

ASSEMBLY

17 September 2014

Title: Approval of Supplementary Planning Document (SPD) 'Last Orders? Preserving Public Houses'	
Report of the Cabinet Member for Regeneration	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Divisional Director: Jeremy Grint, Divisional Director Regeneration	
Accountable Director: Steve Cox, Director of Growth	
Summary: <p>The number of public houses (pubs) in the borough has reduced from 48 to 28 in the last 26 years. The rate of loss is accelerating; in the last six years 13 pubs have closed. With the loss of a local pub comes the loss of a community facility, the loss of a business and in some cases the loss of an important historical building of architectural and civic interest.</p> <p>Consequently on 18 December 2013 Cabinet agreed to approve the draft Supplementary Planning Document (SPD) 'Last Orders? Preserving Public Houses' for public consultation. (Minute no. 79 refers). This aims to give the Council more control over the loss of pubs through the planning system.</p> <p>The Council consulted on the draft SPD from 15 January 2014 to 26 February 2014. In total six written consultation representations were received. Objections were received from a planning consultant requesting the Council reconsider the introduction of the guidance. The Greater London Authority, English Heritage and a member of the public supported the principle of the guidance.</p> <p>Officers have made three minor revisions to the SPD taking on board a comment from English Heritage, to note the Further Alterations to the London Plan which was published for consultation in January 2014, and to clarify the permitted development rights that pubs enjoy, otherwise there are no changes proposed.</p> <p>The SPD will be used to help determine planning applications relating to the loss of a pub whether open or closed. A copy of the proposed final SPD is attached as Appendix 1 and the consultation statement is attached as Appendix 2.</p>	
Recommendation(s) <p>The Assembly is recommended to adopt the Supplementary Planning Document "Last Orders? Preserving Public Houses" attached at Appendix 1 to the report.</p>	

Reason(s)

In order to assist the Council to achieve its vision to 'Encourage growth and unlock the potential of Barking and Dagenham and its residents' and the priorities 'Reduce crime and the fear of crime', 'Maximise growth opportunities and increase household income of borough residents' and 'Create thriving communities'.

1. Introduction and Background

- 1.1 A report went to Cabinet on 18 December 2013 requesting approval of the draft Supplementary Planning Document (SPD), Last Orders? Preserving Public Houses and to issue the document for public consultation. This was agreed and consultation subsequently took place (Minute no. 79 refers).

2. Proposal and Issues

- 2.1 Consultation was undertaken for a period of six weeks from 15 January to 26 February 2014 in compliance with legal requirements set out in Local Plan Regulations. A press notice was published and an advertisement was set out in the Barking and Dagenham Post.
- 2.2 Copies of the draft SPD were set out on the Council website. Also hardcopies of the draft SPD were made available in Barking and Dagenham libraries, Barking Town Hall and Dagenham Civic Centre.
- 2.3 Selected individuals and organisations on the Local Plan consultation database were notified via email or letter. In addition, all known landlords or owners of pubs were notified via email or letter, as well as other interested stakeholders such as Campaign for Real Ale (CAMRA) and the British Beer and Pubs Association (BBPA). In addition statutory consultees were notified via email or letter.
- 2.4 In total six consultation responses were received as shown below.

Table 1 – Stakeholders Responses to the SPD Consultation

	Object	Support	Neutral
Resident		1	
Greater London Authority (GLA)		1	
English Heritage		1	
Highways Authority (HA)			1
Marine Management Organisation (MMA)			1
Gerardeve LLP (on behalf of Regents Park Properties)	1		
Total	1	3	2

- 2.5 Provided below is a summary of the main points raised in the objection from Gerrardeve LLP, representing Regents Park Properties. The Council's suggested response is provided in italics.

- The SPD is not in line with the adopted development plan. The adopted plan for the borough does not include planning policies on the protection of pubs and therefore the SPD goes beyond planning guidance. The adopted development plan does not specifically define pubs as a community facility.

