



AGENDA

OVERVIEW AND SCRUTINY BUSINESS PANEL

Date: TUESDAY, 29 JANUARY 2019 at 7.05 pm

**Committee Rooms 1& 2
Civic Suite
Lewisham Town Hall
London SE6 4RU**

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MEMBERS

Councillor Bill Brown	Chair of Overview & Scrutiny Committee	L
Councillor Juliet Campbell	Vice Chair of Overview & Scrutiny Committee	L
Councillor Liam Curran	Chair of Sustainable Development Select Committee	Labour Co-op
Councillor Alex Feis-Bryce	Labour Group Representative	L
Councillor Jim Mallory	Chair of Public Accounts Select Committee	L
Councillor Joan Millbank	Labour Group Representative	L
Councillor Pauline Morrison	Chair of Safer Stronger Communities Select Committee	L
Councillor John Muldoon	Chair of Healthier Communities Select Committee	Labour Co-op
Councillor Luke Sorba	Chair of Children and Young People Select Committee	L
Councillor Susan Wise	Chair of Housing Select Committee	Labour Co-op

Members are summoned to attend this meeting

This is an open meeting and all items in the open agenda may be recorded and/or filmed

**Janet Senior
Acting Chief Executive
Lewisham Town Hall
Catford
London SE6 4RU
Date: Monday, 21 January 2019**



INVESTOR IN PEOPLE

The public are welcome to attend our committee meetings, however occasionally committees may have to consider some business in private. Copies of reports can be made available in additional formats on request.

ORDER OF BUSINESS – PART 1 AGENDA

Item No		Page No.s
1.	Minutes	1 - 5
2.	Declarations of Interests	6 - 9
3.	Outstanding Scrutiny Matters	10
4.	Notifications of Late and Urgent Items	11
5.	Community Infrastructure Levy neighbourhood CIL Strategy - report to follow	12 - 37
6.	Decisions made by Mayor and Cabinet on 16 January 2019	38 - 41
7.	Overview and Scrutiny Select Committees Programmes 2018/19	42
8.	Exclusion of the Press and Public	43
9.	Decisions made by Mayor and Cabinet on 16 January 2019	44 - 45



Lewisham



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Agenda Item 1

OVERVIEW & SCRUTINY BUSINESS PANEL		
Report Title	Minutes	
Key Decision		Item No. 1
Ward	All	
Contributors	Chief Executive	
Class	Part 1	Date: 29 January 2019

Recommendation

It is recommended that the minutes of that part of the meeting of the Overview and Scrutiny Business Panel which was open to the press and public, held on 13 November 2018 be confirmed and signed.

MINUTES OF THE OVERVIEW AND SCRUTINY BUSINESS PANEL

Tuesday, 13 November 2018 at 7.00 pm

PRESENT: Councillors Bill Brown, Juliet Campbell, Alex Feis-Bryce, Jim Mallory, Pauline Morrison and Luke Sorba

Apologies for absence were received from Councillor Joan Millbank, Councillor John Muldoon and Councillor Susan Wise

154. Minutes

RESOLVED that the minutes of the open meeting held on 16 October 2018 be confirmed and signed as a correct record.

155. Declarations of Interests

None received.

156. Outstanding Scrutiny Matters

RESOLVED that the report be noted.

157. Notifications of Late and Urgent Items

RESOLVED that the report be noted.

158. Decisions made by Mayor and Cabinet on 31 October 2018

Joining South London's Regional Adoption Agency

The Executive Director for Children and Young People introduced the report.

The Chair asked officers if the Council would make any savings from the amalgamation and was told costs would remain the same. Councillor Mallory said if there would not be any savings benefit, Members would like assurance that this Partnership would be effective and beneficial, otherwise why would the Council want to do it. Councillor Mallory also asked how many children needed to be adopted, and how many prospective adopters the Council have.

The Executive Director for Children and Young People responded that joining the Regional Agency would make the service more effective and Lewisham would benefit from the economies of scale and wider pool of prospective adopters. She also said that as Lewisham would be part of the Board arrangements we would be in a better position to monitor and influence the service. The Team Manager, Adoption Service said that currently Lewisham has 16 children awaiting adoption, which included a large sibling group. She said the number of prospective adopters

did not match up with the number of children. She said it would be useful to work with neighbouring boroughs instead of competing with them. Panel Members heard that one of the Children Social Care officers, Natalie Bendall had been named Adoption Social Carer of the year. Members sent their congratulations to her.

Councillor Mallory asked whether officers were comfortable with the arrangements, and was told officers were comfortable especially since the Lewisham Team Manager, Adoption Service was involved at the preparation stage. Officers thought this would be good for Lewisham. The Chair asked what the disadvantages were, and was told that officers would be losing their working culture, which worked well, and now they might have to get used to a longer process. Lewisham officers were used to quick turnarounds. They would lose their model of matching which had been successful to date, because both teams work closely to get to know the child and the potential adopter very well, and this facilitated the matching process.

Members were informed that only two Boroughs currently use the Lewisham model and the other eight might not want to change their current model. Councillor Campbell asked whether there were any chance that some of the matching might breakdown if the Lewisham model was not used, and was told that both models would not lead to disruption. Councillor Campbell asked how the Lewisham model's timing in compared to others, and was told about 20-30 days quicker.

Councillor Sorba argued that he would be reluctant to support a move that had no evidence of efficiency and speed especially if there was no benefit of savings. He asked which children Lewisham staff would be supporting, and was told all staff would be supporting all the children from the various Boroughs. He said he was concerned that the host Borough might have an unfair advantage, and was told that this would not be the case as Southwark also had a very good service provision and was the other authority using the same model as Lewisham.

The Executive Director for Children and Young People said that all Local Authorities have to adopt the Regional arrangement sooner or later as this was the plan from central government. She said it would be better for Lewisham to be involved from the start so that we would be able to influence it to ensure it delivers what Lewisham wants. Councillor Sorba asked about the TUPE arrangements for staff. This was responded to by the Executive Director for Children and Young People. Councillor Sorba also asked whether staff had been consulted and was told formal consultation had not yet been done, but there had been discussion with staff and the Trade Union.

Panel Members were told that the governance arrangements had not been done as yet. The Principal Lawyer informed Panel members that officers were keen to ensure the best possible process was adopted, and adopting Lewisham's model could still be achieved as the process was still at inception. Councillor Mallory said he concurred with Councillor Sorba as Lewisham's high achievement should not be compromised. The Executive Director for Children and Young People said it was a positive working with Southwark as Lewisham works well with them, and

Southwark had a high Ofsted rating, and their geographical location was advantageous.

Councillor Feis-Bryce asked if officers had the option whether they would opt out, and was told that because everyone had to be part of it officers had to adapt. The Executive Director for Children and Young People said her thoughts would have been, to continue the status quo as it was working well for Lewisham. Councillor Sorba maintained that Lewisham's Adoption Service would not improve with this Partnership.

Panel Members agreed that although officers had put forward a convincing case, they still have concerns and would like Mayor and Cabinet to ask officers to ensure that careful consideration is given to the draft governance structure, to ensure Lewisham's quality service was maintained, and that the process be monitored.

RESOLVED that:

- i. the decision of Mayor and Cabinet be noted.
- ii. Mayor and Cabinet be requested to ask officers to ensure that careful consideration is given to the draft governance structure, to ensure Lewisham's quality service was maintained.
- iii. Mayor and Cabinet be requested to monitor the process.

159. Decisions made by the Joint Committee of the London Boroughs of Brent, Lewisham and Southwark

This item was not requested for discussion.

160. Overview & Scrutiny Select Committees Programmes 2018-19 Update

The Scrutiny Manager reported that the second round of Select Committee meetings had concluded and a referral outlining the views of scrutiny on the budget cuts proposals would be presented to Mayor and Cabinet on 21 November.

It was noted that the third round of Select Committee meetings would start on 3 December and end on 20 December and those Committees conducting in-depth reviews were holding evidence sessions and going on visits to progress their reviews.

It was also reported that some Scrutiny Members visited Parliament on 31 October and spoke to Clive Betts MP about successful scrutiny methods and techniques following observation of a select committee hearing. Other Members would visit the London Assembly on 28 November. The aim of the visits was to observe and discuss national and regional scrutiny practice.

