

POLICY & RESOURCES COMMITTEE

Tuesday, 23 October 2018

ITEM 5 – PUBLIC QUESTIONS AND COMMENTS

Note – At the meeting a total of 30 minutes is available for public questions and comments. The questioner may ask one supplementary question at the meeting which will be answered without discussion. The supplementary question must be relevant to the original question put to the Chairman.

Public Comment (up to 3 minutes per comment)

Agenda Item No	Public Comment Request
Item 9 - Q1 2018/19 Strategic Performance Report	Mr Nick Dixon
Item 14 – Saracens Loan Agreement	Mr Derek Dishman
Item 14 – Saracens Loan Agreement	Mr Theresa Musgrove
Item 14 – Saracens Loan Agreement	Ms Barbara Jacobson

Qn No	Agenda Item No	Raised By	Question Raised	Answer
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1.	Item 14 – Saracens Loan Agreement Paragraph 2.3	Mr Derek Dishman	By what means, physical or otherwise, will the income streams be ring-fenced? The shareholders of which company as the report is not clear (Saracens Cophall LLP does not have shareholders as it is a partnership). Please name the shareholders who will provide loan guarantees, in what amounts and for how many years? What security will be taken to support the guarantees?	The structure of the loan is set out in the exempt report.
2.	Item 14 – Saracens Loan Agreement	Ms Theresa Musgrove	Who first suggested the loan, to whom, on what date, and in what context? Please list all details.	The loan was suggested by Saracens in October 2017. We do not have a record of the context in which it was suggested
3.	Item 10 – Barnet’s Local Plan – Statement of Community Involvement	Mr John Cox	Given that in 2011-2014 the Supreme Court created, and now continues to use, common law precedence, you must offer the general public REASONABLE ALTERNATIVES at a formative stage in strategic planning and in major schemes. Why does your SCI ignore that? Your SCI mentions consultation many times. However, the emphasis in my question is on the REASONABLE ALTERNATIVES, which the Supreme Court is expecting you to develop to equivalent levels of detail to allow informed debate.	Ensuring legal compliance is a matter for the Local Plan and the Examination in Public it must undergo to ensure soundness. We will ensure that the Local Plan is legally compliant and produced in accordance with the 2004 Planning and Compulsory Purchase Act (as amended) and accompanying Regulations.
4.	Item 14 – Saracens Loan Agreement Recommendation 4	Ms Barbara Jacobson	Will the rate of interest on the money the council plans to borrow from the PWLB be fixed for the entire 30-year period?	Yes, the rate will be fixed.
5.	Item 14 – Saracens Loan Agreement Paragraph 2.6	Mr Derek Dishman	Will the rent be sufficient to meet repayment of both capital and interest? How long is Middlesex University's lease with Saracens?	Yes. 30 years.

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6.	Item 14 – Saracens Loan Agreement	Ms Theresa Musgrove	How many meetings and discussions has the Leader had with the owner of Saracens, or any other representatives of the club, in regard to this loan, and on what dates did these take place?	The Leader has met the principal shareholder twice, in July and September 2018.
7.	Item 10 – Barnet's Local Plan – Statement of Community Involvement	Mr John Cox	<p>You say, correctly: <i>"Workshops can be more interactive than presentations or conferences and are normally comprised of small groups where active discussion is encouraged and views are exchanged"</i>, yet you say in Appendix B: <i>"From our recent consultation on the North Finchley SPD we consider that arranging drop-in sessions at accessible locations and at times when people are more likely to be free has proved more successful than the traditional and formal format of a public meeting."</i></p> <p>Do you accept that drop-in sessions with planners or developers just atomise and isolate the public, because they cannot hear and reflect on the opinions of others, unless they happen to 'drop in' at exactly the same time? (That is not to say you cannot do both.)</p>	We consider that drop in sessions can work for particular consultations allowing the public to raise concerns that they do not feel confident of raising in other formats such as the public meeting.
8.	Item 14 – Saracens Loan Agreement Recommendation 3	Ms Barbara Jacobson	<p>Given the uncertainty and volatility of financial markets, is the council planning that the rate of interest it will charge the borrower will be variable, and if not, why not?</p> <p>Why has the club not been able to borrow the money from a bank and, given that it has not been able to do so, should the council lend it money when no bank has been willing to do so?</p>	As set out in the report the loan will be at a fixed rate. This is not unusual for loans of this nature. The committee agreed in principle in July to make the loan, subject to further assurances and due diligence.

