

| <b>MAYOR AND CABINET</b> |  |                |               |
|--------------------------|--|----------------|---------------|
| <b>Title</b>             | Response to Sustainable Development Select Committee – Pubs update | <b>Item No</b> |               |
| <b>Contributors</b>      | Executive Director of Housing, Regeneration and Environment        |                |               |
| <b>Class</b>             | Part 1 (open)  | <b>Date</b>    | 11 March 2020 |

## 1. Summary

- 1.1. This report addresses a number of outstanding scrutiny matters and provides a response to Mayor and Cabinet on these. The report covers officers responses to comments made by Sustainable Development Select Committee on pubs - 28<sup>th</sup> October 2019 and the subsequent formal response.

## 2. Policy Context

### Lewisham Corporate Strategy

- 2.1. Lewisham's existing statutory development plan, and the emerging draft new Local Plan, will play a key role in delivering the Council's Corporate Strategy 2018-2020. The Local Plan will engage with all of the key priority areas of the Corporate Strategy, with the current and emerging planning policy proposals concerning public houses relevant, in particular, to the following:

1. Open Lewisham – Lewisham is a welcoming place of safety for all, where we celebrate the diversity that strengthens us; and
4. Building an inclusive local economy – Everyone can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.

### Planning policy framework

- 2.2. The National Planning Policy Framework (2019) and London Plan (2016), along with the emerging draft new London Plan (2017), once adopted, set the planning policy framework for England and London respectively. These higher level policies recognise the value of public houses as community facilities and the important economic role they play. Lewisham's planning policies are required to help facilitate the delivery of sustainable development locally in a manner that is consistent with national planning policy and in general conformity with the London Plan.
- 2.3. The Council's detailed planning policies for new development proposals involving public houses is currently set out in the Development Management Local Plan (2014) and specifically, DM Policy 20 (Public Houses). This policy was prepared in response to local issues surrounding the loss of public houses through material changes of use (such as conversions) and redevelopment.
- 2.4. The Council's planning policy team is currently taking the opportunity to review DM Policy 20 through the preparation of the new Lewisham Local Plan. The review will take into account planning decisions on relevant applications and new technical evidence, along with changes

in the higher level planning framework since the Core Strategy (2011) and Development Management Local Plans were adopted.

### **3. Update and response to Mayor and Cabinet**

3.1. On the 28th October 2019 the Sustainable Development Select Committee resolved that the Committee would refer its views to Mayor and Cabinet as follows:

- The Committee recommends that the proposed policy for pubs in the upcoming local plan should be strengthened.
- It is recognised that proposals from officers would be an advance on the previous position regarding local pubs – but there is concern that the intended presumption against development does not specify the types of pubs that should be protected.
- Members believe that historic (20 century and earlier) purpose built pubs- especially those that served as landmarks and key locations on high streets- should receive additional protections.

#### Officers response

3.2. Senior officers from the planning team have subsequently met with the chair of Sustainable Development Select Committee to discuss the policy relating to public houses within the new Local Plan and how it could be further strengthened.

3.3. The policy has been revised to incorporate the amendments discussed including specific reference to the protection of historic (20<sup>th</sup> Century or earlier) purpose built pubs within the explanatory text. (See appendix 1)

3.4. Officers will be seeking approval from Mayor and Cabinet and Council to undertake statutory consultation on the new Local Plan that will offer further opportunity to provide comments on specific policies. The council will be required to take into account feedback received through this consultation process, including responses that may be received from councillors, industry and other key stakeholders and the wider public.

### **4. Recommendation**

4.1. Mayor and Cabinet is recommended to approve the officers response and report to the Select Committee.

### **5. Financial Implications**

5.1. There are no financial implications arising from this report.

### **6. Legal Implications**

6.1. There are no legal implications arising from this report.

### **7. Equalities Implications**

7.1. 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. It describes the Council's commitment to equality and fairness for citizens, service users and employees through its powers to influence access to good quality housing, education, safety & security, health and leisure services.

7.2. The emerging draft planning policies set out in Appendix 1 are proposed to be included in Lewisham's draft new Local Plan. The Local Plan will be subject to an Integrated Impact Assessment (IIA) in line with the statutory requirements for plan making, and this assessment will incorporate considerations relevant to Equalities Impact Assessment. The Local Plan will be prepared having regard to findings of the IIA through an iterative assessment process. An interim Integrated Impact Assessment report will be published alongside the draft Local Plan at the next Regulation 18 stage of public consultation.