Two Scrutiny roundtables have been arranged to feed in scrutiny's views to the local democracy review. These would take place on Friday 16 November between 1pm and 3pm and on Wednesday 21 November between 7pm and 9pm.

The Chair of the Public Accounts Select Committee, Councillor Mallory stated that the Select Committee was busy with Regeneration and would only be doing a review on income generation. Councillor Sorba, Chair of Children and Young People Select Committee notified Panel Members that the Select Committee would be doing an in-depth review on School ExclusionS, and would be shown a presentation of the Glasgow model.

The Head of Corporate Resources explained to Panel Members the recent issues surrounding the Lender Option Borrower Option (LOBO) dispute between some London Councils and Barclays Bank. He assured Panel Members that Lewisham was not in the same position as these London Boroughs, and the Council's External Auditors were looking into the situation and would give their advice by the end of the year.

RESOLVED that the report be noted.

161. Exclusion of the Press and Public

This item was not needed as no confidential item was discussed at the meeting.

162. Decisions made by Mayor and Cabinet on 31 October 2018

This item was not requested for discussion.

Meeting ended: 8:00pm

Chair.....

Agenda Item 2

OVERVIEW AND SCRUTINY BUSINESS PANEL		
Report Title	DECLARATIONS OF INTEREST	
Key Decision		Item No. 2
Ward		
Contributors	Chief Executive	
Class	Part 1	Date: 29 January 2019

Members are asked to declare any personal interest they have in any item on the agenda.

1 Personal interests

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (1) Disclosable pecuniary interests
- (2) Other registerable interests
- (3) Non-registerable interests

2 Disclosable pecuniary interests are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.
- (e) Licence to occupy land in the borough for one month or more.

- (f) Corporate tenancies – any tenancy, where to the member’s knowledge, the Council is landlord and the tenant is a firm in which the relevant person* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:-
- (a) that body to the member’s knowledge has a place of business or land in the borough; and
 - (b) either
 - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

(3) Other registerable interests

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council
- (b) Any body exercising functions of a public nature or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25

(4) Non registerable interests

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members’ Interests (for example a matter concerning the closure of a school at which a Member’s child attends).

(5) Declaration and Impact of interest on members’ participation

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**
- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.
- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

(6) Sensitive information

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

(7) Exempt categories

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

Agenda Item 3

OVERVIEW & SCRUTINY BUSINESS PANEL		
Report Title	Outstanding Scrutiny Matters	
Key Decision	No	Item No. 3
Ward	n/a	
Contributors	Head of Business and Committee	
Class	Part 1	Date: 29 January 2019

1. Purpose of Report

To report on items previously reported to the Mayor for response by directorates and to indicate the likely future reporting date.

2. Recommendation

That the reporting date of the items shown in the table below be noted.

Report Title	Responding Author	Date Considered by Mayor & Cabinet	Scheduled Reporting Date	Slippage since last report
Comments of Sustainable Development Select Committee on Neighbourhood CIL	Interim Heaf of Planning	16 January 2016	13 February 2019	No
Comments of Sustainable Development Select Committee	ED Customer Services	16 January 2019	27 March 2019	No

BACKGROUND PAPERS and AUTHOR

Mayor & Cabinet minutes 16 January 2019 available from Kevin Flaherty 0208 3149327.

<http://councilmeetings.lewisham.gov.uk/ieListMeetings.aspx?CId=139&Year=0>

Overview & Scrutiny Business Panel		
Report Title	Notification of Late and Urgent Items	
Key Decision	No	Item No. 4
Ward		
Contributors	Head of Business and Committee	
Class	Part 1	Date: 29 January 2019

1. Purpose of Report

Report Title	Author	Reasons Stated for Urgency	Responsible Committee and Date
Minutes of last meeting	Emma Aye-Kumi	Technical difficulties prevented publication with the main agenda	CYP Select 24.1.17
ParentENGage response to Lewisham Learning	External	Received too late to publish in time. For consideration alongside an officer report, therefore cannot be postponed.	CYP Select 24.1.17

Agenda Item 5

Overview & Scrutiny Business Panel		
Report Title	Community Infrastructure Levy Neighbourhood CIL Strategy (NCIL strategy)	
Key Decision	Yes	Item No.
Ward	All	
Contributors	Executive Director Resource and Regeneration	
Class	Part 1	Date: 29 January 2019

1. Summary

- 1.1 The Community Infrastructure Levy (CIL) is a levy that local authorities can choose to charge on new development in their area, enacted through the Community Infrastructure Levy Regulations 2010 (as amended) ('the Regs').
- 1.2 The Council adopted its current CIL charging schedule in 2015, and has so far collected each financial year:
 - 2016/17: £4,487,774.86
 - 2015/16: £1,440,463.66
 - 2017/18: £3,359,091.04
- 1.3 R59F of the Regs enables the Council to set aside at least 15% of CIL receipts to spend on priorities that should be agreed with the local community in areas where development is taking place (rising to 25% in areas where a neighbourhood plan has been adopted).
- 1.4 Details of how priorities should be identified and CIL spent are not outlined in the CIL Regs, however planning practice guidance ('the PPG') has been published which accompanies the Regs and provides further guidance on the Government's expectations.
- 1.5 This report provides the Overview & Scrutiny Business Panel with recommendations on how the neighbourhood CIL ('NCIL') process is proposed to function in Lewisham. In line with the Regs and the PPG it is proposed that the Council uses the structures, processes and capacities that exist within the current local assemblies and Member structure, with a process for identifying local priorities with communities that occurs every four years, a project bank of suitable projects identified every two years, with allocations to individual projects occurring on an annual basis.
- 1.6 In addition it is proposed that the distribution of NCIL funds is based on ward boundaries; with a portion of receipts retained in each ward where they were generated, a portion redistributed across wards, and a portion set

aside for projects across the whole boroughs. It is proposed that the Council allocate 25% of CIL receipts towards the NCIL process regardless of the adoption or not, of a neighbourhood plan.

2. Purpose

- 2.1 To provide the Overview & Scrutiny Business Panel with the information needed by Mayor & Cabinet to approve the NCIL process, and to begin the proposed NCIL process across all wards.

3. Recommendations

- 3.1 The Overview & Scrutiny Business Panel is recommended consider the recommendations shown below which were prepared for the Mayor & Cabinet in November 2018 but not considered in order to allow pre-decision scrutiny to take place:
 1. The extent that it is an executive function approve the proposed NCIL Strategy and recommend that the Full Council do the same.
 2. To the extent that it is an executive function approve the allocation of 25% of CIL to the NCIL process and recommend that the Full Council do the same.
 3. To authorise Acting Chief Executive Officer, to direct officers to develop guidance, a set of criteria, and governance process to support the implementation of the NCIL Strategy.
 4. Authorise the Acting Chief Executive Officer to allocate NCIL amounts to projects up to a maximum amount of £500,000 with approval through Regeneration and Capital Delivery Board.

4. Policy context

- 4.1 The contents of this report are consistent with the Council's policy framework.
- 4.2 The NCIL strategy will contribute to the implementation of the Council's ten corporate priorities and will also play an important role in the implementation of the Sustainable Community Strategy ('SCS') (2008-2020) vision 'Together we will make Lewisham the best place to live, work and learn'.
- 4.3 The NCIL strategy will provide funding and a system to help support the implementation of the SCS vision and all of the six strategic priorities, which are:
 - Ambitious and achieving – where people are inspired and supported to fulfil their potential
 - Safer – where people feel safe and live free from crime, antisocial behaviour and abuse

- Empowered and responsible – where people are actively involved in their local area and contribute to supportive communities
- Clean, green and liveable – where people live in high quality housing and can care for their environment
- Healthy, active and enjoyable – where people can actively participate in maintaining and improving their health and well-being
- Dynamic and prosperous – where people are part of vibrant communities and town centres, well connected to London and beyond

4.4 The NCIL strategy will also contribute to the implementation of the Council's Corporate Priorities including:

- Community leadership and empowerment – developing opportunities for the active participation and engagement of people in the life of the community;
- Young people's achievement and involvement – raising educational attainment and improving facilities for young people through partnership working;
- Clean, green and liveable – improving environmental management, the cleanliness and care for roads and pavements and promoting a sustainable environment
- Safety, security and a viable presence – partnership working with the police and others and using the Council's power to combat anti-social behaviour
- Strengthening the local economy – gaining resources to regenerate key localities strengthen employment skills and promote public transport
- Decent homes for all – investment in social and affordable housing to achieve the decent homes standard, tackle homelessness and supply key worker housing
- Protection of children – better safeguarding and joined up services for children at risk
- Caring for adults and older people – working with health services to support older people and adults in need of care
- Active, healthy citizens – leisure, sporting, learning and creative activities for everyone

5. Background

- 5.1 CIL is a levy that local authorities can choose to charge on new development in their area. Local authorities must spend the levy on infrastructure needed to support the development of their area, which can include a wide range of infrastructure such as schools, hospitals, roads, open space, and leisure facilities.