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9.	Item 14 – Saracens Loan Agreement Paragraph 2.8	Mr Derek Dishman	On what terms are Company A providing a guarantee? What security are Company A taking? Is the guarantee between Company A and Barnet Council directly? Are Saracens borrowing further funds from Company A & if so, how much?	More information on Company A and the nature of the guarantee is set out in the exempt report.
10.	Item 14 – Saracens Loan Agreement	Ms Theresa Musgrove	What is the extent of involvement of Capita with the loan proposal and arrangements, and does Capita gain in any way should the loan be agreed?	Capita has had no involvement in the loan proposal and arrangements, and does not stand to gain in any way. The Treasury Management Team, which currently sits within CSG, are responsible for drafting the amendments to the TMSS in line with the output specification for the service.
11.	Item 15 - Local Implementation Plan - submission of draft to TfL and public consultation	Mr John Cox	Given the promotion of the West London Orbital (WLO) route (for London Overground and other, 8-car passenger services) by the Mayor, why is it not given equal billing as Thameslink in your mention of Brent Cross West station? Given financial facts on the ground, the need for a new combined station business case and comments by your Chief Executive, do you agree you can no longer design that station without 'parity of esteem' for the WLO within it?	The Council is proposing to undertake a design integration study to seek to integrate the West London Orbital platforms into the Brent Cross West station and work on scoping this study is progressing. The West London Orbital is currently at a very outline stage (GRIP 1) in its definition as a project and remains currently unfunded whereas the Thameslink element of the Brent Cross West station is funded and considered to be at a more advanced station in its planning and development (GRIP 4). The council does not consider that there is a difference in 'esteem' for the two rail projects, but rather there is a recognition that the Thameslink project is considered more certain at this stage and more advanced in planning and development terms.

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12.	Item 14 – Saracens Loan Agreement Paragraphs 2.5, 2.7	Ms Barbara Jacobson	What is the value of the sole asset, the headlease, if the club decides to move to another stadium or collapses financially?	The valuation of the stadium is set out in the exempt report.
13.	Item 14 – Saracens Loan Agreement Paragraph 2.9	Mr Derek Dishman	What is the tangible value of the further assurances in pounds sterling?	Details of the further assurances are set out in the exempt report.
14.	Item 14 – Saracens Loan Agreement	Ms Theresa Musgrove	Included in FOI information - released after three months of obstruction - is a reference to a senior officer reporting that she had quite properly declined hospitality offered to her by Saracens during the negotiations for this loan. Please disclose how many other officers and elected members have been offered hospitality by Saracens or their representatives within the last twelve months, and whether they declined or accepted it.	There is no requirement for members and officers to disclose offers of hospitality which they have declined. Apart from the officer referred to in the question no other member or officer has disclosed receipt of hospitality from Saracens in the last 12 months.

