enshrined in the S106 agreement could not and should not have been provided for by a person who had a material and commercial interest in the management of the market. The Panel believes that this inherent conflict of interests should have been apparent to the developer and the Council at the Steering Group meetings from the outset.

9.14 TfL's second investigation report dated 12 October 2018 concluded that there was no evidence that MAM's action had been unfair or in breach of any contractual relationships that were in place with the traders. In recognition of the need to improve relations, MAM took action to recruit additional staff and employ staff of Latin American origin with whom the traders could better communicate in their first language.

9.15 On 19th November 2018 a meeting was held between Grainger, the Council, TfL and the GLA where the Council agreed the following actions with Grainger:

- appointment of a new independent market facilitator to replace Quarterbridge,
- appointment of Spanish speaking mediator, maintaining a Spanish translator on the steering group,
- working with the MAM to increase the frequency of the all traders meeting to progress health and safety issues and repairs that are most important to traders so that these issues can be separated from and enable the future of the market discussions to take place at the Steering group.

9.16 Notwithstanding the Council's current investigation of the compliance of section 106 obligations related to Wards Corner, the Panel viewed the resignation of Quarterbridge to be an acknowledgment that the conflict of interest between the roles of Market Operator and Market Facilitator was untenable. Quarterbridge maintained that its resignation did not represent tacit acknowledgment that a conflict of interest existed, only that some traders were unhappy with the arrangement. Quarterbridge also contended that it had followed the requirements of the S106 agreement to the letter and followed the overriding principle that the role of market facilitator was to act in the best interests of all traders in the market. However, the absence of a genuinely independent Market Facilitator, resulting from the conflict of interest referred to above, has, in the view of the Panel, left the market traders without an advocate to mediate with Grainger, TfL or the Council. It is the Panel's understanding that, at the time of writing, no new facilitator is in place and that a Facilitator has not been in situ since November 2018.

9.17 The Scrutiny Panel was made aware that the developer Grainger act as a guarantor, pursuant to which it offers a financial guarantee to MAM's obligations under its lease, including any repairs that are required to be carried out at the end of its lease.

9.18 The Panel noted that Paragraph 24.5 of Schedule 4 of the S106 agreement required the developer to provide the Council with regular reports on the measures that have been taken in relation to Paragraph 24 of the S106 (on the move to the Temporary Market and the appointment of a Market Facilitator). The relevant section of the S106 reads:

"To provide the Council with a report every six (6) months specifying the measures that have been taken pursuant to Paragraph 24 of this Schedule PROVIDED THAT the first report shall be sent to the Council no later than twelve (12) months after the grant of the Planning Permission and this process shall continue until the sixth (6th) anniversary of the grant of the Planning Permission."[55]

9.19 Although Paragraph 24.5 of the S106 agreement was subsequently replaced with different obligations by the 2017 Deed of Variation and had not been specifically discussed as part of the oral evidence sessions, the Panel took the view that it was important to ensure that this requirement had been fully complied with.

Recommendation 3: The Council should ensure that the ongoing investigation into the compliance with the section 106 obligations should include the following:

- **How the conflict of interest between the market facilitator role and market operator role, when they were the same person, could not have been recognised earlier.**
- **What due diligence had been undertaken in the appointment of the Market Facilitator.**
- **What checks and balances were in place to ensure that the Market Facilitator is acting fairly, independently and in the interests of the traders as outlined in the S106 conditions.**
- **When the S106 obligations commenced and what the causal factors were in their becoming operational.**
- **To identify any procedural failings in the prescribed six-monthly reporting arrangements for the section 106 agreement and take action if the report back obligation is incomplete.**
- **To publicly clarify the position on the section 106 agreement, given the Panel heard evidence suggesting there had been a breach.**

[55] Paragraph 24.5, Schedule 4 (Developer's Covenants), S106 agreement on the Wards Corner site, 11th July 2012

- **How a failure to monitor the S106 agreement occurred and could continue for so long while breaches of the S106 agreement were repeatedly reported.**
- **How failure to monitor the S106 agreement had an impact on the council's public sector equalities obligations.**
- **The investigation should analyse the impact of this, what remedies may be available and establish measures to ensure that there is no repetition in future.**

The conclusions should be submitted to the Secretary of State for Housing, Communities and Local Government.

Recommendation 4: Any replacement market facilitator should be genuinely independent and hold the confidence of all parties. The Council, should request Grainger to appoint an independent, qualified market facilitator. This needs to be done in full consultation with the traders. It is essential that adequate due diligence is carried out ahead of any appointment.

10. Enforcement of S106 Agreement

Bindmans correspondence

10.1 On 15th August 2018, Bindmans LLP, the solicitors representing some of the traders, wrote to Haringey Council with a detailed list of complaints about the conduct of Quarterbridge/MAM and requesting that Haringey Council should:

- undertake an assessment of the extent to which Grainger has complied with its S106 obligations;
- provide information about the monitoring of the compliance with the S106 obligations;
- confirm that it accepts that Section 149 of the Equalities Act 2010 is engaged by that assessment.[56]

10.2 On 3rd September 2018, Haringey Council's Legal Services department wrote to Bindmans LLP to advise that:

- Most of the obligations in the S106 agreement (the 2017 Deed of Variation) only become operative at the earliest on Commencement of the Development which had not yet occurred.
- The only items that arguably not subject to the Commencement of the Development were paragraphs 2.1 (b) (i) and (ii) and (c). These are the obligations to provide business support/advice to the traders and to assist them in continuing to trade from the existing market.

[56] Letter from Bindmans LLP to Haringey Council, 15th August 2018

- However, the beginning of paragraph 2.1 requires the Developer to *"procure that the Market Facilitator works with the Traders".* It is not an absolute obligation on the Developer to guarantee compliance and the Council cannot enforce the obligations directly against the Market Facilitator.
- The final part of paragraph 2.1 makes clear each obligation is for the objective of maximising the number of traders who elect to trade from the Temporary Market and the New Market.
- Aside from these points the Council does not have evidence of non-compliance of the S106 agreement.

10.3 While the Haringey Council letter asserted that most of the S106 conditions did not yet apply, it also concluded that there was no evidence to show any non-compliance. To support this claim, the letter states that, *"the Council has received minutes of the Steering Group meetings, which your clients attend. These show that the market continues to operate successfully and that the traders are continuing to receive assistance from the market facilitator to enable them to trade from the market."*[57]

10.4 In evidence provided to the Panel in February 2019, Bindmans described the Council's response in the September 2018 letter as a *"comprehensive abdication of responsibility by the Council for oversight of Grainger's actions, those of its agents (Quarterbridge and MAM) or, in turn, for the Market's future."* Bindmans also provided the Panel with a letter that it had sent to Haringey Council on 21st January 2019 alleging maladministration on the part of the Council for failing to investigate Grainger's alleged breaches of the provisions of the S106 agreement which had been designed to protect the rights of the traders.[58]

10.5 On 22nd March 2019, Haringey Council's Assistant Head of Legal Services responded in writing to Bindmans' letter of 21st January 2019 explaining that the Council's position was now:

- That it was *"accepted that the obligations under paragraph 2.1 of Schedule 3 or the Deed of Variation are now in fact operative"* meaning that Grainger is obliged to provide business advice/support to traders and to assist traders in continuing to trade from the market while it is open.
- That Section 149 of the Equalities Act 2010 does apply to the Council when monitoring compliance with the S106 agreement.
- That the Council has requested that Grainger change the Market Facilitator and that Grainger had agreed to this and written to traders in December 2018 signalling this intention.

[57] Letter from Haringey Council to Bindmans LLP, 3rd September 2018
[58] Letter from Bindmans LLP to Haringey Council, 21st January 2019

- That the Council intends to undertake a review of the market facilitator operation and, after this, intends to take all reasonable steps to ensure that all S106 obligations are complied with.
- That in the opinion of the Council, the case for maladministration has not been made out.[59]

10.6 The Panel understands that the reason that the Council's position had changed was that the legal department had decided to review the position by getting another person to look at it in detail. As a consequence of that, the decision was made that the original position taken, as set out in the Council's letter in September 2018, had not been the appropriate one.

