



To: Planning Forum members

31st July 2018

Clapham Junction Action Group: Draft Paper on Planning decision reforms

The Clapham Junction Action Group published¹ in May 2018 a call for reforms in the way Wandsworth Council is consulting and pushing through planning applications and developments.

During the Planning Forum meeting on July 4th 2018, Cllr Sweet agreed to distribute to the PF members this draft paper summarising the proposals and aspiration of CJAG to improve the planning process.

We have divided the suggestions/aspirations into 3 main categories: Meaningful public consultations; Planning Application Committee (PAC) representation and transparency; Local plan properly non-ambiguous and enforced.

This document aims at contributing to the debate on planning reforms. Our examples have solely the purpose of illustrating the current issues we have segregated and we hope that an open discussion will lead to changes that community groups and local authorities could endorse.

A summary of the proposals is located at the end of this document.

1. Meaningful public consultations:

1.1. Proposal 1: The Council will have a duty to meaningfully consult organised/constituted community groups and take account of recommendations.

1.1.1. Local context

A study called "*Technology as a Tool for Public Participation in the Planning Process: Lessons Learnt from the London Borough of Wandsworth*"² published in 2014 found

¹ See article 3rd May 2018: <https://cjag.org/2018/05/03/our-aspirations-to-reform-planning-decisions-in-the-borough-of-wandsworth/>

² <https://cjag.org/2014/10/14/research-shows-wandsworth-planning-consultation-method-failed/>

that WBC current strategy is called 'Decide and Defend' (DAD). This consists of announcing the location for a development and then building arguments in order to defend the decision (cf Rydin, 2011). Therefore, the public is not left with any option other than oppose the development or agree with it. It says: "*If developers' strategy would encourage people to engage more in planning issues from the early stages of a planning application instead of using the DAD approach, NIMBY behaviour may be avoided.*"

In an Open letter³ released in April 2014, The Putney Society, Wandsworth Society, the Clapham Junction Action Group and Friends of Putney Common community group said: "*Many residents have lost faith in the fairness and impartiality of the planning procedures. We have attempted to engage with the Council to get them to follow their own local and also national policies, but to no avail.*"

1.1.2. Emerging discussions and additional elements

Although Community Groups and Societies claimed for years that Wandsworth Policy documents were ineffective (including producing a dossier⁴ to illustrate the case), it is only after the government inspector in charge of reviewing Wandsworth planning policy said in July 2015⁵: "*Without a policy to expressly state that site allocations will be approached in this way the documents as a whole are ineffective*" that the Council agreed to make minor changes to the wording of the planning documents.

1.2. Proposal 2: The Council will have a duty to take account of and respond to consultations held by the Council (e.g. planning) to restore the confidence of communities in them. It will include stating clearly in advance how the consultation results will be considered.

1.2.1. Local context

As examples, we can cite two consultations organised by the Council where final results were dismissed:

- a) During Wandsworth full Council on Wednesday 9 December 2015 Cllr Osborn highlighted that "*62% of residents said they were opposed to future Formula E races in the park*" in response to a consultation organised by the Council on its own website⁶. The Leader of the Council, Cllr Govindia responded with this remark⁷: "*Let's be quite clear about the maths: 62% of the 1,366 respondents to the Council's survey expressed this view – not 62% of residents. That equates to 847 people. As a percentage of the Borough's population of around 310,000, that is 0.27% [opposed to*

³ <https://cjag.org/2014/04/07/open-letter-concerning-wandsworth-councils-localism-planning-procedure-failure/>

⁴ https://cjag.files.wordpress.com/2014/03/open-letter-planning_process_issue-wbc.pdf

⁵ <https://cjag.org/2015/09/21/wandsworth-policy-document-on-sites-is-ineffective-says-government-inspector/>

⁶ http://www.wandsworth.gov.uk/site/scripts/news_article.php?newsID=12958

⁷ <https://cjag.files.wordpress.com/2017/10/fe-questions-to-the-leader-of-the-council.pdf>

Formula E races in the park]". It is only after the local residents challenged the Council with a Judicial Review that their view was conceded.