CIL Regulation (2010)(as amended)

- 5.2 R59 of the Regs restricts CIL spending to "*funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area*". S216 of the Town and Country

Planning Act 1990 identifies 'infrastructure' by way of broad categories, which as amended excludes affordable housing. The PPG clarifies that whilst CIL can fund increases to the capacity of existing infrastructure or to repair failing existing infrastructure if that is necessary to support development, it is primarily intended to fund new infrastructure and not to remedy pre-existing deficiencies.

- 5.3 R123 of the Regs provides that a planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure. 'Relevant infrastructure' means "a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL", or in the case of an absence of such a list, any infrastructure. The Council has a published R123 list, which can be updated at any time. R123 and para 56 of the NPPF also outline limits to the wider use of planning obligations and spending.
- 5.4 R59F of the Regs enables the Council to allocate a portion of CIL receipts to be spent on local priorities, with spending of this portion subject to a wider definition of "*the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on an area*". Following the Regs and PPG, the Council will engage with communities on spending:
- Setting out clearly and transparently an approach to engaging with neighbourhoods using their regular communication tools
 - Using existing community consultation and engagement processes
 - Be proportionate to the level of levy receipts and the scale of the proposed development to which the neighbourhood funding relates
 - Ensure that the use of neighbourhood funds should match priorities expressed by local communities, including priorities set out formally in neighbourhood plans
- 5.5 The neighbourhood portion is set at 15% (capped at £100/council tax dwelling in the area), increasing to 25% (uncapped) where a neighbourhood plan has been adopted (the increase only applies to developments granted after adoption of the relevant plan). The Council is able to allocate greater amounts, however these would not benefit from the wider definition for spending.

Principles Presented to Sustainable Development Select Committee (2016)

- 5.6 Initial recommendations regarding NCIL were made to SDSC in November 2016. The report and minutes of this meeting are in Appendix A. In summary, the following principles were presented:
- To use existing structures and processes, rather than introduce new decision making processes
 - Neighbourhood for CIL purposes to be defined as wards
 - Process guided by ward assemblies and identified local priorities (and neighbourhood plan if relevant)

- Where neighbourhood plans exist, forum representatives to participate in the ward assembly
- Process to explore joined up allocation across wards, where agreed by stakeholders
- Process to explore distribution from areas with high levels of funding to those with less
- Look to publish easy to understand decision making and funding process with available CIL amounts to ensure transparency
- Look at improved usage of the Council's website
- Expectation of community and Member involvement in developing local infrastructure priorities
- Explore opportunities to develop schemes more holistically around local priorities
- Explore annually 'project bank' process as means to ensure genuine engagement
- Project bank subject to set criteria; meet legal limitations for CIL spend, Member engagement
- Explore opportunities to incorporate elements of participatory budgeting; community propose schemes and make decisions on what to fund
- Short list put forward for public consultation via the ward assemblies
- Short list published on Council's website; updated if and when funding becomes available
- Need to manage expectations about what is achievable with limited NCIL funding
- Need to increase transparency to enable communities to understand prioritisation and delivery, potentially for communities to assist with making proposals more viable/deliverable
- Further consideration of additional dedicated resource needed to implement NCIL processes
- Pilot proposed in Evelyn ward

Spending of Ward Assembly Funds

- 5.7 Each ward assembly currently has a set of priorities/action plan (updated annually) which is identified by residents, community groups and local businesses. Priorities are developed for the purpose of the ward assembly fund (£12,500), and projects must address these priorities to receive funding. An additional fund (£2,500) known as the council discretionary fund is available for other projects that benefit or enhance the local community, managed by the ward Members (some ward Members decide to combine the two funds). All assemblies have their priorities published on their ward assembly webpage, and many assemblies publish further information on local surveys, charters and plan priorities.
- 5.8 The process is broadly as follows:
- Assemblies review and update their action plans, highlighting what areas they want to focus on in the coming year, with possible projects/ideas
 - The coordinating group reviews the action plan, determining how actions can be delivered, and identify projects that best fit the funding for the year

- Projects developed further, with the support of Council officers, to include costs, delivery, timescales etc.
 - Coordinating group present project ideas back to assembly who agree what to fund
 - Projects are then refined and finalised (including who will deliver projects) by the coordinating group and Council officers, and submitted for formal approval
- 5.9 The annual process is completed by December, allowing allocations within the financial year. Prior to allocating funds, projects must complete a Project Proposal Form. This includes details on: the project, the priorities it meets, the activities proposed, impact on the ward, programme and key dates, location, proposals for joint working, identification of key risks and how to minimise their impact, proposed evaluation methods and success factors, and, detailed budget and funding spreadsheet. An additional risk assessment form must be submitted with the application form. General guidance is provided on the assembly fund, as well as detailed guidance on the risk assessment and project proposal form.

Planning Obligations Spending Pilot – Whitefoot Ward

- 5.10 In 2014 £77k of Section 106 funding became available to be spent on Community Facilities in Whitefoot Ward. It was decided to involve the local community through the assembly in agreeing priorities for spending the Section 106 funds. The Council produced guidance around planning obligations for the Whitefoot ward assembly which included:
- Background information on planning obligations
 - General guidance on S106 spending requirements and restrictions
 - Guidance on the Council’s formal allocation process for planning obligations
 - Financial information on available S106
- 5.11 The first community consultation was held at the assembly in July 2014 and resulted in over a dozen potential beneficiaries being identified. Forster Memorial Park and pavilion was ranked as the top priority at the time but there were no delivery partners to oversee project delivery so the assembly agreed to allocate the monies elsewhere with the proviso that when further S106 funds became available they would be directed towards improvements to the park. In the meantime efforts would be made to establish a new Friends of Forster Memorial Park.
- 5.12 In November 2014 the assembly hosted a ‘Market Place’ event inviting the organisations identified at the July 2014 assembly to set up information stalls detailing how they proposed to spend the S106 funds. A shortlist of projects was subsequently drawn up and in February 2015 a ballot went out to every household within the ward (on the back of the assembly flyer) inviting residents to nominate the top three community facilities they most wanted to see improved. Goldsmiths Community Centre, St Luke’s Church and St Barnabas Church Hall were identified as the top three. Draft proposals were then submitted to the council for a viability check and each

organisation returned to the assembly to present their worked up proposal for final assembly approval before full bids were submitted to the council's S106 board.

- 5.13 The assembly coordinating group formed a S106 working party to work with the community organisations to support delivery of the projects. In November 2016 a further £40k of S106 money became available. The Friends of Forster Memorial Park has now been established and in collaboration with the assembly set about seeking views of the local community about improvements to the park. This included consultation at the assembly and an online survey that received over 200 responses. In early 2017 proposals for improvements to the park were presented back to the assembly and improvements were ongoing throughout the year with S106 remaining a standing item on the assembly agenda.

6. Neighbourhood CIL (NCIL) Recommendations

- 6.1 The amount of neighbourhood CIL collected since implementation of the CIL regime in Lewisham in 2015 is £1,348,078.44 (at 15% of total CIL receipts), as reported in the AMR each year. The Council does not perform any projections of future CIL receipts since payment of the levy is made upon commencement of development, and this is not something that is monitored by the Council. However, given the levels of residential growth projected in Lewisham over this coming years, coupled with the proposals to increase the rate of CIL charged, it is likely that there will continue to be a sustained level of CIL receipts over the medium-term.
- 6.2 The Council is able to spend 15% of CIL in the areas in which it was collected, however the Regs allow a greater proportion to be allocated. It is recommended that 25% of CIL be allocated to neighbourhoods in Lewisham. Allocating 25% would allow for greater local involvement in a meaningful manner, as well as providing community with sufficient resources to address the local impacts of development in a more comprehensive manner. It would also make the NCIL allocation process more inclusive in allowing all communities equal access to the same proportion of NCIL funding regardless of the adoption of a neighbourhood plan.
- 6.3 It is recommended that wards be used as the neighbourhoods for the purposes of CIL. This aligns with the government's guidance to use existing community consultation and engagement processes, and enables the Council to build on the existing competencies, local capacities, local assemblies' process, and the political representation that exists through elected Members.
- 6.4 It is recommended that some form of financial redistribution be undertaken, recognising that the impacts of development are not restricted to the administrative boundary of wards, that diverse communities function across ward boundaries, and that to address the local impacts of development it is often necessary to develop more comprehensive projects and programmes

at a greater scale. A level of financial redistribution will enable wider geographies to be used as the basis of proposed interventions, and will promote more comprehensive and ambitious allocations. This will build on the success of a number of cross-ward initiatives already undertaken by the local assemblies through the assembly fund.