10.7 The Assistant Director for Planning advised the Panel had become aware of complaints about the market facilitator in 2018 which was after the Deed of Variation had been agreed in July 2017. She had, before Bindmans letter of 15 August 2018, taken steps to monitor the S106 through requesting minutes of the steering group and had sought updates from the regeneration team and from the developer once she became aware that there were issues. In hindsight however, the Planning department could have been more active in being aware of the issues with the steering group and it would have been better if the S106 had been worded to enable the Council to have some say in the appointment process for the market facilitator. She said that she regrets not being aware that there was a problem with the market facilitator role at an earlier stage. She had not been involved with the CPO inquiry (expect for the Deed of Variation) as it was necessary as AD for Planning to stay separate from that but one consequence of that is that she was not always aware of some of the problems. It would therefore be necessary to reflect as a Directorate on how to keep appropriately separate where necessary but also to maintain a flow of relevant information. She also pointed out that there is an overlap with TfL on some of these issues as it is TfL's market and they had conducted their own investigations into these matters.

10.8 The Assistant Director of Regeneration at Haringey Council, acknowledged to the Panel that, based on the legal advice, the Regeneration team did not believe that the provisions of the S106 were operative and that they did not therefore have the powers to take any enforcement action. However, despite operating on the misunderstanding that the Council did not have these tools available, The Assistant Director for Regeneration emphasised that this did not mean that no action was taken at all. Progress was sought through continuing dialogue, for example through the engagement of the Town Centre Manager with Quarterbridge/MAM and the

[59] Letter from Haringey Council to Bindmans LLP, 22nd March 2019

market traders via the Steering Group.[60] Panel members queried why senior officers did not question the erroneous advice sooner and why there did not appear to be suitable processes and procedures in place to pick up on this problem at an earlier stage.

10.9 Panel members are confident that the S106 obligations attached to Grainger's planning permission in relation to the Market Facilitator role had been triggered and that the Community Engagement Strategy referenced above was the response to that requirement. The Community Engagement Strategy clearly states that a Market Facilitator had been appointed[61]; that a comprehensive engagement strategy was anticipated and that the Steering Group is set up as a means of engaging with the traders with the Council being a party to the Group. Panel members are concerned that ongoing monitoring of the S106 obligations has not been adequate or robust.

10.10 The Panel noted that the covering letter to the Planning Inspector's report on the CPO inquiry on Wards Corner had emphasised the importance of the safeguards within S106 agreement. The letter from Jan 2019, signed by the Senior Planning Manager with the authority of the Secretary of State for Housing, Communities and Local Government, stated that: *"while the safeguards in the varied S106 agreement do not provide a cast iron guarantee that the new permanent market will be provided, or retained in perpetuity, nor that all existing traders will be able to, or wish to continue trading, he agrees with the Inspector … that the Order scheme makes reasonable provision for the retention and continued operation of the Seven Sisters Market."*[62]

10.11 The Planning Inspector's report itself stated that *"the Order scheme seeks to mitigate these difficulties for Traders, through the S106 package. Amongst other things, this includes the provision of the temporary market, the existing traders' right to a stall, relocation costs, discounted and controlled rents for an initial period, one-to-one support through a facilitator, and consultation over detailed matters like the internal layout and individual stall positions. These measures are proposed specifically to help smooth the transition. They do not go as far as those proposed by the Traders themselves, that does not mean that they would not be effective in helping the Traders to manage this process. Through these S.106 provisions, it seems to me that the Order scheme would minimize any residual disadvantage suffered by the Traders, and would include reasonable steps to meet their needs, thus advancing equality of opportunity."*[63] This view had clearly been predicated on the understanding that the

[60] Oral evidence given by AD Regeneration to a session of the Housing & Regeneration Scrutiny Panel, 11th April 2019
[61] Page 6, Seven Sisters Regeneration, Grainger Seven Sisters Ltd (Feb 2016)
[62] Paragraph 15, Letter from Senior Planning Manager, Ministry of Housing, Communities & Local Government to Haringey Council, 23rd January 2019 https://www.haringey.gov.uk/sites/haringeygovuk/files/190123_decision_letter.pdf
[63] p.63, paragraph 361, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)

S106 was in operation. The Planning Inspector's report notes that *"A Market Facilitator has already been appointed"*[64]. However, it was not until March 2019 that Haringey Council's Legal Services confirmed that key parts of the S106 agreement relating to the Market Facilitator obligations were "now in fact operative" contrary to previous advice. The previous lack of acknowledgement and enforcement of these elements of the S106 agreement meant that Traders had not been benefitting from the protection provided by these measures.

S106 correspondence timeline

15th Aug 2018	Letter from Bindmans LLP to Leader of the Council with list of complaints about the conduct of Quarterbridge/MAM and requesting that the Council should assess Graingers' compliance with the S106 agreement.
3rd Sep 2018	Letter from Haringey Council's Legal Services to Bindmans LLP advising that the Council had no evidence of non-compliance with the S106 agreement and that most of the obligations of the S106 agreement were not yet operative in any event.
4th Sep 2018	Letter from Bindmans LLP to Haringey Council's Legal Services requesting clarification on a number of points including whether an assessment on Graingers' compliance with the S106 agreement has been carried out.
22nd Sep 2018	Letter from Haringey Council's Legal Services to Bindmans LLP reiterating the same position from the letter of 3rd Sep 2018 and confirming that no assessment had been carried out.
17th Jan 2019	Letter from Bindmans LLP to Haringey Council's Legal Services alleging maladministration on the part of the Council for failing to investigate assess Grainger's alleged breaches of the provisions of the S106 agreement.
21st Jan 2019	Letter from Bindmans LLP to Haringey Council's Legal Services asking for information about the involvement of Legal Services in the Housing & Regeneration Scrutiny Panel's forthcoming Scrutiny Review on Wards Corner.
22nd Mar 2019	Letter from Haringey Council's Legal Services to Bindmans LLP accepting that the Market Facilitator obligations in paragraph 2.1 of Schedule 3 of the Deed of Variation are now active, stating that the case for maladministration has not been made and that a representative of Legal Services would be attending evidence sessions of the Scrutiny Review.

[64] p.23, paragraph 120, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)

10.12 The Assistant Director for Planning, gave evidence to the Panel on 2nd May 2019 about the S106 agreement. She confirmed that she was not involved in the drafting of the September 2018 letters from Haringey's Legal Services department. Her understanding was that when the letter from Bindmans was received in January 2019, the monitoring officer undertook a review of the Council's position. While it was felt that there was a case for the position which had been taken in September 2018, it was concluded that, on balance, the provisions of the S106 agreement were operative. In her view it was not unreasonable to have taken the original approach in September 2018 because it is not usual for there to be an obligation before a development actually starts and because normally there would be a 'trigger' that makes the obligations active. However, the S106 agreement refers to the purpose of the market facilitator being to help traders to move to the new market. It wasn't therefore intended to arise independently from the development but the market facilitator had been appointed anyway before the development was underway. Therefore as the market facilitator required by the S106 agreement was in place regardless of whether the provisions of the S106 were active or not, the conversation in her view ought to be more about how well this function operated rather than whether or not the provisions should have been in place.

Monitoring of S106 agreement

10.13 The Panel asked about the appointment of the market facilitator, the Assistant Director for Planning confirmed that the Planning department was in the process of undertaking a review of the market facilitator operation and whether all S106 obligations have been complied with. The Council had asked Grainger in the meantime to halt the process for the appointment of a new market facilitator until this review has been concluded. If the S106 obligations have not been fully complied with then the remedy to that would be to advise on how the market facilitator role should operate in future which the Council would then have a responsibility to monitor in future.

10.14 The Panel is clear that the Council has the power to enforce the existing S106 agreement. The Panel is also clear that the Council's latest legal opinion is that the terms of the S106 agreement relating to the market facilitator are operative. The Panel believes that it is up to the Council's Planning Authority to ensure that the S106 is acted upon.

Public Sector Equality Duty

10.15 The Public Sector Equality Duty was introduced by the Equality Act 2010 and was developed in order to harmonise the equality duties and to extend it across the nine

protected characteristics[65]. Section 149 of the Equality Act 2010 specifies that those subject to the equality duty, which includes local authorities, must in the exercise of their functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.[66]

10.16 The Equality Act also specifies that advancing equality involves having due regard to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.[67]

10.17 The obligations within the S106 agreement, which were designed to deliver the Council's Public Sector Equalities duties, were not considered active by the Council's Legal Services as evidenced in their letter of 3rd September 2018. However, the Council's subsequent letter of 22nd March 2019 accepted that the Market Facilitator obligations of the Section 106 agreement were *"now in fact operative"* and also accepted that the Public Sector Equality Duty contained in S149 of the Equality Act applies to the Council when monitoring compliance with S106 agreements. The Panel remains concerned that the use of the word "now" is non-specific and does not explain at what point in time the Council considers the S106 to have become operable.