The National Planning Policy Framework is clear that public houses are a community facility and therefore the SPD implements policies CC2 and BC6 of the Local Plan which aim to prevent the loss of community facilities

- Strongly disagree with the context of the draft SPD and the generation of new guidance on the protection of Public Houses through an SPD rather than through the Local Plan, as the draft SPD effectively seeks to generate a new policy, which will not have been subject to testing by way of examination.

The SPD supplements policies in the Local Plan

- The SPD will result in the unnecessary blanket protection on public houses which is not welcome.

The SPD is not a blanket protection on public houses. Existing permitted development rights have not been removed. The SPD sets out the circumstances when change of use, redevelopment or demolition may be allowed.

- The draft guidance is not considered to be effective. It is onerous and a prescriptive restriction which will ultimately discourage investment in underused sites in the borough which are in need of regeneration and would be better suited for alternative uses.

The SPD will help shape investment whilst protecting valued community facilities.

- The guidance offers no flexibility such as where public houses are not well used or become unviable.

The SPD requires applicants to demonstrate that the existing pub use is not viable before a change of use is considered. Therefore it is flexible.

- No justification for guidance point three; where if a building is assessed as having a historical significance, the Council will require the ground floor of the building to be retained as a public use.

This is justified in paragraph 5.11 of the guidance. Here the guidance explains that with reference to paragraph 135 of the NPPF the Council regards locally listed pubs as especially significant given the number lost in recent years and their important contribution to defining Barking and Dagenham's character. Therefore, any proposals involving listed or locally listed pubs must preserve and enhance the building's historic significance and maintain an active ground floor frontage in a use which is accessible to the public.

- No policy justification for where a pub is demolished the replacement development would need to make an equal or greater community benefit contribution which in itself is not defined in terms of policy tests.

The guidance is clear that in these cases proposals will be expected to either incorporate a community use in the redevelopment or make a contribution towards enhancing community facilities in the locality where appropriate. This is consistent with paragraph 70 of the National Planning Policy Framework which requires local authorities to plan positively for the provision of community facilities and to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

2.5 Support was received from:

- English Heritage
- Member of the public
- Greater London Authority

2.7 Below is a summary of the main points raised in support:

English Heritage

- English Heritage welcomes the publication of this document and hopes it will assist the Borough in conserving the historic significance of the Borough's public houses
- For accuracy paragraph 3.22 states the SPD should be revised to include "...In assessing any proposals for listed pubs which require planning permission, Local Authorities must give great weight to the asset's conservation."

Greater London Authority

- The SPD appears comprehensive and is in line with London Plan (2011) Policy 4.8 and the Further Alterations to the London Plan (FALP) (January 2014).
- The Mayor recognises the important role that London public houses can play in the social fabric of communities and encourages boroughs to bring forward policies to maintain, manage and enhance public houses.

Member of the Public

- A member of the public supported the principle of protecting public houses in the Borough and against conversion to residential.

2.8 Given the feedback from the consultation, three amendments have been made to the SPD. Paragraph 3.22 has been amended to respond to the comments made by English Heritage. In addition paragraphs 3.18 – 3.20 have been amended. Due to the ongoing changes to permitted development rights this section has been simplified so it focuses on the current permitted development rights that apply to public houses.

2.9 Finally the SPD now includes reference to the Further Alterations to the London Plan which was published for consultation in January 2014. The consultation statement is attached as **Appendix 2**.

3. Financial Implications

Implications completed by: Phil Horner, Principal Accountant

3.1 The only financial impact could be on levels of Planning Application income received and, due to the small number of pubs now located in the Borough, the financial implications for this report are not significant.