- b) In the recent proposal for the Northcote Library, a letter sent on March 3rd 2017 by Cllr Cook stated: "*Whether or not this scheme proceeds will depend largely on the results of the public consultation*".

A report presenting the consultation results (September 2017 – Committee report paper 17-286, page 7⁸) indicated:

Support for the overall development:

- Long form 496 responses: positive 36%, negative 50%, neutral 14%
- and no less than 61% of respondents did not like the Chatham Hall development part of it, 58% against the provision of new flats and 70% opposed to impact on Alphabet Nursery.

However, the conclusion of the report is: "*These results demonstrated that there is support for a new library and community hall; [...] The long form results do reveal a lower level of positive support but overall the negative responses do not outweigh the positive and neutral responses.*" As a consequence, the plan to destroy the current library and Chatham Hall was approved by the Council.

1.2.2. Emerging discussions and additional elements

As expressed in previous document addressed to the Council, Wandsworth resident groups are concerned that consultations appeared to be regarded as simply providing the necessary "tick in the box" to fulfil a statutory duty that can later be ignored.

1.3. Proposal 3: The Council will have a duty to use a ballot for approving final version of large schemes such as regeneration.

1.3.1. Local context

Local residents were consulted by Wandsworth Council in autumn 2013 on the future of the area near Clapham Junction station (Winstanley and York Road estates). According to the booklet produced by the project team in the following exhibition⁹, the number one thing that residents wanted to change was: Improved homes with fewer towers.

The latest exhibition shows now the difference between what was presented to the local residents to get their vote in 2013, and what is now strongly suggested: the 2018 exhibition is proposing several towers from 10 to 32 storeys.¹⁰

⁸ <https://cjag.files.wordpress.com/2017/09/northcote-library-outcome-of-consultation-paper-no-17-286.pdf>

⁹ <https://cjag.files.wordpress.com/2013/11/winstanley-york-road-options-open-day-exhibition-boards.pdf>

¹⁰ <https://cjag.org/2018/06/18/winstanley-regeneration-can-we-trust-the-council/>

No further ballot was organised after the initial 2013 consultation (showing a maximum of 9 storeys buildings as per planning rules), despite the changes in the regeneration scheme.

1.3.2. Emerging discussions and additional elements

At a meeting on Wednesday 27th June 2018¹¹, Planning Committee London Assembly member heard Barbara Weiss (Architect on the panel), saying: "*Local residents should have a much greater say (whether they can have a veto?). At the moment they have a very limited power and it does affect enormously how you feel about an area*".

In the city of Berlin, Germany, a petition by local residents can force action by city lawmakers to reach a compromise.

2. Planning Application Committee (PAC) representation and transparency:

2.1. Proposal 4: The Council will allow public representation of organised/constituted community groups for large schemes/ level of responses.

2.1.1. Local context

During discussion at the 4th July 2018 Planning Forum meeting, a member highlighted that most of the other boroughs allow constituted groups or even residents to make representations. The chair, Cllr Sweet, responded that (Conservatives) ward councillors prefer not to have representations other than authorised local ward councillors before the committee.

2.1.2. Emerging discussions and additional elements

In the Borough of Richmond (which is sharing staff structure and managed services with Wandsworth) members of the public are welcome to speak about specific applications at Planning Committee meetings¹². Councillors have the possibility to speak in addition to the quota of local residents.

Each speech (up to 4 or 6 different speakers with half for and half against) is limited to 3 minutes¹³. It is possible to use photographs, drawings and images (text and transcripts of the speech are not accepted) as evidence but these must be submitted in advance. The speech should only relate to material planning considerations. After the speech, the Committee may wish to ask questions to clarify points raised by the speaker.

¹¹ <https://cjug.org/2018/06/28/because-you-are-choosing-to-live-in-london-you-have-no-right-to-daylight-the-london-assembly-hears/>

¹² https://www.richmond.gov.uk/services/planning/planning_committee/apply_to_speak

¹³ https://www.richmond.gov.uk/services/planning/planning_committee

In the Royal Borough of Kensington and Chelsea¹⁴, similarly, only three minutes are allowed for those speaking in support of an application and three minutes those speaking against (if more than one person wishes to speak in support or against an application, it will be for them to decide whether to appoint a spokesperson or to split the time between them). Councillors can speak in addition for another 2 minutes (and 2 additional minutes are then allowed for the opposite side to defend).