10.18 The Council's letter of 22nd March 2019 states: *"As you know, the market facilitator was appointed in November 2017, and when colleagues replied previously they were of the view that the arrangement was working well. However, since that time colleagues have become aware of complaints with regard to the operation of the market facilitator. The Council subsequently requested that Grainger change the*

[65] List of protected characteristics, Equality and Human Rights Commission: https://www.equalityhumanrights.com/en/equality-act/protected-characteristics
[66] Section 149 (1), Equality Act 2010: http://www.legislation.gov.uk/ukpga/2010/15/section/149
[67] Section 149 (3), Equality Act 2010: http://www.legislation.gov.uk/ukpga/2010/15/section/149

market facilitator and that an independent mediator be appointed. I understand that Grainger agreed to these measures and wrote to the traders in December 2018 signaling this intention."

10.19 The Panel noted a factual inconsistency in this paragraph. The Market Facilitator has confirmed that he was appointed in May 2016 and not November 2017, an 18-month difference. The Market Traders that gave evidence to the Panel expressed dissatisfaction with the effectiveness of the facilitator role at the first meeting of the Steering Group, which took place in October 2016 in the presence of a Council officer. Yet the Council's letter of 22nd March 2019 had stated that "when colleagues replied previously [referring to the letter of 3rd September 2018] they were of the view that the arrangement was working well".

10.20 The Council's letter of 22nd March 2019 states the intention of the Council to review the market facilitator operation and ensure that obligations under S106 are complied with. The Panel noted that at the time of writing the investigation has not concluded and that the facilitator role remains vacant. As this role is central to the delivery of the S106 protections, the Panel was concerned to note this further delay.

10.21 The Panel is concerned that the Council has not enforced the provisions contained within the Section 106 agreement that were designed to protect the market traders and that the Council has not fulfilled its Public Sector Equality Duty.

10.22 This is because the Section 106 specifically requires:

- The appointment of a Market Facilitator to *"work with traders and market employees, promote their interests, and give support and advice",* and
- Through the Community Engagement Strategy, the establishment of a Steering Group as a mechanism to enable dialogue between the market traders, Grainger and Quarterbridge/MAM.

10.23 However, despite the presence of these requirements in the S106 agreement, the Council:

- Failed to individually investigate complaints about the Steering Group which were raised as early as 2016.
- Failed to establish the conflict of interest between the market operator and market facilitator roles being held by the same person and the consequent difficulties in the market facilitator adequately promoting the interest of the market traders as required by the S106 agreement.
- Failed to investigate the concerns about the enforcement of the S106 agreement and a request for an investigation as raised by Bindmans solicitors in their letter of August 2018, instead asserting in September 2018 that the

S106 conditions were not in force and not acknowledging that this assertion was incorrect until March 2019.

10.24 The Market Traders are regarded as having protected characteristics, by virtue of race, under the Equalities Act. The Panel believes that the Council did not have due regard to its Public Sector Equalities Duty when dealing with complaints about alleged breaches of the S106 agreement.

Recommendation 5: The Council Planning department should carry out a review of how all S106 conditions are monitored and enforced. In particular, with regard to people who share protected characteristics under S149 of the Equality Act. The public needs to be confident that the monitoring and enforcement of such conditions are rigorous, robust, and pursued in the interests of residents and that these procedures are transparent.

Recommendation 6: The Council should take the necessary steps to assure itself that in monitoring, reviewing and enforcing its Section 106 planning obligations, it pays due regard to its Public Sector Equality Duty. The cabinet should further ensure that these steps are taken within a reasonable period of time.

Recommendation 7: The Panel noted that there could be a perception of a conflict of interest between the Planning and Regeneration departments and recommends providing a separation of the two services in order to provide for clearer understanding.

11. Maintenance Issues at Seven Sisters Market

11.1 The Panel heard extensive evidence from a broad selection of traders, including some traders who are supportive of the Grainger plan, that the market management falls well below their expectations and this was seen as a source of recurrent conflict between traders and the management of the market. All traders who gave evidence said that they had raised issues of security, cleanliness, pest control, and anti-social behaviour, the lack of a repairs regime, electricity outages and other issues. These were raised individually with the Market Operator/Facilitator at Steering Group meetings and with the Council's representative at the Steering Group. The Panel heard that these problems had been raised repeatedly by trader representatives on the Steering Group to no satisfactory conclusion. The Panel heard that the issues listed above impacted detrimentally on their businesses.

11.2 During a site visit to Seven Sisters Market on 3rd December 2018, Panel members observed the following:

- Lack of signage indicating the presence of an indoor market
- Lack of advertising on the outside of the building

- Lack of clarity for the main entrance
- Inadequate toilet facilities
- Trip hazards and poor quality flooring in customer aisles
- Generally grubby appearance of the communal areas
- Trip hazard by the rear exit to the goods loading area to the rear
- Absence of security and inadequate locks
- Lack of adequate lighting and trip hazards to the rear of the building
- Badly maintained drains
- Foul smells emitting from drains
- Overflowing commercial waste containers
- Rubbish strewn over the rear yard likely to attract vermin

11.3 Written evidence was received by the Panel to show that the Cabinet Member for Finance and Strategic Regeneration had responded to concerns from market traders and local residents regarding health and safety at Seven Sisters Market. The Cabinet Member wrote to TfL on 18th October 2018 to raise these concerns noting that the Council's Environmental Health team had carried out a visit to the market on 25th September 2018 and that inspection officers had raised concerns with fire safety at the site due to the layout, construction and management of the common areas.[68] The market operator subsequently submitted written material outlining fire safety procedures that apply to the market

11.4 Grainger's representative acknowledged to the Panel that he has *"heard much discussion around the quality of flooring, leaking roofs, damaged toilets, poor ventilation, power outages and anti-social behaviour outside and inside the market"*[69] but saw this as the concern of MAM. He further suggested that MAM's *"focus on repairs has often concerned fire and electrical safety ahead of cosmetic issues".*

11.5 The Panel believes that ongoing poor maintenance and poor security at the existing market runs the risk of reducing market footfall and impacting on the turnover and profits of the existing market traders. If this situation is allowed to continue unchanged it has the potential to render meaningless the provisions of the S106 deed of variation designed to ensure a future viable Latin Market.

Recommendation 8: The Council, in its regulatory health and safety role should work with TfL, Grainger and any other stakeholders to draw up a plan of action to address all

[68] Letter from cabinet member for strategic regeneration to Graham Craig, 18th October 2018
[69] Oral evidence given by Senior Development Manager, Grainger to a session of the Housing & Regeneration Scrutiny Panel, 27th March 2019

outstanding and ongoing maintenance work at Seven Sisters Market in order to secure a working environment which complies with all regulations.

12. Eviction of Housing Association Tenants

12.1 A number of housing association properties were situated within the redevelopment site and the Panel heard from three residents who had been evicted as a consequence of Grainger acquiring the properties.

12.2 The properties concerned were 30 Suffield Road, a terraced property operating as an HMO (house in multiple occupation) comprising of three separate rooms, and 255-259 High Road which comprised of six flats. These were owned by Circle 33 Housing (a housing association which has since become part of Clarion Housing following a merger) and were sold to Grainger in December 2016.

12.3 Circle 33 Housing had appointed Irish Causeway Housing Association in 2009 to manage the properties. The Panel understands that Circle 33 Housing had informed all occupying tenants in January 2016 of the impending future sale of the properties to Grainger. All but three tenants were subsequently rehoused or had managed to find alternative accommodation themselves.