## **8. Crime and Disorder Implications**

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

## **9. Environmental Implications**

9.1. There are no environmental implications arising from this report.

## **Appendix 1 – Draft Local Plan Policies**

### **EC 19 Public houses**

- A. Public houses are unique and integral features of Lewisham's neighbourhoods and cultural identity, and perform important community, social and economic functions locally. There will be a presumption in favour of the retention of public houses in Lewisham. Development proposals involving the loss of a public house that has heritage, economic, social or cultural value to the community, including through change of use or redevelopment, will be refused unless there is robust and authoritative evidence to demonstrate that:
  - a. Legitimate efforts have been made to preserve the facility as a public house, including through evidence of regular maintenance and upkeep, good management and through business diversification;
  - b. The public house is not financially viable and there is no reasonable prospect of the premises remaining in this use, or an alternative community use, in the foreseeable future as evidenced through attempts at different business models and management, and an active marketing exercise of a minimum continuous period of three-years; and
  - c. All feasible options for the re-provision of the public house have been fully investigated, and where these are not considered deliverable sufficient justification is provided.
- B. Development proposals affecting a public house, including its operational and ancillary amenity space, will be refused unless there is robust and authoritative evidence to demonstrate that the viability of the pub, and its current and future operation, will not be compromised and development will not detract from the character and appearance of the building, including any features of historic or cultural significance.
- C. Development proposals involving the replacement or re-provision of a public house must ensure the replacement facility is of comparable character and quality as the existing public house and has an appropriate amount and configuration of floorspace to enable the continued viability of the public house.
- D. Where the change of use of a public house is considered acceptable, development proposals will be expected to retain the building and other associated features where these makes a positive contribution to local character, including by their historic, streetscape and townscape value.

### **Explanation**

8.106. Public houses, or pubs, are a unique and integral feature of the British cultural identity of Lewisham. They are fundamentally community facilities that promote social cohesion, offering a welcoming environment for people of all backgrounds to socialise and interact. Many local pubs are heritage assets in their own right, or have played a part in the Borough's cultural and historical development. This may be reflected in their built form or through a pub's association with people or events that have shaped the Borough's history. Pubs often have longstanding ties to their

**neighbourhoods and strong affiliations with local communities and community groups, and therefore contribute to people's sense of place and belonging.**

8.107. There are many different community functions that pubs can perform. For example, pubs often include amenity space which is used as venues for functions, performance space, and informal meeting space for residents and community groups. Pubs also support the local economy and are particularly vital to the visitor and night-time economy. In recent years Lewisham, like many other London Boroughs, has experienced a decline in public houses. Recognising the important social and economic role they play, we will seek to guard against the loss of these community and cultural facilities. Particular consideration will be given to the need to protect purpose built, historic pubs (built in the 20<sup>th</sup> Century or earlier), especially where these are landmark features in the townscape or sited at prominent positions, within town and local centres or elsewhere in the Borough.

8.108. Development proposals involving the demolition or loss of an existing public house, including through change of use, must submit evidence to demonstrate that the pub is not financially viable and there is no reasonable prospect of the premises remaining in this use, or an alternative community use. We will expect to see full details of patronage levels and trading accounts over the past 3 years, including accounts from previous management where appropriate. In addition, applicants must provide a statement documenting the steps taken by the owner or operator to respond to viability concerns, including falling patronage levels and profit margins. This might cover considerations given to business diversification (for example, expanding the food and beverage offer), promotions or building refurbishment. Finally, proposals will need to provide proof of a marketing exercise covering a minimum continuous period of three-years, including details of commercial agents, advertisements and lease terms offered. During this time the pub must be actively marketing at a reasonable local market rent. We will consider whether any ties or restrictive covenants have affected interest. Proposals will be resisted where there is good reason to believe that the viability of the pub has been compromised by deliberate neglect or mismanagement.