4. Legal Implications

Implications completed by: Paul Feild, Senior Corporate Governance Lawyer

4.1 The Planning and Compulsory Purchase Act 2004 required the Council to replace its Unitary Development Plan (UDP) with a Local Development Framework (LDF) now known as the Local Plan. The SPD will inform the Local Plan

4.2 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) provides that adoption of Local Plan documents are not solely to be an executive function, so the resolution to adopt SPD documents must be carried out by the Assembly.

5. Other Implications

5.1 **Risk Management** - Officers consider that there is a sound policy basis for producing this Supplementary Planning Document.

Risk	Probability	Impact	Priority	Action
Failure to meet legal requirements.	Low	High	High	Relevant Act and Regulations were followed in preparing and adopting SPD.
Policy not applied successfully	Low	High	High	Development Management staff were fully briefed.
Failure to integrate fully with other Council policies and strategies	Low	High	High	The SPD is consistent with the National Planning Policy Framework and the Council's Community Strategy, Local Plan and Heritage Strategy.
Guidance is not upheld at appeal	Medium	High	High	This SPD is in line with the National Planning Policy Framework. Its purpose is to provide detailed guidance to developers on the implementation of Local Plan policy set out in the Borough Wide Development Policies DPD and the Core Strategy which have now been adopted.
Policy is challenged by developers.	Low	High	High	Other local authorities have issued similar guidance. Whilst Cambridge's guidance was the subject of a legal challenge this was not upheld.

- 5.2 **Staffing Issues** - The proposals will not necessitate the need for additional staff.
- 5.3 **Corporate Policy and Customer Impact** - The proposals are likely to have a positive effect on the local community by retaining the number of public houses in the Borough which are considered a valued public asset.
- 5.4 **Safeguarding Children** - Pubs traditionally are considered the domain of adults. However, in a changing industry many pubs have opened themselves up and diversified. One such trend has been emergence of family pubs. Often such pubs have play areas for children or shared community facilities. Such pubs can, where managed appropriately, help to create a healthy social environment for children as well as adults.

Although the primary motive for the guidance is aimed at the protection of pubs, the guidance also states that where the pub operation is not economically viable then the building should be retained as a community facility of some kind. This offers the opportunity for these sites as community facilities which could include facilities which would be of benefit to children.

- 5.5 **Health Issues** - The health problems and financial impact on public health services created by increased alcohol consumption need to be considered against the positive effects of local pubs. Alcohol misuse is a significant problem both for society and for the NHS in England. It is estimated that a quarter of adults in England drink a hazardous or harmful amount of alcohol. Alcohol has an effect on judgement, concentration, reaction time, balance and vision and hence it is a major cause of accidents and crime. Some religions forbid the use of alcohol and others commonly abstain from drinking.

The 2012 Joint Strategic Needs Assessment highlights that alcohol-related disorder has been identified as a concern by residents of Barking and Dagenham through local and national surveys. Such disorder has the potential to generate violent crime, but also has an adverse effect on the local environment through the careless disposal of cans and bottles and the detrimental effect this has on the environment and on residents feelings of safety. However, it is important to stress that the negative impacts outlined above relate to alcohol consumption rather than the pub itself although there is naturally a relationship.

- 5.6 **Crime and Disorder Issues** - Section 17 of the Crime and Disorder Act 1998 places a responsibility on local authorities to consider the crime and disorder implications of any proposals. A locally listed building that is well cared for can contribute to the local identity of an area and encourage a sense of pride in and respect for the local environment and therefore may help to reduce vandalism. Equally disused and vacant buildings can become eyesore sites and attract anti-social behaviour. Officers consider that the guidance strikes the right balance in this regard.
- 5.7 **Property / Asset Issues** - It should be noted that restrictions on any type of development may affect the volume of private sector interest in development, the level of investment and/or the viability of business. The financial impact on the Council of this cannot be estimated.

Background Papers Used in the Preparation of the Report: None

List of appendices:

- **Appendix 1** - Supplementary Planning Document (SPD) 'Last Orders? Preserving Public Houses'
- **Appendix 2** – Post consultation statement