12.4 The Panel spoke to all three of these former tenants. Tenant A, who had been living in one of the properties for seven years on a rolling six-month contract, informed the Panel that they had been evicted in October 2016 and claimed that they were only made aware of the eviction less than two weeks beforehand. Tenant A said that the only offers of alternative accommodation received were in shared accommodation which they did not feel to be safe enough to accept. Tenant A informed the Panel they had ended up sleeping rough and that this period of homelessness had exacerbated their existing long-standing mental health problems.[70]

12.5 In response, the Council told the Panel that Tenant A had received at least four offers of alternative accommodation, all of which he declined which left Circle 33 with no option but to evict them. The eviction had taken place in October 2016. The Council's rehousing team had actively assisted Tenant A to find alternative accommodation from October 2017.[71]

12.6 Tenant B said that they had also been living in one of the properties for a number of years and said that they had received an eviction letter in August 2016. Tenant B said that they had only been offered shared accommodation as an alternative, despite

[70] Oral evidence from Tenant A to a session of the Housing & Regeneration Scrutiny Panel, 26th March 2019
[71] Written evidence to the Panel from the Housing, Regeneration & Planning Department, Haringey Council, June 2019

the fact that the Circle 33 property that they occupied was a self-contained flat, and that this would be at a significantly more expensive rent. Tenant B also explained that they had difficulty getting access to their belongings after the locks to the property were changed.[72]

12.7 In response, the Council told the Panel that their rehousing team had been in regular contact with Tenant B until February 2018 when they had been advised to apply to the Council's housing register. There had been no further contact since that date.[73]

12.8 Tenant C told that Panel that they had also received an eviction notice in August 2016. The tenant was evicted by bailiffs in September 2016 along with their two small children, one of whom suffers from cerebral palsy. Tenant C said that their possessions were placed in the street and that they had no help with moving their belongings. Tenant C was then placed in a hostel and was then moved to Enfield.[74]

12.9 In response, the Council told the Panel that the former tenant had been temporarily rehoused at one of the Council's hostels for two nights after which they were moved to temporary accommodation in Enfield borough. An officer had been allocated to assist the former tenant with finding alternative accommodation after this but the Panel was told that this is likely to involve an offer of accommodation in the private sector due to the high demand for social housing. The Council also said that it cannot guarantee how long it will be until the former tenant is rehoused.[75]

12.10 The Panel was disturbed by the treatment of Housing Association tenants during their eviction prior to the acquisition of properties.

Recommendation 9: In light of the disturbing allegations the Panel heard in the evidence sessions from former housing association residents, we recommend that the council explore the lessons that could be learned from working with housing associations to rehouse vulnerable residents.

13. Distribution of CPO Notices

13.1 The Secretary of State's decision to confirm the CPO was received by Haringey Council on 23rd January 2019. This is a statutory process and there was a requirement to distribute notices of this decision to affected parties. On 27th February 2019 the notification confirming 'The London Borough of Haringey (Wards Corner Regeneration Project) Compulsory Purchase Order 2016' was distributed by

[72] Oral evidence from Tenant B to a session of the Housing & Regeneration Scrutiny Panel, 26th March 2019
[73] Written evidence to the Panel from the Housing, Regeneration & Planning Department, Haringey Council, June 2019
[74] Oral evidence from Tenant C to a session of the Housing & Regeneration Scrutiny Panel, 26th March 2019
[75] Written evidence to the Panel from the Housing, Regeneration & Planning Department, Haringey Council, June 2019

the Market Operator to all businesses and properties affected by the Compulsory Purchase Order (CPO). This notified all parties potentially affected of the Secretary of State's decision to confirm the CPO, including the market traders.

13.2 Given the history of complaints some traders considered this action to be highly inappropriate and insensitive.

13.3 The Panel sought an understanding of how this situation had been allowed to occur. Officers outlined that the distribution of the CPO notices had been co-ordinated by Persona, a company that had been appointed by Grainger and Haringey Council to carry out land referencing duties since 2016. The process was that Persona printed and enclosed the covering letters (on Haringey Council headed paper as the acquiring authority) and delivered the notifications to the majority of potentially affected parties, using a variety of means including registered mail, couriers and hand delivery. In 2016, the then licensed stallholders requested that notices be hand delivered due to issues with non-delivery at home addresses. Officers noted the significant administrative challenges involved with maintaining an independent database, as the churn in traders is significant. The Panel were informed that the Market Operator maintained a regularly updated list of Traders. Because of this, the Market Operator was asked to help with this statutory requirement of distribution of notices to all licensed stallholders by the CPO Project Manager (consultant) who was managing the contract at the time in 2016. Since 2016, the Market Operator has helped to distribute at least four notices about the CPO to the market.

13.4 Officers explained that using the Market Operator was intended to assist in the legal requirement that all licensed stallholders receive their relevant notifications. There is no legal requirement as to who has to deliver the notices and the rationale was that the Market Operator had unique access to the necessary information to be able to hand deliver the notices to the right person. This was seen as a default arrangement and so no explicit decision was taken to deliver the notices in this way. However, officers acknowledged the heightened sensitivities that were ongoing and that the method of distribution had caused unintended distress and concern for which they apologised.

13.5 The Leader of the Council wrote to market traders on 5th March 2019 to apologise for the way in which the CPO notices were delivered to them. The letter included that the council was reviewing how market traders are communicated with to make sure that this doesn't happen again.

13.6 Panel members felt there should have been sufficient awareness within the Council of the damaging impact on community cohesion that the distribution of the Council's

CPO notices would have by being distributed by the market operator .The Panel felt that this distribution method was particularly insensitive in view of the ongoing difficult relationship between the Market Facilitator and the traders.

14. Conservation Issues and Value of Existing Site

14.1 The case made to the Panel in favour of the redevelopment by Grainger included an emphasis that the scheme will *"enhance the environmental quality of the public realm"* and *"will replace buildings of poor quality or design and replace them with one of high quality and design."* It was also argued that the redevelopment will generate jobs, provide a new and improved range of retail shops in the town centre and provide wider economic benefits.

14.2 Describing the potential for the redevelopment to be a catalyst for wider regeneration, Grainger informed the Panel that:

"It is anticipated that it will also provide a springboard for further private and public sector investment that will bring greater and sustained regeneration in the wider area, as seen with other high-profile redevelopment schemes in Tottenham.

The envisaged redevelopment of the wider area is driven by 'place-making' with the aim of creating an attractive, accessible and interesting centre for the Seven Sisters area helped by an improved and enlarged public space at the core. The 196 new homes will create a more balanced community with an anticipated high proportion of working households and higher incomes that can then have a multiplier effect on the local economy."[76]

14.3 The developer also highlighted the conclusions of an independent market expert, Gary Saunders of Saunders Markets, which identified the following issues relating to the current market:

- The Market is accessed via three small entrances directly off the Tottenham High Road and a double door rear entrance for servicing.
- The result of the Market's high proportion of used space is a cramped feeling in the aisles between stalls when it is busy. One view is that this bustle adds to the ambience and character of the market. The other is that narrow crowded spaces put off potential casual customers and shortens their visits. In my view, the modern practice of allowing more

[76] Written evidence to the Panel from Grainger, March 2019

circulation space creates a much more pleasant and inviting environment for customers.

- The condition of the building is detrimental to its future. It is apparent that the lack of signage, the cramped feeling within the market and ongoing health and safety legacy issues that require addressing are all contributing to the feeling of a "patched up" market rather than a forward-looking enterprise.

14.4 Grainger expressed the view that to leave the Market in its current condition is not a sustainable long-term option and that instead the redevelopment provides *"a significant opportunity to deliver a modern setting for the Market and provide a purpose-built space within which it can flourish."*[77]

14.5 Verbal and written submissions were also received by the Panel indicating significant public support for the retention of the architectural heritage inherent in the existing buildings at Wards Corner as well as support for the cultural offer present at the market.

14.6 The Panel received evidence from Latin American traders that testified to the importance of the market for Latin American residents and other groups with protected characteristics across London. Evidence was provided as to the long distances people would travel just to shop or eat at the Wards Corner market. A statement from local campaigner and founder of the Latin Corner Community Interest Company, said that the site is *"considered a site of cultural heritage for the Latin American community. Many of the trader's units have been designed with a Latin American architectural influence, and many have balconies and terraced roofs. School trips from state schools to the Latin Village have taken place as a part of the language curriculum. People are drawn to the site to enjoy the immersion experience of being in an authentic Latin Village.''*[78]

14.7 Other evidence was provided to show how traders use the market to bring together the Latin American community, share experiences, celebrate cultural heritage, offer mutual support and create a home from home at the market site. Local campaigner, statement to the Panel observed that, "*It is a valuable resource for BAME children socialising in the community"*[79].

14.8 The Panel heard from Dr Sara Gonzalez, Associate Professor at the School of Geography, University of Leeds, whose areas of expertise includes traditional

[77] Written evidence to the Panel from Grainger, March 2019
[78] Written evidence to the Panel from local campaigner, February 2019
[79] Written evidence to the Panel from Mirca Morera, February 2019

markets including their redevelopment and the economic, social and cultural benefits that they can being to local communities.