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15.	Item 15 - Local Implementation Plan - submission of draft to TfL and public consultation	Mr John Cox	<p>Given you are considering strategic transport policy out as far as 2041, why do you not mention trams as a possibility for orbital public transport across Barnet, no doubt requiring joint studies with neighbouring boroughs? Why is that reasonable alternative not in your published LIP for imminent public consultation, since the Supreme Court would agree we are only at a formative stage?</p> <p>What is your view on the relative likelihood of private-sector investment in the borough, created by (a) your proposed bus routes and (b) possible tram routes? What evidence base helps you to answer that question?</p>	<p>The Borough's draft Local Implementation Plan document is partly a response to the Mayor of London's Transport Strategy as laid down within the Greater London Authority Act 1999 (GLA Act) Part IV Chapter I.</p> <p>The Mayor's Transport Strategy does not propose any new tram routes or infrastructure within the vicinity of Barnet or its adjacent boroughs. The Mayor's Transport Strategy does however raise the possibility of some rapid bus corridors such as those along the A5.</p> <p>The Borough in its response to the Mayor's Transport Strategy in the form of the draft Local Implementation Plan document has not proposed any tram corridors and would in all likelihood need to depend on Transport for London support and significant Transport for London funding for any such proposals.</p> <p>As well as the draft Local Implementation document, our Borough is also at the early stages of producing a Long-Term Transport Strategy. This strategy will involve a public consultation and we would be interested in receiving your views on Trams as part of this consultation.</p>
16.	Item 14 – Saracens Loan Agreement Paragraphs 2.8, 2.9	Ms Barbara Jacobson	<p>These two paragraphs do not state that there are guarantees to the full value of the loan. Can it be stated unequivocally that the full value of the loan is guaranteed?</p> <p>Companies with assets far in excess of £20m are known to go bust, so what protection does the council have if any of the guarantors suffer even partial reduction of their assets over the period of the loan?</p>	Further information on the details and structure of the loan are set out in the exempt paper.

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17.	Item 14 – Saracens Loan Agreement Paragraph 2.14	Mr Derek Dishman	On what credit value was the Dun & Bradstreet risk assessment based? Do you have a credit rating from Fitch, Moody's or Standard and Poor's and if so what was it please?	The Dun & Bradstreet assessment is a synthetic credit rating based on a range of factors. The full Dun & Bradstreet report has been provided to the Committee as part of the exempt papers. Assessments were not sought from Fitch, Moody's or Standard and Poor's.
18.	Item 14 – Saracens Loan Agreement	Ms Theresa Musgrove	Having realised that a loan to Saracens itself is so high risk, the proposal now is to lend the money to Saracens Copthall LLP. The security offered is the lease on Allianz Park Stadium, and less than half of the loan will be covered by the unnamed guarantor 'Company A' What is Company A, and how can residents be confident that over the course of 30 years it will not fail? And how is a lease on a property we already own considered to be satisfactory as security - especially as stadia have low intrinsic value as properties?	The proposal to lend to Saracens Copthall LLP is not because “the loan to Saracens itself is so high risk”. More details of Company A are set out in the attached exempt report. As is clear in the public report, Company A is registered in the UK and its assets are based in UK property.
19.	Item 8 - Treasury Management - Out-Turn Report (2017-18) and Mid-Year Review (2018-19) Out-turn report 2017-18 Paragraph 1.3	Ms Barbara Jacobson	Capital expenditure requiring funding by debt / internal balances during the year was £23.5 million, much lower than the TMSS projection of £199.9 million.' While this is an improvement on the projection, what accounts for the projection being so overestimated, approximately 88 per cent?	The TMSS is prepared before the start of each Council year. Capital plans are constantly being reviewed and alternatives to debt funding considered. The Council seeks to minimise borrowing and this can result in changes to plans to focus on the most affordable. An additional consideration is uncertainty as to when projects will commence and complete, which often leads to borrowing been deferred into later years.
20.	Item 14 – Saracens Loan Agreement Paragraph 2.15	Mr Derek Dishman	The balance sheet of Saracens Ltd showed net liabilities of £45m at June 17 to which must be added two more years of forecast losses. Are the shareholders worth £45m? Are the assurances referred to yet in place?	The July report noted that “ <i>At the time of writing the [preliminary] due diligence report, the club had total net liabilities of £45.1m in the form of intercompany loans. The club has since confirmed that these were restructured as at 30 June 2018 to leave the club in a position of having net positive assets. This will be verified during the next stage of due diligence</i> ”. Subsequent due diligence has confirmed this.