6.5 It is recommended that a redistributions strategy be implemented (based on a 25% allocation to NCIL) with distribution of: 50% collected in ward retained by the ward, 25% allocated by reference to rankings of wards by the Indices of Multiple Deprivation, and 25% allocated to a borough wide fund. Please note that the IMD rankings may need to be reviewed in more detail before a final allocation is made.

6.6 The amounts presented in the tables below represents the amount of neighbourhood CIL collected over the 3 year period of the financial years 2015/16 – 2017/18.

At 25% of CIL for neighbourhoods	Ward (50%)	Ward Top Up (by IMD ranking)(25%)	Ward Total	All Ward NCIL Pot (25%)
Evelyn	£527,093.23	£45,987.08	£573,080.31	£561,699.35
New Cross	£215,399.48	£55,841.46	£271,240.94	
Blackheath	£60,109.03	£9,854.37	£69,963.41	
Lee Green	£48.43	£3,284.79	£3,333.22	
Grove Park	£-	£29,563.12	£29,563.12	
Lewisham Central	£49,621.94	£39,417.50	£89,039.44	
Rushey Green	£150,204.71	£49,271.87	£199,476.58	
Catford South	£3,431.85	£16,423.96	£19,855.81	
Downham	£4,042.43	£59,126.25	£63,168.68	
Whitefoot	£-	£42,702.29	£42,702.29	
Bellingham	£646.11	£52,556.66	£53,202.77	
Perry Vale	£6,366.21	£22,993.54	£29,359.75	
Brockley	£21,970.28	£32,847.92	£54,818.19	
Crofton Park	£12,628.57	£6,569.58	£19,198.15	
Forest Hill	£3,025.22	£19,708.75	£22,733.97	
Ladywell	£32,728.71	£13,139.17	£45,867.87	
Sydenham	£3,026.65	£36,132.71	£39,159.36	
Telegraph Hill	£33,055.86	£26,278.33	£59,334.19	

6.7 The process proposes is based on the principles presented to SDSC, the existing successful local assembly process, the Evelyn pilot, and best practice in London, and meets the CIL Regs and guidance outlined in the PPG. It is set to a medium-term financial strategy and 4 year cycle, and considers the financial and legal constraints applied to CIL. Each financial year once CIL receipts are known, the Council would publish updated

figures and send a briefing note to all local assemblies and Members on remaining funds, projects approved, completed, and in progress.

6.8 The proposed process is presented below:

<p>STAGE 1: Priority Setting (four year cycle) Ward priorities ‘themes’ set by community through the local assemblies with Members</p>
<ul style="list-style-type: none"> • Organised by ward, using local assembly and Member structure • Council published guidance on NCIL process and expectations • Member and local assembly briefings • Publish background/contextual information for each ward (GIS maps, relevant evidence bases, policies, Council capital programme etc.) • Publish financial information on available NCIL amounts per ward • Priority ‘themes’ for each ward set at workshop with community run by local assembly and Members (with Council support) • Inclusion of Neighbourhood Plan priorities within process (where applicable, including across wards if neighbourhood plans are cross boundary) • Priorities required to be broadly consistent with Local Plan and the corporate priorities
<p>OUTCOME: Ward priorities identified, agreed and published – to cover four year period</p>

<p>STAGE 2: ‘Open call’ for projects (biennial process) ‘Open call’ for projects directly submitted to Council’s website</p>
<ul style="list-style-type: none"> • Open call for project proposals • Submissions via online NCIL summary project proposal form: <ul style="list-style-type: none"> - Project name - Project description - Project location/address - Estimate of costs - Indicative timetable - Benefit to communities - Conformity to local priorities ‘themes’ and/or Local Plan and/or corporate priorities - Name of project lead - Identify any consultation that has occurred including mandatory Member engagement • Projects submitted direct to Council via online form
<p>OUTCOME: Potential projects identified by communities, local assemblies and Members</p>

<p>STAGE 3: Evaluate projects and publish long-list (biennial process) Council officers assess, filter and group projects from the open call into a long-list</p>
<ul style="list-style-type: none"> • Evaluate initial project submissions against published ‘selection criteria’: <ul style="list-style-type: none"> - Conformity to CIL Regulation - Grouping of similar projects / align associated projects into holistic schemes - Identify opportunities for NCIL to support existing projects / programmes

- Identify cross-ward opportunities
- Conformity with Local Plan and corporate priorities
- Council to publish long-list of projects

OUTCOME: Long-list published by Council

STAGE 4: Develop ‘project bank’ (biennial process)

Prioritisation of long-list by the community via local assembly with Members

- Prioritisation workshop to allow communities to prioritise long-list projects through the local assembly with Members
- Process to consider projects in light of published priority ‘themes’
- Set of criteria agreed across the borough to guide decisions on priorities
- Council to publish project bank with prioritised project list

OUTCOME: Project bank published by Council with prioritised projects identified

STAGE 5: Allocate and delivery (annual process)

All projects allocated through PID process through Regeneration and Capital Delivery Board (RCDB)

- Allocation process to follow existing PID process for finance and legal audit through RCDB
- Council to assist organisations to develop projects with local assembly and Members as projects and funds are available (CIL funding information updated annually)
- Allocations set through RCDB PID process to either ward fund or borough fund
- Member consultation mandatory for PID submission
- Project delivery to follow existing finance and legal audit process

OUTCOME: PIDs submitted and allocations made aligned to available CIL receipts

STAGE 6: Monitoring, evaluation and reporting (annual)

- Key indicators agreed and published as part of public guidance to ensure transparency and accountability
- Reporting incorporated into existing AMR process
- Project closure and reporting to follow existing PID reporting and audit process

OUTCOME: Yearly monitoring through AMR

Governance Arrangements

- 6.9 It is recommended that the Council use existing governance and financial audit processes that align to the existing PID process; with all PIDs for NCIL passed through Regeneration and Capital Delivery Board. It may be necessary to amend the PID documents to integrate the additional legal and financial requirements associated with CIL spending, however it is recommended that existing audit and control process be applied to the allocation and spending of NCIL. Further work will need to be undertaken with Legal and Finance to finalise a process for NCIL allocation and spending, and this can be progressed once agreement on the broad strategy has been reached.

7. Legal Implications

- 7.1 Regulation 59 of the Community Infrastructure Levy Regulations 2010 requires that a charging authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area. Section 216 of the Town and Country Planning Act 1990 defines infrastructure as including—
- (a) roads and other transport facilities,
 - (b) flood defences,
 - (c) schools and other educational facilities,
 - (d) medical facilities,
 - (e) sporting and recreational facilities, and
 - (f) open spaces
- 7.2 Regulation 59F provides that where all or part of a chargeable development is in an area which is not a parish council then a charging authority, which in this instance is the Council, may use or cause to be used the CIL which would have had to have been passed to a parish council, to support the development of the area by funding:-
- the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on an area.
- 7.3 As there is no parish council in Lewisham this applies to its entire area.
- 7.4 The CIL receipts that would have had to be passed to the Council if there was a parish council are as set out in Regulations 59A and 59B. This amounts to 25 per cent of the relevant CIL receipts in England, either where all or part of a chargeable development is within an area that has a neighbourhood development plan in place or where all or part of a chargeable development—
- (a) is not in an area that has a neighbourhood development plan in place; and
 - (b) was granted permission by a neighbourhood development order made under section 61E or 61Q (community right to build orders) of TCPA 1990, and 15 per cent elsewhere.
- 7.5 The relevant CIL receipts are the proportion of CIL received in relation to a development equal to the proportion of the gross internal area of the development that is relevant development in the area, and the total amount of CIL receipts passed shall not exceed an amount equal to £100 per dwelling in the area of the local council multiplied by IA in each financial year
- 7.6 Currently as there are no neighbourhood plans in place the broader power to apply CIL in accordance with the provisions of Reg 59F is limited to 15 per cent of receipts.