14.9 Dr Gonzalez observed that Seven Sisters Market is *"a social and cultural ecosystem with a rich and strong community value"* that benefits, in particular, ethnic minorities, vulnerable groups and people on low incomes. She cited several policy reports and research on markets to support this assertion including:

- That there is a correlation between the location of markets and those areas with the highest number of Black and Minority Ethnic (BME) populations, who tend to have lower incomes (Cross River Partnership, 2014)
- Markets in London also showcase the ethnic and cultural diversity of the city and there has been some research exploring how markets improve communication and understanding between diverse groups (Dines, 2007; Watson, 2009)
- Markets also act as 'meeting places and locations for social exchanges, for learning about food and for engaging in the community. The benefits appear to be particularly important for the elderly.' (NEF, 2005, p. 54)

14.10 Dr Gonzalez also noted that the Mayor of London's 2017 report, Understanding London Markets, explicitly argues that *"Markets are part of the fabric of London life. They are at the heart of our communities and local places and offer Londoners a diverse range of economic, social, and environmental benefits, collectively known as 'social value' "*[80].

14.11 Dr Gonzalez told the Panel that the community value at Seven Sisters Market and Wards Corner is practically irreplaceable and will be eroded by the proposed development and in doing so the Council is in danger of failing to comply with its Public Sector Equality Duty responsibilities.

14.12 Another key point raised was on the expected long-term rise in rent levels as the retail offer in the area gradually begins to serve a more affluent customer base. Dr Gonzalez addressed the potential consequences of this: *"The characteristics that made a market such as Seven Sisters a vibrant, socially integrative and a second home for so many vulnerable adults and children can quickly be eroded. Market users will also be displaced by potentially higher prices that traders might be forced to charge to pay the higher rents. Market traders will not be able to adjust their prices to a low income customer group as they will have to cope with higher rents in the*

[80] *Understanding London's Markets*, Mayor of London (2007)
https://www.london.gov.uk/sites/default/files/20171219_gla_markets_report_web.pdf

long term. This gentrification process will not only displace ethnic minority customers but also those on low income."[81]

14.13 The Panel also spoke to Dr Myfanwy Taylor, a local resident and a research fellow from the School of Geography at the University of Leeds. Dr Taylor's work has recently included PhD research on the mobilisation of small businesses, industrial firms, market traders and migrant and ethnic minority retailers in response to London's escalating workspace crisis.

14.14 Dr Taylor challenged the negative characterisation of Seven Sisters Market and Wards Corner which had been described in Haringey Council's original development brief in 2004 as suffering from high levels of deprivation and in particular from high levels of crime with a poor range of shops and facilities. She said that, *"the characterising of local areas which are well-used and vibrant as empty, disinvested, run-down and/or declining is a common strategy used by local authorities and developers to justify developments."*

14.15 Dr Taylor also highlighted the importance of the low start-up costs and the flexibility and adaptability of the market space, specifically the ability to merge, divide and adapt units. This provided economic opportunities to people in migrant and diverse communities including those who do not necessarily have a lot of money to invest. In her own interviews with market traders, she had heard the value of the businesses and the wider market in meeting their families' basic needs, the close relationship between commerce and the community and of the many community advice services provided by traders and other local actors from Seven Sisters market. These services cover a broad range of issues including housing, legal matters, domestic violence, business support, translation services and the integration and promotion of Latin Americans in London.

14.16 Other research highlighted by Dr Taylor included work carried out by Patria Roman-Velazquez on the importance of Seven Sisters Market and Wards Corner to Latin American, other BME groups and economically disadvantaged communities. This research notes that Wards Corner is home to the second largest cluster of Latin American businesses in the UK, second only to the Elephant and Castle which is also threatened with redevelopment. All Seven Sisters Market traders are from a BME background, with the majority identifying as Latin American; approximately 23 of the 39 units are licensed to Latin Americans. The face-to-face survey with 26 traders, conducted as part of this research, provides further evidence of the ways in which livelihoods and employment are bound up with culture and conviviality in Seven

[81] Written evidence provided on 25th May 2019 and oral evidence given on 7th May 2019 by Dr Sara Gonzalez, Associate Professor at the School of Geography, University of Leeds, to a session of the Housing & Regeneration Scrutiny Panel.

Sisters Market. The market is valued not only as a space of trade by traders but also because it provides a 'sense of belonging and purpose' and 'a sense of community'.[82]

14.17 Professor Alexandra Xanthaki, a leading expert of indigenous rights in international law at Brunel Law School told the Panel that, in her view, the decision to redevelop Seven Sisters market fails the obligation of a state and its local authorities on minority groups. The most important reason is the violation of right to culture as the market represents one of very few cultural hubs for the Latin American community in London. Professor Xanthaki described the market as a community hub that they have themselves created which includes space to meet, share food, music, etc. and develop their identity. The decision to redevelop the market therefore deprives the community of this space and this violates Article 27 of the International Covenant on Civil and Political Rights which covers the right for ethnic and other minority groups to practice their own culture, language and religion. The second issue is indirect discrimination because, while the intention of the redevelopment may not be intended to be directly discriminatory, the impact of it will disproportionately affect the Latin American community.

14.18 Asked whether the creation of a new market would mitigate the effects of losing the old market, Professor Xanthaki acknowledged that there is a conflict of rights because it is claimed that the redevelopment would have benefits for the wider community. However, she said that there has to be proportionality and measures need to be put in place to protect the cultural rights of the people affected. Professor Xanthaki said that she had seen no discussion about this and that the mitigating measures offered had largely focused on financial measures such as a short period of reduced rent rather than anything to do with cultural rights. The Panel has since been made aware that notice has been given by MAM in August 2019 to some traders of rent increases for units in the existing market of up to 27%, which far exceeds the rent protections of 2% enshrined in the S106 provisions. The Panel was told by Council officers that the context for this is that:

- The average licence fee increase is 13 per cent over a 4-year period (approximately 3.25 per cent each year) which brings the licence fees in line with RPI increases.
- Some Traders have a higher increase than others depending on the number of years since the licence fee was last set.
- Discounts are applied for size and zoning i.e. larger/multiple units will receive a discount, and units which can trade for 7-days onto the High Road (as opposed to others with restrictions) have a supplementary charge.
- Two traders who MAM assessed as adding diversity to the market received no increase.

[82] Written evidence provided on 4th June 2019 and oral evidence given on 7th May 2019 by Dr Myfanwy Taylor, Research Fellow, School of Geography, University of Leeds, to a session of the Housing & Regeneration Scrutiny Panel.

- Traders who entered into a licence in the last 12 months received no increase.

14.19 The market provides one of only two remaining Latin American quarters in the UK. It is the view of the Panel that the development of a Latin American cultural hub in the heart of Tottenham enhances the borough's culturally diverse offer and contributes to community cohesion. The traders have created an embryo of an attractive cultural destination that enhances the borough's appeal and encourages community well-being.

14.20 Thomas Bender, Conservation Adviser from the heritage charity Save Britain's Heritage, informed the Panel that Wards Corner comprises of several Victorian and Edwardian buildings and is named after the Wards Corner Department store that opened as a family-run business in the 1900s until it ceased trading in 1972. The main three-storey corner building, that is now disused, was described as *"an attractive corner building characterised by large windows with unusual glazing"* and *"an important local landmark [that] has significance as a heritage asset."* The loss of this building and the Wards Corner site would, according to Save Britain's Heritage, *"significantly harm the special character of the Seven Sisters/Page Green Conservation Area"*. It was acknowledged however that some of the buildings on the site are now in very poor condition but that *"it has not been justified that demolition is the only possible option for this building. We would expect to see a comprehensive assessment of the existing buildings in terms of repairs, adaptability and reuse for the market"* noting that there is an existing alternative community-led plan which would retain the local heritage buildings.[83]

14.21 Chris Ramenah from Tottenham Civic Society informed the Panel that the Wards Corner buildings have a significant amount of historical interest. He compared the architecture to that of 522-528 Tottenham High Road, which is on the same A10/High Road corridor just under a mile away in Bruce Grove, and is currently occupied by an Iceland supermarket. From 1877 the building at 522-528 Tottenham High Road had been used as a premises for G.L Wilson, a local builders merchant. In the early 1900s Wilson redesigned the premises to include ornamental columns and features, blue tiling and brown framed windows and the Wards brothers that ran the store then got similar windows installed by the same architects at the Wards Department Store. The Wilson building at 522-528 Tottenham High Road had recently been going through the process of being restored, supported by the National Lottery Heritage Fund in 2011 and Chris Ramenah said that the Wards Corner buildings also had the potential to be restored. He also pointed out that the

[83] Written evidence provided on 8th April 2019 and oral evidence given on 2nd May 2019 by Conservation Adviser, Save Britain's Heritage to a session of the Housing & Regeneration Scrutiny Panel.