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21.	Item 14 – Saracens Loan Agreement	Ms Theresa Musgrove	<p>I believe that Capita Assets were involved in the preparations for a similar loan for another stand, to the 'Cobblers' football team in Northamptonshire, the failure of which has reportedly left the local authority paying thousands of pounds every month in interest. The report on the Saracens loan only makes one reference to this debacle, under risk assessment: <i>The experience of Northampton Borough Council (set out in the July report) suggests that it is important to have arrangements in place to ensure that the loan is spent for the intended purpose.</i> In fact the report into this failure has far wider implications, for example in terms of due diligence, which the Saracens report would seem to imply you have given inadequate attention. The report on the Barnet loan demonstrates that serious questions have been raised in regard to confidence over the safety of this 'Cobblers' style arrangement, and, crucially, that further work is required - yet the proposal here suggests you are expected to give approval without the additional outcome from these further investigations.</p> <p>How can this rush to approve the loan, without full and robust guarantees in regard to all possible questions of diligence, possibly be justified, or be acceptable as an effective way of safeguarding the best value for tax payers' money?</p>	<p>The July report summarised the case of Northampton Town FC. This case has informed the loan discussions. The structure of the proposed loan is very different to that made by Northampton BC.</p> <p>The council undertook initial due diligence prior to the July Committee which agreed in principle to make the loan, and has since undertaken extensive further due diligence, and secured the additional assurances requested by the committee.</p>

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22.	Item 8 - Treasury Management - Out-Turn Report (2017-18) and Mid-Year Review (2018-19) Mid-year report 2018-19 Paragraph 1.6 – 1.8	Ms Barbara Jacobson	While it is good to see the revised figures for council debt are lower than the original TMSS projection, what accounts for these differences in capital expenditure and in borrowing?	<p>The TMSS is prepared before the start of each Council year. Capital plans are constantly being reviewed and alternatives to debt funding considered. The Council seeks to minimise borrowing and this can result in changes to plans to focus on the most affordable. An additional consideration is uncertainty as to when projects will commence and complete, which often leads to borrowing been deferred into later years.</p> <p>Changes to the proposed funding of the capital programme are approved by the Policy and Resources Committee.</p>
23.	Item 14 – Saracens Loan Agreement Paragraph 2.20	Mr Derek Dishman	<p>The June 2017 accounts of Saracens Ltd were signed off by the Auditors on 29 January 2018. Please confirm that no part of the loan will be advanced until such time as the June 2018 accounts have been audited?</p> <p>Are the audited Accounts expected to be available earlier & if so when?</p> <p>What will be the wording of the shareholders' letter of support?</p> <p>Will it be legally enforceable to force payment of any missed instalments.</p>	<p>Recommendation 3 is clear that the loan is subject to completion of the audit. The timing of completion of the audit is for Saracens to agree with their auditors. The structure of the loan is set out in the exempt report.</p>

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24.	Item 14 – Saracens Loan Agreement	Ms Theresa Musgrove	<p>Grant Thornton, who have carried out some due diligence work on this proposal, have in another capacity produced a report, only recently published, in which they lambast the authority's lack of financial controls, a shambolic state of affairs which was in place during the negotiations for this proposal. How on earth, in view of the timing of this report, can residents and tax payers have any confidence that the loan is not another blunder by a financially irresponsible council, unable to focus on the growing deficit and contractual failures, but preferring to prioritise attention on a highly controversial loan to a private company, which may result in further financial loss for the borough?</p>	<p>Extensive work is underway, both to review the contractual relationships with Capita and to implement the recommendations of the action plan developed with Grant Thornton.</p> <p>Financial monitoring reports do not show a “growing deficit”.</p> <p>The Committee considered the initial due diligence in July, and agreed in principle to the loan subject to further due diligence and additional assurances. This due diligence has been completed, and assurances given. These are summarised in the report and set out in more detail in the exempt paper.</p>
25.	<p>Item 8 - Treasury Management - Out-Turn Report (2017-18) and Mid-Year Review (2018-19)</p> <p>Alteration to TMSS 2018-19</p> <p>Paragraph 1.12</p>	Ms Barbara Jacobson	<p>Is the proposed new classification of investment solely to permit the loan to Saracens or will the Council be making other organizations delivering community benefits aware that they too can apply for loans of up to £25m?</p> <ul style="list-style-type: none"> • What will the criteria be for proving that an organization delivers benefits for the community? • What will be the minimum amount that can be borrowed and what will be the minimum and maximum period for repayment? 	<p>The Saracens transaction is the only loan being considered at present but this change would also permit other such initiatives in the future.</p> <p>The criteria used to consider an application for a loan would be that an organisation is furthering the aims of the Council as set out in the corporate plan. The Committee would decide whether these criteria are met on a case by case basis.</p> <p>There would be no minimum but the maximum term of a loan would be 30 years.</p>
26.	Item 14 – Saracens Loan Agreement Paragraph 4.5	Mr Derek Dishman	<p>Saracens must have a costed build plan in place. What are the proposed drawdown dates and amounts if the build goes to plan?</p> <p>What are the proposed dates when the stand will be available to (i) Middlesex University & (ii) the public?</p>	<p>The stand is due to open in the Autumn of 2020. The drawdown dates will be dependent on the date of agreeing the loan, which in turn will be dependent on successful conclusion of the legal and other work set out in the report.</p>