- 7.7 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.8 In summary, the Council must, in the exercise of its function, have due regard to the need to:
- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - (b) advance equality of opportunity between people who share a protected characteristic and those who do not;
 - (c) foster good relations between people who share a protected characteristic and persons who do not share it.
- 7.9 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 7.10 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>
- 7.11 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
 2. Meeting the equality duty in policy and decision-making
 3. Engagement and the equality duty
 4. Equality objectives and the equality duty
 5. Equality information and the equality duty
- 7.12 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including

steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

8. Crime and disorder implications

8.1 There are no direct crime and disorder implications arising from this report.

9. Equalities implications

9.1 The Council's Comprehensive Equality Scheme for 2016-20 provides an overarching framework and focus for the Council's work on equalities and helps ensure compliance with the Equality Act 2010.

9.2 An equalities analysis was undertaken as part of the preparation of the council's existing CIL charging schedule. In accordance with the Equality Act 2010, the analysis considers the potential impacts of the charging schedule on those groups identified within the Act as having protected characteristics.

9.3 There are no major concerns regarding equalities. The Council should be mindful however to ensure that the income from CIL is allocated and spent is fair and equal across types of infrastructure and the geography of the borough.

9.4 Ultimately, CIL is a mechanism intended to raise money to fund infrastructure that will contribute to sustainable development in the borough. In this sense, the neighbourhood CIL strategy proposed should have an overall positive impact on the various equalities groups.

10. Environmental implications

10.1 Environmental issues are at the heart both of the planning process and the delivery of supporting infrastructure. Although the proceeds from neighbourhood CIL do not have to be specifically spent on environmental projects, it is fair to assume that over time environmentally beneficial infrastructure projects will receive funding from NCIL.

11. Financial Implications

11.1 This report recommends that the Mayor approves the proposed NCIL process and the allocation of 25% of CIL to that process and recommends that Full Council do the same.

11.2 The Council is enabled to set aside at least 15% of CIL receipts to spend on priorities that should be agreed with the local community (the NCIL process) in areas where development is taking place (rising to 25% in areas where a

neighbourhood plan has been adopted). Agreeing to allocate 25% of CIL to the NCIL process (rather than 15%) will mean a significant additional amount of CIL will be allocated to this process, however as outlined in paragraphs 5.2 - 5.5 the additional 10% allocated will still have to be spent in accordance with the Council's R123 list. As the Council does not perform any projections of future CIL receipts since payment of the levy is made upon commencement of development, it is not possible to quantify the value of the additional funding that will flow through the NCIL process.

- 11.3 This report also recommends that the Mayor authorises the Executive Director, Resources and Regeneration to allocate NCIL amounts to projects up to a maximum amount of £500,000 with approval through the Regeneration and Capital Delivery Board.

12. Conclusion

- 12.1 The Mayor is recommended to approve the recommendations set out in paragraph 3 of this report:

13. Background documents and originator

If you have any queries on this report, please contact Simon Zelestis, Strategic Planning, telephone 020 8314 8701.

Appendix A: Sustainable Development Select Committee Report and Minutes, November 2016

Appendix A: Sustainable Development Select Committee Report and Minutes, November 2016

Sustainable Development Select Committee		
Title	Update - use of section 106 and CIL	
Contributors	Head of Planning	Item 5
Class	Part 1 (open)	29 November 2016

1. Purpose

- 1.1. This report is prepared to respond to matters raised by the Sustainable Development Select Committee (SDSC) at its meetings on 22nd October 2015, 18th April 2016 and 12th May 2016 which led to the consideration of the emerging processes for allocating Community Infrastructure Levy (CIL) funds and Section 106 (S106). This was presented in a response to the Mayor and Cabinet referral on 25th October 2016. It also updates on progress with the review of viability reports and the operation of S106 review mechanisms.

2. Recommendations

- 2.1. The Select Committee is asked to note the content of the report and direct any questions to officers.

3. Policy context

- 3.1. The contents of this report are consistent with the Council's Sustainable Community Strategy policies 'Empowered and Responsible' and the 'Clean, Green and Liveable' policy. This is through rolling out a pilot scheme that allows communities to have a greater influence in how some S106 /CIL monies could be spent and developing a policy statement for working with neighbourhood forums. The collection of S106 / CIL funds serve to support the Clean, Green and Liveable Sustainable Community Strategy policy.
- 3.2. The 22 October 2015 report to SDSC outlines the legislative and policy context in relation to section 106 and CIL.

4. Background

- 4.1. The Sustainable Development Select Committee held a meeting on 25th October 2016 at which they considered a response to the referral on the use of section 106 and Community Infrastructure Levy funds. In particular, the report highlighted emerging proposals on the allocation of the 'neighborhood proportion' of CIL. This followed reports on 22nd October 2015, 18th April 2016 and 12th May which addressed S106 and CIL spend and collection.

5. Update on the progress with the approach to the allocation of S106 and CIL

- 5.1 Officers have been reviewing the existing approval processes for the allocation of S106 and CIL to ensure that they are fit for purpose and transparent. As a result of this review, changes to the PID templates have been made and a review of the relationship of the S106 Board with the Regeneration Board has taken place. Officers

are currently trialing an approach whereby a single, annual process for the agreement of capital and S106/CIL funds for the following year is introduced. Bids were made over the summer period and are being evaluated by the Regeneration & Capital Programme Delivery Board alongside Finance. It is proposed that these are then ratified by the Regeneration Board before the end of the calendar year and then published as part of the annual budget reported to Mayor & Cabinet.

- 5.2 It is hoped that this process will allow for greater Member involvement as well as certainty of funding and better allocation of limited resources. It will also standardise and streamline governance and approvals and allow for the more strategic use of S106 and CIL funds which will be reported as part of the budget. There will still be a dual role for the existing S106 board for those smaller sums and revenue expenditure not captured by the Regeneration Board but its future role is likely to be more limited.
- 5.3 Alongside the review of processes, it is proposed to publish details of S106 and CIL monies collected annually and set out the funding and decision making process. This move towards greater transparency will require improved usage of the Council's website. Recruitment to an existing vacant post with responsibility for the management of information, customer liaison and the planning web pages has taken place to ensure that this is a core part of the planning function.
- 5.4 The Council is required to have a process for ensuring that neighbourhood areas, where development takes place, directly benefit from infrastructure investment via a proportion of the CIL collected; the local proportion. There is no model proposed by the Government, although guidance does highlight an expectation of community involvement in developing local infrastructure priorities. The Government also encourages Councils to use existing structures and processes, rather than introduce further decision making processes.
- 5.5 As highlighted in the report to the SDSC on 25th October 2016, the Council already operates a process for the allocation of some S106 sums where Ward Assemblies work with designated officers from the council who will liaise with relevant departments to develop deliverable schemes that meet local priorities. However since CIL has less restricted scope than S106 (in that funds are not limited to a specific infrastructure type) there is an opportunity to develop schemes more holistically around local priorities.
- 5.6 The options for consulting with the community and ensuring greater Member involvement have been considered. It is proposed that the CIL local proportion be allocated on the basis of wards and guided by ward assemblies and their identified local priorities (and/or neighbourhood plan if relevant). In those areas with a neighbourhood plan, a greater proportion of CIL would be allocated for spend in accordance with the CIL Regulations. Officers do not consider that a separate process should be undertaken for those areas with a neighbourhood plan which, to be adopted, would be subject to a local referendum. It is therefore proposed that neighbourhood forum representatives take part in the ward assembly process.
- 5.7 Opportunities for a 'project bank' continue to be explored and officers currently consider that this could be an effective way to ensure genuine engagement. This would allow for elements of a participatory budgeting approach whereby the community are able to propose schemes and make decisions on what to fund using the CIL local proportion. This process would require additional dedicated resource to set up and manage and further consideration therefore needs to be given to the detail

of the process so that it can be appropriately implemented and managed. It is envisaged that potential schemes are submitted annually for their consideration for inclusion on the 'project bank' list. Inclusion will need to be subject to set criteria to ensure that the legal limitations for CIL spend are taken into account and it is anticipated that there would be a process established for Member engagement at this stage. The resultant short list would then be put forward for public consultation via the ward assemblies. The list would be published on the Council's website, including updates on if and when funding becomes available.