Wards Store building is locally listed and is situated in the Seven Sisters/Page Green Conservation Area. Chris Ramenah concluded that to lose the Ward's Store and the rest of the site would be *"catastrophic"* and *"a complete devastation to Tottenham's heritage history"* and therefore supported restoration rather than demolition.[84]

14.22 English Heritage has previously submitted an objection to Grainger's planning application in 2012 on the grounds that: *"Notwithstanding improvements to the proposed redevelopment, and the need for economic regeneration, the loss of a substantial part of the conservation area and its replacement with a substantial mixed-use development will cause substantial harm to the conservation area and as such requires justification under paragraph 133 NPPF. As such, clear and compelling justification that the public benefits that outweigh the harm must be demonstrated. In our view, it has not been demonstrated that the wider benefits could not be delivered by a more conservation led scheme which better preserves or enhances the significance of the conservation area."* English Heritage further recommended that: *"In our view, a scheme that seeks to enhance the existing buildings, or their most significant elements, would better sustain and enhance the significance of the conservation area."*[85]

14.23 However, the Planning Inspector's report on the CPO notes that, *"In the Council's view although the Seven Sisters Market is unique in many ways, and is an asset to the Borough, in its existing form it suffers from serious shortcomings. The condition of the building is poor, the layout is cramped, and the entrances lack public visibility."*[86] It also notes that the new housing, retail space, new market and enhanced public realm would conform with the strategic approach set out in the relevant planning policies.[87]

14.24 Panel members were sympathetic to the idea of maintaining an architectural consistency that provided characterful evocations of the Edwardian period typical of the area. Panel members agreed with Mr Ramenah that a restored Wards Corner heritage building would enhance the aesthetic of an area seen to be part of the historic corridor into Tottenham. Panel members also felt that retaining the Wards Corner building is important in order to reflect a number of related characterful buildings along Tottenham High Road going northwards and that this would be an attractive architectural statement that would enhance the area and encourage visitor numbers and economic growth.

[84] Oral evidence given by Tottenham Civic Society to a session of the Housing & Regeneration Scrutiny Panel, 27th March 2019
[85] http://www.planningservices.haringey.gov.uk/portal/servlets/AttachmentShowServlet?ImageName=466399
[86] p.19, paragraph 102, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)
[87] p.18, paragraph 98, CPO Report to the Secretary of State for Communities and Local Government, Wards Corner Regeneration Project CPO 2016 (The Planning Inspectorate, Jan 2018)

15. United Nations interventions

15.1 On 21st July 2017, Special Rapporteurs of the United Nations Human Rights Committee wrote to Grainger and to HM Government about the redevelopment project and also published a news release[88]. This was at a time when the CPO Public Inquiry was open and hearing evidence and four days before the Deed of Variation to the S106 agreement was completed.

15.2 The statement said that, if granted, the CPO would *"result in the expulsion of the current residents and shop owners from the place where they live and earn their livelihoods, and would have a deleterious impact on the dynamic cultural life of the diverse people in the area"*. If the businesses were forced to stop their activities or relocate this would have *"a disproportionate impact on people belonging to minorities and their right to equal participation in economic, social and cultural rights"*. It called on the UK authorities to be *"mindful of the consequences on the economic, social and cultural rights of the people living and working in the market"*.

15.3 The signatories to the statement were Karima Bennoune, Special Rapporteur in the field of cultural rights, Rita Izsak-Ndiaye, Special Rapporteur on minority issues and Surya Deva, Chairperson of the Working Group on Business and Human Rights.

15.4 On 26th March 2019, a couple of months after the CPO decision was confirmed by the Secretary of State, a second statement from the Special Rapporteurs was issued.[89] This said that the decision had *"dismissed the relevance of any possible disadvantage for people affected"* and that *"to disregard the rights of minorities in the name of an ultimate collective social goal that fails to include their own wishes is incompatible with the State's obligations under international human rights norms protecting minorities"*.

15.5 The signatories to the second statement included Karima Bennoune and Surya Deva who had been signatories to the previous statement. The other signatories were Fernand de Varennes, Special Rapporteur on minority issues, David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

15.6 Asked about the Council's view on the statements from the United Nations, the Leader of the Council, told the Panel that they highlighted a number of issues that the Council hoped to address. He also said that as the statements came from the

[88] https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=21911
[89] https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24409&LangID=E

United Nations it is for the Government to provide a response and not the Council. However, the Council could feed into any response from the Government.

15.7 The Panel felt that the local community is entitled to see a response from the Council to the issues raised in the United Nations statement. If this is not possible then the Council should establishment what response, if any, has been provided by the Government and advise the Panel on what input the Council has provided as part of this process.

Recommendation 10: The Panel strongly recommends that the Cabinet make a public statement in response to the Special Procedure reports from the UN, covering all the issues raised, in relation to Wards Corner.

16. Alternative Community Plan

16.1 The Panel heard evidence from representatives of the Wards Corner Community Coalition (WCCC), a group which opposes the existing proposals for the site and has established a separate alternative "Community Plan". The WCCC had said that the coalition is made up of local residents and traders and was formed to oppose demolition and campaign for this alternative vision.

16.2 The WCCC successfully obtained planning permission for their alternative community plan in April 2014 although this expired in April 2017 and at the time that the Panel was taking evidence, no new application had been made. However, the Panel understands that a fresh planning application for a revised version of the community plan was submitted to the Council in August 2019. The outcome of this application has not yet been determined at the time of writing.

16.3 The 2014 planning permission for the community plan applies only to the former Wards department store building at 231-243 Tottenham High Road and not to the wider site. The main aim of their plan is retain the Seven Sisters market on the ground floor and extend it to the first floor, and also to restore the derelict three-storey corner building, as an alternative to demolition. The WCCC say that this would lead to a tripling of floor space and to *"growth in the micro economy that that exists on the site through a better trading environment and increased footfall resulting from the proposed refurbishments of the building and Wards Corner's promotion as a retail destination."* The second floor would be used to create hub space that could be rented by small start-up businesses. Overall, this would bring back 2,150 square metres of empty space back into use bringing the total indoor usable space to 3,680 square metres.

16.4 The WCCC also point to the temporary jobs that would be created by the construction process and say that, as the current site provides around 150 jobs, this number could be expected to rise by 300 to approximately 450 following construction. All existing market traders would be accommodated within the new development. Phased restoration would allow traders to continue trading on-site throughout the redevelopment process.

16.5 The WCCC said in relation to their 2014 plan that their vision for Wards Corner is to *"create a distinctive landmark development that is truly Tottenham; a development which aims to make the most of the many remarkable assets and qualities, intrinsic to this particular site"*. They say that *"it is not necessary to demolish existing historic assets or to dislocate an entire community that has lived and worked on the site for a generation and more."*[90] The key outcomes of the Community Plan that they highlight include:

- a community led development that fosters citizenship and active community participation
- all existing businesses remain with additional local business support
- an estimated 300 permanent new jobs created
- the creation of a multi-cultural destination for the people of Tottenham and beyond
- enhancement of the conservation area

16.6 Under the WCCC's plans all existing market traders would be accommodated within the new development. Phased restoration would allow traders to continue trading on-site throughout the redevelopment process. Once restored, traders would operate temporarily from the corner building, moving back into the market once the remainder of the building has been restored. New tenants would then move into the corner building once it has been fitted out. Existing and new traders will benefit from additional support to help them grow and develop, and a hub workspace to further enhance the market's role as a space for start-ups and innovation.