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27.	Item 8 - Treasury Management - Out-Turn Report (2017-18) and Mid-Year Review (2018-19) Alteration to TMSS 2018-19 Paragraph 1.12	Ms Barbara Jacobson	Is the main purpose of the proposed new classification of investment to enable the council to get more revenue to offset its shortfall?	The principal intention is to further the Council's aims as set out in the corporate plan, but there is also a financial benefit.
28.	Item 14 – Saracens Loan Agreement Paragraph 5.2.1	Mr Derek Dishman	What type of loan will be obtained from the PWLB, out of these that they offer? Type of loans by method of repayment or amortisation 15. Fixed rate loans are repayable by one of three methods: <ul style="list-style-type: none"> • Annuity or Equal Repayments (ER): fixed half-yearly payments to include principal and interest; or • Equal Instalments of Principal (EIP): equal half-yearly instalments of principal together with interest on the balance outstanding at the time; or • Maturity: half-yearly payments of interest only with a single repayment of principal at the end of the term. Repayments are at half-yearly intervals but borrowers may request an initial broken period (see paragraph 22). On what dates and in what amounts will the £22.9m be borrowed?	The Council will consider the type of loan in context of the overall needs of the organisation. As there are plans for significant borrowing in order to deliver its capital programme, the Council will choose a loan type which meets cash flow needs of the organisation at that time.

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29.	<p>Item 8 - Treasury Management - Out-Turn Report (2017-18) and Mid-Year Review (2018-19)</p> <p>Alteration to TMSS 2018-19</p> <p>Paragraph 1.12</p>	Ms Barbara Jacobson	Why was this category of investment not included in the original TMSS?	Treasury opportunities worthy of consideration will change and although the TMSS allows for a wide range of investments, we have only listed those considered a possibility at the start of the year. Rather than list every conceivable investment category it is preferred to modify the TMSS part year as this allows the proposed new investment category to be debated.
30.	<p>Item 14 – Saracens Loan Agreement</p> <p>Paragraph 5.2.2</p>	Mr Derek Dishman	<p>Is a more exact date for the start of repayments available?</p> <p>On what frequency will the loan repayments be made?</p> <p>On what basis will the capital & interest be repaid, presumably a method which matches the PWLB offers set out above? (This question relates to when capital and interest will be repaid i.e. will the capital be repaid as the loan progresses or at the end of the term?)</p>	More detail on the structure of the loan is set out in the exempt report.
31.	<p>Item 8 - Treasury Management - Out-Turn Report (2017-18) and Mid-Year Review (2018-19)</p> <p>Alteration to TMSS 2018-19</p> <p>Paragraph 1.12</p>	Ms Barbara Jacobson	Most people probably think of investment as buying an asset, like stocks and shares, that will produce dividends and hopefully capital appreciation. As the proposal is for loans only, why is it being called an investment?	Lending monies and generating interest income is an investment e.g. buying UK Government bonds. Almost all investment held by Barnet treasury are loans, either to banks, other local authorities or via money market funds who lend to a wide range of borrowers. We avoid investment that can change in value e.g. equities and properties to reduce the risk of loss due to price changes. The treasury balances are held to meet day-to-day expenses and capital expenditure plans and we seek certainty that they can be sold at a known price when the cash is required.