Last but not least, the Practice Guidance Note 1 published by the Planning Officers Society states¹⁵:

"1. It is generally considered good practice to provide the opportunity for objectors and supporters to address a Committee which is making decisions on controversial or important planning applications. It creates the opportunity for people to feel more involved in the decision-making process by being able to articulate their concerns before a decision is taken.

2. Initial concerns that public speaking could lead to over lengthy meetings have not generally been borne out, particularly where authorities have high levels of officer delegation and limit the number of speakers. In these cases, the time available to elected members to focus on major or controversial decisions is judged to have brought about better management of performance, and better public satisfaction.

3. Objectors are more likely to feel due weight is given to their views, and supporters or promoters are able to respond to issues raised, if "public speaking" is allowed. The planning authority shows itself open to listening to differing views before a decision is taken".

2.2. Proposal 5: The Council will improve transparency of planning decisions by ensuring that records/videos of the PAC discussions are accessible on the Council website, broadcasted live and saved.

2.2.1. Local context

The Planning Application Committee meetings in Wandsworth are currently sound-recorded and this recording is not accessible to the public.

During discussion at the 4th July 2018 Planning Forum meeting, answering a question from the Wandsworth Society about the possibility to broadcast a live video of the monthly Planning Application Committee meetings, the chair Cllr Sweet said that there was currently an upgrade process regarding the full Council meetings, however they are nowhere near any solution for the PAC meetings as this is an expense.

¹⁴ <https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/consultations/planning-applications-committees>

¹⁵ <http://www.planningofficers.org.uk/downloads/pdf/Guidanceonpublicspeakingatcommittee.pdf>

2.2.2. Emerging discussions and additional elements

In Richmond "*Planning Committee meetings are filmed for live or subsequent broadcast on [their] website. At the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed. The images and sound recording may be used for training purposes within the Council*"¹⁶.

Videos are saved on the Council's website with "interactive" features (possibilities to jump to a specific speaker/item) and visible at any time, such as:

https://richmond.public-i.tv/core/portal/webcast_interactive/363843

This proposal was publicly supported by the Labour group during the 2018 local election.

3. Local plan properly non-ambiguous and enforced:

3.1. Proposal 6: Community groups will be consulted ahead of Local plan reviews and the Council will take account of their recommendations when amending plans.

3.1.1. Local context

In an Open letter released in April 2014¹⁷, The Putney Society, Wandsworth Society, the Clapham Junction Action Group and Friends of Putney Common community group said: "*We have already written numerous times in the past to Wandsworth Council, the local planning authority, about our concerns about their planning procedures. Our latest attempt to raise the issues was during the 2013 consultation on the Local Plan review; unfortunately, the result published a few weeks ago shows, once again, that our concerns were largely dismissed.*"

3.1.2. Emerging discussions and additional elements

Meeting on Wednesday 27/6 Planning Committee London Assembly: Sunand Prasad (Architects and London Mayor design advocate) said: "*there should be a level of engagement with local people that we have never achieved, and we need to do that to do really resilient and proper local plan*".

He said it should be implemented "*at a plan stage (to avoid a chaotic unstable system)*"

3.2. Proposal 7: The Council will have non-ambiguous policies and enforce them through planning decisions. The Council will ensure that local plan policies are not subverted and avoid breach of policy (such as with the "on balance 'acceptable'" wording).

¹⁶ https://www.richmond.gov.uk/planning_committee

¹⁷ https://cjag.files.wordpress.com/2014/03/open-letter-planning_process_issue-wbc.pdf

3.2.1. Local context

In the 2013 local plan review¹⁸, CJAG wrote: *“We want to believe that this new review of the local plan will give opportunities to address the concern of the local residents, including the lack of rigour of the use made of the current policy guidelines.*

[...] The wording of the [Core Strategy] is an open door to all understanding and misuse by the Council to justify any planning development. We have already numerous examples where factual breach of policies is balanced with subjective “overall benefit” in Wandsworth planning reports. Those statements have no place in the document and must be removed for the policy to become effective.