8.109. Public houses require dedicated operational spaces. They also often feature function rooms or ancillary amenity space, including outdoor gardens, which are critical to supporting their role as community facilities and places of gathering. Where proposals involve a reduction or reconfiguration of such operational and ancillary spaces, it must be demonstrated that this will not have a detrimental impact on the financial viability of the public house. Furthermore, proposals must show that the remaining residual space will be of a sufficient amount and quality to continue to meet the needs of pub users. Operational and ancillary spaces include, but are not limited to, beer gardens, function rooms, kitchens, cellars and accommodation integrated into the building.

8.110. Where sites are redeveloped, including through comprehensive redevelopment, our priority is to protect pubs particularly where they are of historic, cultural or community interest. However, in certain circumstances it may be acceptable that a facility is replaced or re-provided. Proposals will be required to demonstrate that

they have considered all reasonable options for retaining the pub in situ. Where this is not possible, the replacement provision must be designed to a sufficient quality and standard to ensure the continued viability of the pub. This aim of this policy is to ensure there is a genuine intention to retain the facility in viable use, so to prevent against future changes to alternative uses.

8.111.National planning policy recognises the value of public houses as community facilities. We will therefore seek to protect against their loss, having regard also to **Policy CI 1 (Safeguarding and securing community infrastructure)**. Where the loss of a pub is proposed, proposals must suitably demonstrate that there is similar alternative provision elsewhere in the local area. If there is sufficient evidence to support that the loss is acceptable in principle, proposals will be expected to retain the building and any ancillary land or other features, where these makes a positive contribution to local character.

8.112.Development proposals involving the loss of public houses listed as Assets of Community Value will be assessed against this and other relevant Local Plan policies.

8.113.To support the implementation of this policy, we have set out marketing requirements for proposals affecting public houses in an Appendix to the Local Plan, which all proposals will be required to comply with, as appropriate.

#### ***Appendix : Further information for Pubs***

This Appendix must be read in conjunction with draft Local Plan policy EC19 (Public Houses), which sets out requirements for submission of viability and marketing information to support certain types of development proposals.

##### **Viability statement**

In order to ensure that the Council can make a sound assessment when a change of use is Proposed, applicants will be required to submit a Viability Statement. This will need to include:

1. Evidence in the form of at least the last three trading years of audited accounts.
2. All reasonable efforts have been made to preserve the public house (including all diversification options explored) and evidence supplied to illustrate that it would not be economically viable to retain the building or site for its existing use class.  
Examples of the initiatives or proposals that could be explored are as follows:
  - a. adding a kitchen and serving food, or improving the existing food offer
  - b. making the pub, garden, food offer more 'family-friendly'
  - c. providing events and entertainment such as quiz nights, amplified or non-amplified live music, comedy/cabaret nights
  - d. hiring rooms out or otherwise providing a venue for local meetings, community groups, businesses, youth groups, children's day nurseries
  - e. offering take-away food and off-licence services
  - f. provision of bed & breakfast or other guest accommodation
  - g. sharing the premises with other businesses
  - h. altering business and operating hours.

## **Marketing statement**

The Council will require clear evidence of appropriate marketing to show a lack of demand for the public house. This will mean the submission of a Marketing statement including the following information:

1. Details of the company/person who carried out the marketing exercise.
2. The marketing process should last for at least 36 months.
3. The asking price should be pre-agreed in writing with the local planning authority following independent valuation (funded by the developer) by a professional RICS valuer with expertise in the licensed leisure sector and who is not engaged to market the property.
4. The marketing exercise should be sufficiently thorough and utilise all available forms of advertising media and therefore include as a minimum:
  - a. a for Sale/for Rent signboard
  - b. adverts in the local press
  - c. adverts in appropriate trade magazines/journals
  - d. adverts on appropriate trade websites
  - e. adverts through both national and local estate agents (including their websites) and
  - f. a targeted mail shot or email to an agreed list of potential purchasers.

## **Local consultation and use of the public house by community and voluntary organisations**

The use of public house space for community groups is a valued resource and evidence will be required demonstrating consultation has taken place with local community and voluntary organisations. The applicant will be required to carry out an assessment of the needs of the community for community facilities to show that the existing or former public house is no longer needed and that alternative provision is available in the area.

Where there is local need, this use should be retained or replaced within the building, unless an alternative approach can be identified and agreed. The retention of the ground floor for non-residential use will help maintain street activity and a mixed use neighbourhood.

The Council may also consider adding certain public houses to the Community Assets register if the community support for their retention is significant.