- 5.8 It is inevitable that 'project bank' will identify projects that meet the criteria but that may still not have funding available to bring them forward. It will therefore be important to seek to manage expectations about what is achievable but it is hoped that this increased transparency would enable local communities to understand why certain schemes are not taken forward, and potentially for local communities to assist with making such proposals more viable/deliverable.
- 5.9 Officers continue to work towards having the new processes in place and had initially hoped to consult on the process in Autumn 2016, trialling the approach in Evelyn ward. Due to the postponement of the ward assembly, it is now proposed to take this forward in the new year and a specific S106 and CIL ward assembly meeting has been arranged for mid January. This will not delay beginning implementation of the new approach for the new financial year.

Update of review of viability mechanisms

- 5.10 Officers were asked to undertake a review of viability review mechanisms following a referral at 22nd October 2015 SDSC to determine whether the system is working as Members understand it. It was recognised in the officer response that this was a significant piece of work and that it would require external consultant support. This work is well underway and is due to complete by January 2017. The following schemes are being reviewed:

10 Sept 2009 Renaissance, Loampit Vale
11 Feb 2010 Heathside & Lethbridge
4 Nov 2010 Marine Wharf West, Plough Way (revised 7 January 2015)
2 Dec 2010 Neptune Works, Grinstead Road
23 June 2011 Cannon Wharf, Plough Way (revised 29 March 2012)
13 Oct 2011 Surrey Canal/New Bermondsey
8 Mar 2012 The Deptford Project, Deptford Station
18 Apr 2013 Lewisham Gateway (second phase 11 December 2014)
2 May 2013 Faircharm, Creekside
8 January 2014 Catford Greyhound Stadium
3 April 2014 Marine Wharf East, Plough Way (revised 9 June 2015)
30 April 2015 Kent Wharf, Creekside
29 October 2015 Deptford Wharves, Evelyn Street

- 5.11 Where the evidence can be established the report is looking at: the sum paid for the site; the sales values achieved compared to the estimates; where there is a review mechanism whether this has been triggered and the outcome and what if any additional levels of contribution have been achieved, including additional affordable housing and/or affordable housing payments. The report will also advise how each of the schemes has progressed.

6. Financial implications

6.1 There are no specific financial implications arising from this report per se.

7. Legal implications

7.1 There are no legal implications arising from this report.

8. Equalities implications

8.1 Lewisham's Comprehensive Equalities Scheme (CES) 2012-16 describes the Council's commitment to equality for citizens, service users and employees. The CES is underpinned by a set of high level strategic objectives which incorporate the requirements of the Equality Act 2010 and the Public Sector Equality Duty:

- tackle victimisation, harassment and discrimination
- to improve access to services
- to close the gap in outcomes for citizens
- to increase understanding and mutual respect between communities
- to increase participation and engagement

9. Environmental implications

9.1 There are no specific environmental implications arising from this report

10. Conclusion

10.1 An update setting out progress since the response to the 1st June SDSC referral is provided in section 5 of this report.

Background documents

Report to Sustainable Development Select Committee 22nd October 2015.

<http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=136&MId=3906>

Report to Mayor and Cabinet 13 January 2016.

<http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MId=3864>

Report to Sustainable Development Select Committee 12th May 2016.

http://councilmeetings.lewisham.gov.uk/documents/s43532/4_SDSC_UseS106andCILreport12052016.pdf

MINUTES OF THE SUSTAINABLE DEVELOPMENT SELECT COMMITTEE

Tuesday, 29 November 2016 at 7.00 pm

PRESENT: Councillors Liam Curran (Chair), Suzannah Clarke (Vice-Chair), Amanda De Ryk, James-J Walsh, Mark Ingleby, Pauline Morrison and Paul Upex

APOLOGIES: Councillors Bill Brown and Eva Stamirowski

ALSO PRESENT: Timothy Andrew (Scrutiny Manager), Kevin Chadd (Senior Planning Lawyer), Janet Senior (Executive Director for Resources & Regeneration) and Emma Talbot (Head of Planning)

1. Minutes of the meeting held on 25 October 2016

Resolved: that the minutes of the meeting held on 25 October be agreed as an accurate record.

2. Declarations of interest

- 2.1 Councillor Upex declared a non-prejudicial interest as a member of CAMRA (the campaign for real ale) in relation to item three.
- 2.2 Councillor Curran declared a non-prejudicial interest as a member of CAMRA (the campaign for real ale) in relation to item three.

3. Planning key policies and procedures

3.1 Emma Talbot (Head of Planning) introduced the report. The following key points were noted:

- There had been a number of recent changes to planning policy at the national and regional level.
- Officers in Lewisham had started the process of preparing the new overarching Lewisham local plan. The Plan would replace the existing adopted Planning Policy documents – Core Strategy (2011); Site Allocations Local Plan (2013); Development Management Local Plan (2014); and Lewisham Town Centre Local Plan (2014).
- Currently, the proposed timetable for the development of the new local plan was not being met. This was because of the work taking place on other planning documents and the wait for the Governmental guidance on the implementation of the provisions of the Housing and Planning Act. The earliest the new plan would be ready would be in 2018.
- The Housing and Planning Act (2016) could have a significant impact on the planning regime and in particular on housing-led development.
- The Mayor of London was in the process of issuing new guidance on his interpretation of the London Plan (2016).
- It was likely that there would be changes to the provisions in the London Plan relating to affordable housing. The changes would also have an impact on the rules around density of new developments.
- The draft supplementary planning guidance on viability indicated that new developments that committed to delivering 35 per cent affordable housing would not be required to produce a viability assessment.

- The Chancellor's Autumn statement also introduced an element of uncertainty for planning going forward.
- In terms of pubs policy in Lewisham, officers believed that Lewisham's development planning document for pubs had been successful in promoting delivery of new pubs and protecting Lewisham's existing establishments.
- There had been recent planning applications for A4 (drinking establishment) usage and nine pubs were now listed as assets of community value. Adding pubs to the register of community assets removed the permitted rights of owners to change the usage of buildings with pubs in them without applying for planning permission.

3.2 Emma Talbot (Head of Planning) and Janet Senior (Executive Director for Regeneration and Resources) responded to questions from the Committee. The following key points were noted:

- Lewisham's previous plans would be subsumed into the single new local plan.
- Officers would set out the key stages for the development of the Lewisham local plan for councillors. The explanation of the stages would also highlight the points at which councillors could become involved in local consultation and engagement activities. The likely next stage of the development of the Plan would be in summer 2017.
- It was likely there would also be opportunities for councillors to be involved in the consultation on the new London Plan in autumn of 2017.
- Officers would also provide the Committee with information about the key stages for regional planning documents.
- Consultation on the Mayor of London's supplementary planning guidance for viability had just started.
- Planning managers kept a log of issues that arose at planning committees to identify recurring issues and to improve future plan making.
- The only issues that could be considered at planning committees were material planning considerations. Decisions had to be made in accordance with the planning policy framework (including national guidance), the London Plan and the Council's planning policies (unless material planning considerations indicated otherwise).
- The Council was going through a period of substantial and sustained change. Managers recognised that this presented challenges in terms of the capacity of some teams. There was currently a lot of policy work to be carried out and managers were considering the capacity, workload, resourcing and staffing distributions of teams across the Council.
- There was a general shortage of planners in London so recruitment and retention of staff was difficult. The planning department were trying to send out the message that Lewisham was an attractive place to work. The Department had developed a career pathway to ensure that the borough was attractive to planning professionals. Managers also sought to attract planners to join Lewisham who had recently qualified. However, it was recognised that the recruitment of junior staff placed additional pressure on management.
- Despite current challenges, the department consistently met its performance targets – and it had won awards for the quality of its work. The department also had a good level of success at defending appeals.