16.7 The Panel was informed that the alternative community plan has been informed by more than 10 years of community engagement including through:

- public meetings including a workshop on key issues in 2008 attended by 350 people
- a consultation process from summer 2010 to April 2012 running from a unit in Seven Sisters market
- a series of sessions with market traders including local architects speaking to traders about their aspirations for the site

[90] p.3 WCCC Design and Access Statement, 2014

- door-to-door leafleting, posters and emails[91]

16.8 The community plan was developed with the support of various organisations and individuals with relevant skills and experience including:

- Architects and architectural designers, including Ricardo Pelayo, Glen Lake, East Architects, Abigail Stevenson and colleagues, and Unit 38 architects;
- The Glass-House Community Led Design, the Prince's Foundation and the Architectural Heritage Foundation; and
- Planning experts, including Planning Aid for London and Rebecca Neil, Senior Lecturer in Planning Practice, University of Westminster.[92]

16.9 The Planning Inspectors report following the CPO inquiry said that the WCCC had *"not produced any quantified evidence or costings to support their claim that their scheme could be made financially viable"* and that *"although WCCC has demonstrated great commitment in the past, it is difficult to envisage how the group could muster the resources and expertise needed to turn their plans, however attractive on paper, into reality"*[93]. It concluded that there is no credible alternative to the Order scheme.

16.10 Other issues with the deliverability of the alternative plan that have been highlighted by Haringey Council include:

- Inability to agree terms with the building owner, TfL (LUL)
- Lack of evidence of funding to carry out the Plan. Cost of basic improvements needed to the market had been estimated at over £1 million
- Lack of a feasible decant offer to traders during refurbishment which is key to continuity of the market
- No guarantees provided to traders that compare with those in the Grainger S106.

16.11 The Panel took evidence from Ben Beach, a local architect and supporter of the Community Plan. Ben Beach said that a revised version of the Community Plan would protect a heritage asset for the local area, retain community spaces and ensure the use of the buildings as a catalyst for a community wealth building trust, using the surplus as seed funding for new projects. The version of the Community Plan presented to the Panel (the third version) accounts for the future inclusion of a wider scheme, making use of principally infill housing, with the provision of between 52 units (low density) to up to a maximum density of 200 housing units. Ben Beach said that that the Community Plan had an overarching vision to retain community

[91] Written evidence from Dr Myfanwy Taylor, June 2019
[92] Written evidence from Dr Myfanwy Taylor, June 2019
[93] Paragraphs 345 & 346, CPO Inspector's report

spaces, ensure the future of the market and use the building as a catalyst for community wealth building. Panel members noted that the Grainger plans to demolish and rebuild the site would retain none of the heritage elements of the existing buildings and did not provide any affordable homes on the scheme.

16.12 The Panel also heard concerns that when the WCCC engaged with the planning process the Council *"did little to support or facilitate this work and at times appeared to directly thwart and delay it."* Dr Myfanwy Taylor explained to the Panel that it had taken the WCCC six years to obtain planning permission. She said that the Council had failed to reach a determination on an earlier version of the community plan submitted in 2008 and an appeal to the Planning Inspectorate against the Council's failure to reach a determination was rejected in 2010. A further application was submitted in 2011 but again the Council did not reach a determination. A third planning application was made in 2012 but, after further information was requested, a revised version was again submitted in October 2013. Dr Taylor pointed out that the Council's stated policy at the time was to validate received plans within five days of receipt but two months later the WCCC still had not received any information and said that two enquiries for further information in December 2013 were not answered. The WCCC eventually learned that the plan had not been validated because an equalities impact assessment had not been included. After a meeting with planning officers in February 2014 further information on equalities was provided and the application finally received planning permission in March 2014.

16.13 Dr Taylor concluded that there appears to have been *"a serious failure on the part of the Council to respond promptly and professionally to the various planning applications submitted, in line with their own policies and standards. In addition, it is clear that the Council made no special effort to support or facilitate the community and trader groups involved in navigated these complex, technical and demanding planning processes".* In particular she highlighted the contrast between the lack of support from the Council for the WCCC's plan and the support provided by the Council to Grainger as its preferred development partner.

16.14 It is important to note that the allegations above were not put to the Assistant Director for Planning when she gave evidence to the Panel but she has since provided a response in writing as follows:
"I would point out that at the time of the submission of the 2008 and 2011 planning applications the Council's planning service was poorly performing … I would suggest that the Council failed to respond promptly to a number of planning applications at this time not just these community coalition applications. The Council now runs a monthly report of all applications that have been with the Council for 20 weeks, over 26 weeks and over 52 weeks and management has meetings with case officers about

all applications which have been with the Council over 20 weeks on a regular basis. As such applications would not be with the Council for several years without any action or following up with applicants in the new management arrangements.

With regards to the 2014 application, the application is recorded on the system as submitted and validated on 27/2/2014 and the statutory consultation period ended on 3/4/2014 and the application was approved on 25/4/2014 after 54 days."[94]

16.15 When asked about this by the Panel, the Assistant Director for Regeneration, addressed this question in the context of the Regeneration Team's corporate responsibility and obligations to the development agreement .He advised that by the time a Development Agreement is entered into a major commitment has been made to a third party. Committing to support a rival plan after this point would therefore be problematic and highly unusual. When a third party has been prioritised by being selected as a preferred development partner, considerations have already happened and decisions have been made. To support an alternative plan would therefore be to argue against the Council's own decisions.

16.16 Panel members believe that the Planning Department should be objective and fair in carrying out its duties as a Planning Authority. All applications should be treated similarly when applying policy and procedure. However, the Panel also recognised the distinction between day to day planning practice delivery and the strategic work completed with developers.

<u>Community Plan timeline</u>

January 2008	First planning application submitted (HGY/2008/0177) – not determined[95]
July 2011	Second planning application submitted (HGY/2011/1275) – not determined
February 2014	Third planning application submitted (HGY/2014/0575)
April 2014	Planning permission granted for third application
April 2017	Planning permission for third application expires
August 2019	Fourth planning application submitted (HGY/2019/2315) - ongoing

[94] Written evidence to the Panel from the Assistant Director for Planning, Nov 2019

[95] Council officers informed the Panel that this application was not determined because the application was invalid. Council officers also pointed out that the 2008 application was technically made under a different applicant name but supporters of the WCCC were clear that in their evidence to the Panel that they regarded the application made in August 2019 to be the fourth version of a Community Plan.

17. Consequences of Withdrawing from the Development Agreement

Legal and financial liabilities

17.1 The Panel asked Housing & Regeneration officers to comment on Haringey Council's legal obligations and financial liabilities in the event of any significant change in policy to the Wards Corner redevelopment (i.e. amending the existing plans for the redevelopment or fully adopting an alternative plan for the future of the site).

17.2 Officers told the Panel that the development agreement can only be terminated by the Council if there is a Developer's Default and the default cannot be remedied or if it can be remedied the developer has failed to remedy it. A Developer's Default is where the developer is in material default of the performance of any of the material covenants, agreements and stipulations contained in the development agreement and the default is of a fundamental nature. There are no other terms/conditions or provisions for the Council to terminate the agreement, apart from this. If the Council decides to terminate the agreement outside of the provision of the two agreements, the Council will be in breach of its obligations to the developer and the developer has a right to sue the Council for this breach. The Courts would consider whether payment of damages by the Council would be appropriate.

17.3 There are several estimates over the exact cost likely to be incurred by any cancellation of the development agreement. In 2017, during the CPO Inquiry, the Grainger officer's proof of evidence stated that: *"Grainger's commitment to the Order Scheme, and the wider regeneration of Seven Sisters, is evidenced by the fact that, to date, £10.7m has been spent on the Order Scheme including professional fees and property acquisitions."* More recently, Grainger have provided updated estimates for both property acquisitions (approximately £13.5m), and professional fees (approximately £5.5m).

17.4 While this suggests a potential liability of at least £19m in the event that Haringey Council was in breach of the agreement, Housing & Regeneration officers told the Panel that it would not be possible to provide an overall accurate estimate without a full audit of costs which would involve significant resources to provide.

Financial contributions to the redevelopment scheme

17.5 Assistant Director for Regeneration at Haringey Council, informed the Panel that £1.5m of public money was contributed to the scheme via the Bridge New Deal for Communities Trust. According to papers previously provided to the Cabinet, this funding is repayable to the Council, subject to conditions, when a minimum profit level is realised on the completed development.[96]

17.6 The Panel is also aware that financial support is being provided from the Mayor of London via Transport for London with £284,500 being provided to assist in resourcing the temporary relocation of Seven Sisters market.[97]

17.7 The S106 agreement entered into in July 2012 obliged Grainger to pay a Traders Financial Assistance Sum of £144,300 no later than six months before the market closure date. This was intended to be a contribution towards the relocation costs to the Temporary Market. This requirement was subsequently replaced by the 2017 Deed of Variation which instead requires Grainger to pay a 'Release Sum' directly to a qualifying trader within 28 days of a trader signing release advising that they have vacated the market or temporary market. The Release Sum is calculated at the rateable value of the relevant licensed unit. Grainger is also required by the S106 agreement to pay £150,000 to the West Green Road Improvement Fund no later than six months after the commencement of the development.[98] West Green Road is the main road that the north of the redevelopment site faces onto.