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32.	Item 14 – Saracens Loan Agreement Paragraph 5.5.4	Mr Derek Dishman	Please provide the wording of the investment strategy that this loan complies with. Has any similar loan been made in the last 5 years? If yes, to whom and for how much? Can any business apply for such a loan? To whom should their request be sent? Is there a minimum or maximum which the council is prepared to borrow from the PWLB in order to lend on?	The amendments to the Treasury Management Strategy Statement (TMSS) are included within item 8.
33.	Item 8 - Treasury Management - Out-Turn Report (2017-18) and Mid-Year Review (2018-19) Alteration to TMSS 2018-19 Paragraph 1.12	Ms Barbara Jacobson	Given that the Treasury Management Team has been criticized in the Grant Thornton report for its lack of control of scrutiny systems, why is it proposed to give it even more areas of responsibility?	The amendment to the treasury management strategy does not give the Treasury Management Team any additional responsibility. Should the council wish to exercise its discretion in the usage of the amended strategy then appropriate approval processes will be required which are not undertaken within the Treasury Team.
34.	Item 14 – Saracens Loan Agreement Paragraph 5.6.1	Mr Derek Dishman	Why is there an interest rate risk? Surely the council will borrow at a fixed rate in order to avoid such a risk? Is the council going to appoint its own Quantity Surveyor to measure the works or rely on the one appointed by Saracens?	The precise arrangements for verifying the works undertaken will be agreed through the development of detailed legal documentation.

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35.	<p>Item 8 - Treasury Management - Out-Turn Report (2017-18) and Mid-Year Review (2018-19)</p> <p>Annual Treasury Management Review 2017/18</p> <p>Page 52</p>	Ms Barbara Jacobson	<p>Was the 'member training on treasury management issues ... undertaken during the year on 13th February 2018 in order to support members' scrutiny role' a direct response to the criticism in the Grant Thornton report, and if so, why isn't this mentioned?</p> <ul style="list-style-type: none"> • Was the same or similar training given to all staff with a responsibility for scrutiny? • When was the last time prior to this that such training was given to members and when was the last time prior to this that such training was given to staff? 	<p>Treasury training provided to Councillors in 2018 comprised a briefing by the Council's external treasury adviser on 13th February 2018 prior to the TMSS for 2018-19 being considered by the Policy and Resources Committee and a refresher session following the May Council elections. There will also be training on 23 October 2018 prior to Policy and Resources Committee considering the Treasury report. The training during 2018 was attended by senior finance staff with treasury oversight.</p> <p>The training was not a response to the Grant Thornton report, rather a recognition that treasury is a complex subject and Councillors should be supported in their decision making by offering training. It is intended that training will in future be undertaken at least once a year.</p> <p>Treasury training to Councillors was not provided in 2017. Treasury staff attend, at least once a year and often more, seminars and workshops organised by the Council's treasury adviser. This has been normal practice for staff for many years.</p>
36.	<p>Item 8 - Treasury Management - Out-Turn Report (2017-18) and Mid-Year Review (2018-19)</p> <p>Treasury Management strategy Statement 2018/19</p> <p>Revision to Appendix 3, 5.3</p>	Ms Barbara Jacobson	<p>The monitoring of investment counterparties '... any deposit made with a longer maturity than the Link guidance will be approved with the Chief Financial Officer' Given that the recent fraud was able to be committed because of a lack of scrutiny, why would this decision not come before the appropriate committee so that members could scrutinize such important deviations from guidance?</p>	<p>The Section 151 officer ultimately has the statutory duty to safeguard public funds and is therefore an entirely appropriate officer to approve day to day operational decisions in relation to Treasury Management activities. Investment deals are often only available for a very short period and therefore operational decisions being taken by committee would be both inappropriate and unworkable.</p>

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37.	Item 10 - Barnet's Local Plan – Statement of Community Involvement Paragraphs 5.5.1 , 7.1.2	Ms Barbara Jacobson	When it is agreed that such a certificate of lawfulness or planning permission has been given in error and the building work has not commenced, why is the council not obliged to admit the error and withdraw the ruling?	There is no mechanism for a Local Planning Authority to withdraw and reissue a decision notice to correct an error. The only recourse is for a challenge to be submitted to the Courts by the aggrieved party.