- Most of the department's savings had been produced by increasing income rather than by reducing numbers of staff. Managers were aware that they needed to ensure that the right capacity was in place in the right teams.
- Officers were considering the implications of new legislation, however, the provisions of the Housing and Planning Act had not been set out in detail.
- The Act included proposals to force authorities to speed up planning permissions for 'brownfield' sites and to grant automatic planning permissions in some circumstances, which might have significant resource implications for the borough.
- The Council had to show that it could deliver a five year housing supply. Without a sufficiently developed plan for delivering housing, the Council might lose the ability to decide where housing should be approved in the borough.
- The Council's strategic land assessment showed that sufficient housing could be delivered in the borough up until 2029 but plans for delivery needed to be set out in detail.
- Planning officers were looking at new opportunity sites across the borough, beyond the current regeneration schemes in Deptford, Lewisham and Catford.
- Officers were also looking closely at the implications of the Government's proposals for business rate retention. Businesses and housing developments both provided a source of income for the Council. Business rate income had to be balanced against council tax income.
- Planning officers looked at applications relating to employment land in terms of job density as well as in terms of square meters. Large areas of employment land (such as that used for storage or distribution) might provide very few jobs.
- The Council had a strong policy against the subdivision of large houses into smaller units. However, there had been a number of decisions that had been appealed and won by developers. Officers were continuing to review the outcome and evidence base to provide a robust defence.
- Unfortunately, there were not any applications being put forward for large homes so once large units were lost, they were gone forever.
- There was currently a reprieve for a year on the monitoring of planning appeals. From next year, appeals would be monitored by Government. Authorities that lost many appeals would be forced into special measures.
- There were no proposals for changes to the rules around development on land designated as open space.
- The planning department was considering new methods of communication and the use of new technology. Changes to the Council's IT would allow a greater level of information sharing between officers.
- Officers believed that the pubs policy was working well and there were examples of new developments that included pubs.
- Removing development rights with article four directions for pubs could be problematic because current guidance meant that there had to be a two year period before the direction could come into force, during which time a developer could exercise their rights to change a building with a pub in it to an alternative usage without applying for permission.
- It might be possible to remove permitted rights for new pub developments when granting planning permission to prevent future change of use.

3.3 In the Committee's discussions, the following key points were noted:

- Members were concerned that there were issues of officer capacity in the planning department.

- There was apprehension about the high level of demand for housing in London and the possible pressure that local authorities might face to build on open spaces, such as parks and playing fields.
- The Committee expressed its support for the retention of pubs in the borough.
- The Committee was concerned about reports of a recent assault on an enforcement officer in the planning service. It was reported that the officer had now recovered and returned to work but that as a result of the attack, policies around safety and lone working had been reviewed.
- The Committee recommended that officers introduce a planning condition for recent and future applications for developments with A4 (drinking establishment) usage in order to remove permitted development rights.

Resolved: that the Committee's views be referred to Mayor and Cabinet, as follows:

- 3.4 The Committee recommends that officers review the effectiveness of the Council's policy on the protection of pubs.
- 3.5 The Committee requests a diagram, which sets out all of the current local and regional planning policy documents. It asks that the key opportunities and dates for engagement with Councillors on the development of these plans be included. The Committee intends to actively participate in consultations and engagement activities for all key planning policies and procedures at a local level and, it wants to ensure that local views are represented in regional consultations as those opportunities arise.

4. Planning enforcement

4.1 Emma Talbot (Head of Planning) and Janet Senior (Executive Director for Resources and Regeneration) answered questions from the Committee; the following key points were noted:

- Planning enforcement had not been integrated into the Council's enforcement hub as part of the review of enforcement services across the Council.
- The Council's enforcement activities and the work of the enforcement hub was regularly reviewed. It was recognised that there were some issues with the new hub in terms of the allocation of specialist and generic roles.
- The review of enforcement activities had streamlined the exchange of information between teams inside and outside of the hub, as well as enabling greater levels of joint working.
- An officer had been seconded between teams and joint work had taken place to deliver enforcement action against rogue landlords and brothels.

Councillor Curran temporarily left the room at 20:35 (for approximately five minutes) and Councillor Clarke assumed the Chair.

- There were no proposals to include building control services in the enforcement hub.

4.2 In the Committee's discussions, the following key points were noted:

- The Committee was concerned about the absence of an effective customer relations management system, which it thought might enable members of the public to speak to any Council officer and have their case transferred to the correct service.
- The Committee highlighted the problems that some service users experienced when the concerns they wished to report fell between the planning enforcement, building control and other enforcement services.
- Members reiterated their concerns about the IT system being used by the planning department, which it was felt was unstable and unsuitable for users in the Council and for members of the public (this was also the subject of a referral by the Committee to Mayor and Cabinet in September 2016).
- Officers were asked to ensure any future changes to the building control service would be reviewed by the Committee.

Resolved: that the Committee's views be referred to Mayor and Cabinet, as follows:

- 4.3 The Committee recommends that further work be carried out to develop a customer relations management system for the Council's enforcement activities. The Committee is concerned that there is not a clear and collaborative approach, between teams dealing with enforcement activities at the Council, for dealing with reports of activities from residents that may require enforcement action. The Committee believes that a single, universally accessible management system for officers would help to manage the flow of information and complaints as well as improving the reputation of the Council in dealing with residents' concerns.
- 4.4 The Committee believes that further clarity should be provided to residents for those cases in which building control and planning activities overlap. In particular, the Committee recommends that any letters issued to residents by either service include guidance about contacting the Council's other enforcement teams.

5. Planning - use of S106 and CIL

- 5.1 Emma Talbot (Head of Planning) and Janet Senior (Executive Director of Resources and Regeneration) responded to questions from the Committee. The following key points were noted:

- Improvements had been made to the decision making process for the distribution of section 106 and CIL (community infrastructure levy) monies. The intention was to align the process with the Council's capital programme priorities.
- Work was also taking place with neighbourhood groups on the development of their neighbourhood plans. Local assemblies would also be asked for their input, in the interests of transparency and openness.
- There would always be a need to make difficult decisions about spending but the current proposal, to create a single, annual process for the agreement of capital and S106/CIL funds for the following year would ensure the involvement of members and improve transparency with community.

- It was intended that there would be more detail in the budget report about capital funding, which would make the Council's plans for allocation of CIL funding more up-front and transparent.
- There were representatives from different directorates on the regeneration board. However, Mayor and Cabinet took the ultimate decision on major spending proposals. There was delegated authority to the Head of Planning to allocate smaller amounts of funding.
- There were legal tests applied to section 106 funding to ensure it was fair and related to the development providing the funding. CIL funding was not ring-fenced in the same way. There were less restrictions.
- There was a commitment from the planning department to ensure that the Council spent all of the pots of money collected and to move projects along that were not meeting their principal aims.
- Some London Boroughs defined their whole area as a 'local area' for the purposes of distributing CIL funding. In Lewisham, the allocation of spending was proposed to be localised to wards. However, the new system of allocating funding would allow for some joined up allocation of spending between wards, where there was agreement by stakeholders.

5.2 In the Committee's discussions, the following key points were noted:

- The Committee was concerned that neighbourhood forums might not be representative of their local populations. Members asked whether a pro-forma constitution could be provided to groups planning to establish neighbourhood forums in order to ensure that they included councillors in their membership.
- There were also concerns about whether local CIL spend should be decided by ward assemblies. The Committee indicated that it would review the issue again in future.
- There was concern about the sustainability of neighbourhood forums. Members noted the large sums of CIL funding that would be allocated to these groups. The Committee asked whether there were mechanisms in place to return funding to the Council in the case that a neighbourhood forum failed.
- The Committee asked whether a process could be put in place to distribute funding from areas with high levels of funding to those with less.
- The Committee wanted to better understand the decision making process in relation to the allocation of funding. It was not clear whether funding decisions were for the Executive or full Council or whether they were delegated to officers or to Strategic Planning.

Resolved: that the Committee's views be referred to Mayor and Cabinet, as follows:

5.3 The Committee is concerned about the sustainability of neighbourhood forums. It is also concerned that neighbourhood forums might not be representative of their local populations.

5.4 The Committee recommends that the Council produce guidance for groups establishing neighbourhood forums, to encourage the inclusion of local councillors in their membership.

5.5 The Committee also recommends that conditions be placed on funding allocated to neighbourhood forums to ensure that, should a forum fail, any funding it has been allocated will be returned to the Council for reallocation.

6. Planning - annual monitoring report

Resolved: that the report be noted.

7. Information item: annual parking report

Resolved: that the information item be noted.