Future options for the Wards Corner site

17.8 The future of the Wards Corner site has remained a contentious political issue for more than 15 years. This Scrutiny Review in part has been an attempt to find a route out of the conflict and seek a creative solution. The developer Grainger has extant planning permission for the demolition of the site and the building of 196 private build-to-rent units. The plans have been opposed by some market traders and a coalition of local residents and supporters who have presented an alternative Community Plan for the site which retains the Edwardian building and market. The Scrutiny Panel has attempted to make an assessment of the competing values and benefits of these two alternative plans. The Panel considered that much has changed since the Grainger plan was first conceived. Most notable amongst these changes are: the uncertain economic climate and instability around Brexit; the demise of the High Street and the Mayor's and the Council's priorities on regeneration schemes and affordability criteria.

[96] *Paragraph 5.29, Report to Cabinet on Seven Sisters Regeneration, 15th July 2014* https://www.minutes.haringey.gov.uk/documents/s81687/Appendix%20H%20-%20Cabinet%20Report%2015%20July%2014.pdf
[97] Mayoral decision, August 2012 http://bailey.persona-pi.com/Public-Inquiries/seven-sisters/council-documents/app-0-11.pdf
[98] p. 5&6, Report on Seven Sisters Regeneration to Haringey Cabinet, 10th Nov 2015 http://www.minutes.haringey.gov.uk/documents/s81769/Cabinet%20Report%20Wards%20Corner%20CPO%2010%20Nov%202015%20Open.pdf

17.9 The Panel believes that any way forward for the Wards Corner site needs to take into account the contemporary economic, political and social climate. Haringey's Borough Plan 2019-2023 places Community Wealth building at the heart of its economic strategy which states: *"Our diverse and dynamic business community is a priority and we are committed to investing in and improving our services to business, whether small, medium or large. We will make sure that investment and development has the interests of our communities at its heart and is undertaken for the benefit of our local residents and businesses."* It also commits to *"building wealth within the community... We want to build the strength, depth and wealth of our local economy and will create safe and attractive environments for both businesses and our residents to thrive"*.[99]

17.10 The Director of Land and Development at Grainger, emphasised to the Panel that a thriving market is a vital part of the redevelopment being a successful project and there is a real desire for that to enable that to happen through a working partnership. Any breakdown of trust is therefore bad news at it creates a risk of failure. A representative of Grainger acknowledged that relations with some of the traders are not as good as he would like them to be though they were now better than they had been.[100]

17.11 Evidence submitted by Grainger's representatives, expressed their intention to continue with their development plans. However, they did recognise that there had been a breakdown in trust between themselves, the traders and the wider community. They said that the breakdown in trust is "bad news" and created a "risk of failure". He reiterated the company's desire to "work in partnership". The company representatives expressed fears that the breakdown of relations could impact adversely on the company's reputation. They acknowledged that the Steering Group, originally envisaged as the means by which they could deliver elements of the S106 requirements was not fit for purpose and that the arrangements they had put in place for the Market Facilitator had not worked. The representatives expressed interest in finding ways out of the impasse and were open to discussing practical solutions to the many difficulties at the Market site. They said that the company had considered retaining the heritage features of the building but had concluded that this was not viable.

Recommendation 11: In light of the change in emphasis towards the provision of social housing, at both local and regional levels, the Panel recommends that the Council should

[99] Page 38, Borough Plan 2019-23 https://www.haringey.gov.uk/local-democracy/policies-and-strategies/borough-plan-2019-2023-consultation

[100] Oral evidence given by Director of Land and Development at Grainger and the Senior Development Manager at Grainger to a session of the Housing & Regeneration Scrutiny Panel, 27th March 2019

explore the feasibility and cost benefits of all approaches for a full or partial buy-out of interests at the Seven Sisters market and whole site.

Recommendation 12: The Council should set up a task force to work with West Green Road/Seven Sisters Development Trust, Save Latin Village and Wards Corner CIC & relevant community groups to develop their ideas for a partnership and a plan. This will encompass all the obligations of the Council's Public Sector Equality Duty consider establishment of social housing on the site and explore the feasibility and desirability of retention of the heritage characteristics of the existing buildings.

Recommendation 13: If the above recommendation is not accepted, the taskforce should work with Grainger and relevant community groups such as West Green Road/Seven Sisters Development Trust, Save Latin Village and Wards Corner CIC to develop their ideas, and co-ordinate any combined solution. Any such solution should meet the obligations of the S106, take account of the many changing economic and political circumstances since 2012, include a social/affordable housing element and embrace the aspirations of the wider community in relation to the cultural heritage of the built environment.

Recommendation 14: The Regeneration department should ascertain and publish details on the amount of public money, including grants, which have been allocated to this development. This report should include reasons funds were allocated, the source and purpose of the funding and establish the amounts spent, what it was spent on, and how much remains.

Appendix 1

Review contributors

Contributor	Organisation	Date
Mirca Morera	Local campaigner	6th Feb 2019
Prof. Alexandra Xanthaki	Brunel Law School	6th Feb 2019
Fabian Catano Cadavid	Market trader	6th Feb 2019
Victoria Alvarez	Market trader	6th Feb 2019
Nicholas Amayo	Market trader & former Steering Group member	6th Feb 2019
Patrick Rey	Market trader	6th Feb 2019
Tenant A	Local resident	26th Mar 2019
Tenant B	Local resident	26th Mar 2019
Tenant C	Local resident	26th Mar 2019
Susan Penny	Local resident	26th Mar 2019
Chris Ramenah	Tottenham Civic Society	27th Mar 2019
Jonathan Kiddle	Senior Development Manager - Grainger	27th Mar 2019
Michael Keaveney	Director of Land and Development - Grainger	27th Mar 2019
Jonathan Owen	Director – Market Asset Management (Seven Sisters) Ltd	28th Mar 2019
Peter O'Brien	Assistant Director for Regeneration – Haringey Council	11th Apr 2019
John Halford	Bindmans Solicitors	17th Apr 2019
Victoria Alvarez	Market trader	17th Apr 2019
Mirca Morera	Local campaigner	17th Apr 2019
Cllr Charles Adje	Cabinet Member for Strategic Regeneration – Haringey Council	23rd Apr 2019
Cllr Joseph Ejiofor	Leader – Haringey Council	23rd Apr 2019
Shirley Hanazawa	Local resident	24th Apr 2019
Marta Hinestroza	Market trader	24th Apr 2019
Lita Alvarado	Market trader	24th Apr 2019
Chan Baker	Market trader	24th Apr 2019
Maria Eugenia Grandola	Market trader	24th Apr 2019
Martha Gilraldo	Market trader	24th Apr 2019
Pedro Gilraldo	Market trader	24th Apr 2019
Maria Osorio	Market trader	24th Apr 2019
Stuart McNamara	Local campaigner	29th Apr 2019
Nicholas Amayo	Market trader	29th Apr 2019
Carlos Burgos	Market trader	29th Apr 2019
Thomas Bender	Conservation Advisor - Save Britain's Heritage	2nd May 2019
Pam Isherwood	Wards Corner Community Coalition	2nd May 2019
Emma Williamson	Assistant Director for Planning – Haringey	2nd May 2019

	Council	
Rob Walker	Planning Solicitor – Haringey Council	2nd May 2019
Dr Sara Gonzalez	Associate Professor – School of Geography, University of Leeds	7th May 2019
Dr Myfanwy Taylor	Research Fellow – School of Geography, University of Leeds	7th May 2019
Ben Beach	Architect – Community Plan	7th May 2019
David McEwen	Designer – Community Plan	7th May 2019
Peter O'Brien	Assistant Director for Regeneration – Haringey Council	8th May 2019
Graeme Craig	Director of Commercial Development - TfL	9th May 2019
Amy Thompson	Public Affairs and External Relations Lead – TfL	9th May 2019