[... Regarding DMPD] although the policy seems to be specific enough, in reality many resident associations, groups and even councillors have recently criticized the lack of rigour to which those policy have been applied and often ignored by Wandsworth Council. Within the last years, Wandsworth Borough Council has passed a series of applications often making a very wide interpretation, dismissing or even ignoring existing policies. Therefore, they are not effective and need to be reinforced.”

In an Open letter released in April 2014¹⁹, The Putney Society, Wandsworth Society, CJAG and Friends of Putney Common community group said: *“Nevertheless, however impressive the final planning documents are, they are of little value if planning policy and guidance can be ignored by the Council in reaching major planning decisions. [...]*

We do not accept that the Council can simply pick and choose which of their recently adopted policies they can apply, and that the valid objections made by residents can be ignored with impunity. We have made repeated requests to the Council to make changes to the way it is implementing its policies, but without success.”

3.2.2. Emerging discussions and additional elements

The GLA Committee's position is: *“The Committee has consistently recommended that Mayoral planning policy is strengthened to restrict the location of London’s tall buildings and improve their design and scrutiny of potential alternative design configuration. Moreover, the Committee agrees that tall residential buildings are not an answer to London’s real housing needs and as such should not be encouraged outside of a few designated and carefully managed areas of London.”*

At the planning forum meeting 29th January 2018²⁰, Adam Hutchings (Principal Planning Officer, Wandsworth) clearly said that the Site-Specific Document (SSAD) is part of the statutory policies, as all the documents (Core Strategy, DMPD, SSAD) making the Local Plan. Nick Calder (Head of Development Management) added that guidelines are definitely below policies in importance.

¹⁸ https://cjag.files.wordpress.com/2013/07/cjag-comment_localplan_june2013.pdf

¹⁹ https://cjag.files.wordpress.com/2014/03/open-letter-planning_process_issue-wbc.pdf

²⁰ <https://cjag.org/2018/02/03/planning-forum-meeting-29-january-2018-a-new-era/>

3.3. Proposal 8: The Council will give guidance on and power to call-in decisions that do not accord with the local plan.

3.3.1. Local context

Cllr Govindia said that if residents are not happy with decision, they can apply for judicial review. Recent example on the Judicial Review process (Niel's lodge, Wandsworth Common) showed that the total cost of the full judicial procedure that the local resident supporting the case needed to pay, is close to £60,000 (including judicial advice, PCs, etc) and only half should be finally reimbursed as they won²¹.

Summary of proposals for discussion

1. Meaningful public consultations:

1.1.Proposal 1: The Council will have a duty to meaningfully consult organised/constituted community groups and take account of recommendations.

1.2.Proposal 2: The Council will have a duty to take account of and respond to consultations held by the Council (e.g. planning) to restore the confidence of communities in them. It will include stating clearly in advance how the consultation results will be considered.

1.3.Proposal 3: The Council will have a duty to use a ballot for approving final version of large schemes such as regeneration.

2. Planning Application Committee (PAC) representation and transparency:

2.1.Proposal 4: The Council will allow public representation of organised/constituted community groups for large schemes/ level of responses.

2.2.Proposal 5: The Council will improve transparency of planning decisions by ensuring that records/videos of the PAC discussions are accessible on the Council website, broadcasted live and saved.

3. Local plan properly non-ambiguous and enforced:

3.1.Proposal 6: Community groups will be consulted ahead of Local plan reviews and the Council will take account of their recommendations when amending plans.

3.2.Proposal 7: The Council will have non-ambiguous policies and enforce them through planning decisions. The Council will ensure that local plan policies are not subverted and avoid breach of policy (such as with the "on balance 'acceptable'" wording).

3.3.Proposal 8: The Council will give guidance on and power to call-in decisions that do not accord with the local plan.

²¹ The Judge decided that Wandsworth Council acted unlawfully and was confirmed in appeal