8. Select Committee work programme

8.1 Timothy Andrew (Scrutiny Manager) introduced the report. The Committee agreed the following changes to the work programme:

- An update on the animal welfare charter would be added to the agenda of the Committee's January meeting, in order to consider the content before a decision is taken by Mayor and Cabinet.
- The item on sustainable energy; the update on the modern roads review and the update on the high streets review would all be moved to the Committee's meeting in March.

Resolved: that the changes to the agenda for the meeting on 24 January be agreed.

9. Items to be referred to Mayor and Cabinet

9.1 The Committee resolved to advise Mayor and Cabinet of the following:

- The Committee commends the new Head of Planning. The Committee places on record its thanks for the work officers undertake to engage with elected members.

Resolved: that the Committee's views under items three, four and five be referred to Mayor and Cabinet.

The meeting ended at 9.30 pm

Chair:

Date:

Agenda Item 6

OVERVIEW & SCRUTINY BUSINESS PANEL		
Report Title	Decisions made by Mayor and Cabinet at the on 16 January 2019	
Key Decision		Item No. 6
Ward	All	
Contributors	Chief Executive/Head of Business and Committee	
Class	Part 1	Date: 29 January 2019

1. Recommendation

To consider key decisions made by the Mayor and Cabinet on 16 January 2019 which will come in to force on 30 January 2019.

2. Background

2.1 The Mayor and Cabinet considered the following key decisions on 16 January 2019.

2.2 The notice of the decisions made in respect of the report is attached as an Appendix. Under the provisions of Standing Orders Part IV E 14, members may call in an executive decision within 7 days. If this report is not called in they will come into force on 30 January 2019

- i. Council Tax Base 2019-20
- ii. Perry Vale and the Christmas Estate Conservation Area, Appraisal, and Article 4 Direction (SPD)
- iii. Article 4 Direction to withdraw permitted development rights for the change of use from dwelling house (Use Class C3) to small HMO's (Use Class 4)
- iv. Gambling Statement
- v. Housing Assistance Policy
- vi. Main Grants Programme Disability Coalition



NOTICE OF DECISIONS MADE AT THE MAYOR & CABINET

The Mayor and Cabinet made the following decisions on 16 January 2019. These decisions will become effective on 30 January 2019 unless called in by the Overview & Scrutiny Business Panel on 29 January 2019.

1. Setting the Council Tax Base, the NNDR Tax Base & Discounts for Second Homes and Empty Homes

Having considered an officer report, and a presentation by the non-voting job share Cabinet Member for Finance, Skills and Jobs, Councillor Amanda De Ryk, and a member of the public, the Mayor and Cabinet agreed that:

- (1) the Council Tax Base calculation for 2019/20, as set out in the annual Council Tax Base government return, attached at Appendix A be noted;
- (2) Council be recommended to agree a Council Tax Base of 88,405.1 Band D equivalent properties for 2019/20;
- (3) Council be recommended to agree a budgeted Council Tax collection rate of 97.0%;
- (4) Council be recommended to approve the continuation of the discretionary Council Tax discount of 100% for care leavers up to the age of 25;
- (5) Council be recommended to agree that the existing policy of a 0% discount for second homes for 2018/19 be continued for 2019/20;
- (6) Council be recommended to agree that the existing policy of a 0% discount for empty homes Class A (an empty property undergoing structural alteration or major repair to make it habitable) be continued, as set out in section six of this report;
- (7) Council be recommended to agree that the existing policy of a 100% discount awarded for a period of four weeks and then a 0% discount thereafter, for empty homes – Class C (a substantially empty and unfurnished property) be continued;

(8) Council be recommended to agree that the existing policy of an empty homes premium in respect of long term empty properties is increased to 100%, as set out in section six of this report;

(9) the proposed 2019/20 National Non Domestic Rate (NNDR) estimated net yield of £67.4m, based on current information available, be noted;

(10) Council be recommended to agree to delegate the approval of the final 2019/20 NNDR1 form to the Interim S151 Officer for submission by the deadline of 31st January 2019.

2. Perry Vale and the Christmas Estate Conservation Area, Appraisal, and Article 4 direction (SPD)

Having considered an officer report and a presentation by the Mayor, the Mayor and Cabinet agreed that:

(1) the Perry Vale and Christmas Estate conservation area be designated;

(2) Adopt the Conservation Area Appraisal (Appendix 1) be adopted, and;

(3) The making of a non immediate Article 4 Direction to the residential streets within the proposed conservation area (Appendix 3) be approved.

3. Article 4 Direction for Lewisham's southern wards of Bellingham, Downham, Whitefoot and Grove Park to withdraw permitted development rights for the change of use from dwelling house (Use Class C3) to small HMO's (Use Class C4)

Having considered an officer report, and a presentation by the Mayor, the Mayor and Cabinet agreed that:

(1) the making of a non-immediate Article 4 Direction for Lewisham's southern wards of Bellingham, Downham, Whitefoot and Grove Park to withdraw permitted development rights for the change of use from dwelling house (Use Class C3) to small HMO's (Use Class C4) be approved with such direction to come into force 12 months after notice of the direction is published;

(2) officers be authorised to carry out consultation as set out Section 6; and

(3) the financial and legal implications of making the Article 4 Direction be noted.

4. Review of Statutory Gambling Statement of Principles

Having considered an officer report, and a presentation by the Mayor, the Mayor and Cabinet agreed that the Gambling Statement of principles for 2019-2022 should be presented to the Council for it to be formally determined and published.

5. Private Sector Housing Assistance Policy

Having considered an officer report, and a presentation by the Cabinet Member for Housing, Councillor Paul Bell, the Mayor and Cabinet agreed that:

(1) the changes to the Private Sector Housing Assistance Policy be approved;

(2) authority be delegated to the Executive Director for Customer Services to make minor amendments to the Housing Assistance Policy.

6. Main Grants –Lewisham Disability Coalition

Having considered an officer report and a presentation by the Cabinet Member for the Community Sector, Councillor Jonathan Slater, the Mayor and Cabinet agreed that the Main Grant to Lewisham Disability Coalition be discontinued from 1 January 2019 and the delegation of decision making responsibility in relation to LDC's winding-up costs be made to the Executive Director for Community Services.

**Janet Senior
Acting Chief Executive,
Lewisham Town Hall,
Catford SE6 4RU
17 January 2019**

Agenda Item 7

Overview and Scrutiny Business Panel		
Title	Overview and Scrutiny Select Committees - Update	
Contributor	Overview and Scrutiny Manager	Item X
Class	Part 1 (open)	29 January 2019

1. Update

- 1.1 Scrutiny has provided a submission to the Council's Democracy Review, which is looking at how residents, community groups and businesses can have a stronger say in local decision-making to make the council even more democratic, open and transparent. Suggestions made included:
- Ensuring that scrutiny is engaged in contributing to policy proposals at an early enough stage to actively influence and contribute to their development
 - The development of a robust Communications Strategy to ensure genuine and meaningful two way dialogue between the Council and its citizens
 - Making sure that allowances accurately reflect the responsibilities attached to certain posts and the impact that fulfilling the associated duties has on the post holder
 - Ensuring the right training provision for members to allow them to carry out their duties effectively.
- 1.2 There will be a meeting of the Our Healthier South East London Joint Health Overview and Scrutiny Committee on 20 February 2019 to discuss population health and life expectancy, including long term planning reflecting age and pressures in different boroughs; and the roll out of Hubs/ Urgent Care Centres/ Urgent Treatment Centres.
- 1.3 Those Select Committees conducting in-depth reviews this year are currently holding evidence sessions to progress their review, going on visits and observing relevant services.
- 1.4 Select Committee chairs may wish to provide an oral update on how their work programmes are progressing.

If you have any questions about this report – please contact Charlotte Dale (Overview and Scrutiny Manager) 02083148286

OVERVIEW & SCRUTINY BUSINESS PANEL		
Report Title	Exclusion of the Press and Public	
Key Decision		Item No. 8
Ward		
Contributors	Chief Executive	
Class	Part 1	Date: 29 January 2019

Recommendation

It is recommended that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3, 4 and 5 of Part 1 of Schedule 12(A) of the Act, as amended by the Local Authorities (Executive Arrangements) (Access to Information) (Amendments) (England) Regulations 2006:-

8. Decisions made by Mayor and Cabinet on 16 January 2019.

Agenda Item 9

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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