The Business Rates Scrutiny Task Group

Final Report

A Scrutiny Task Group commissioned by the Overview & Scrutiny Board

March 2014

Contents

Executive Summary

The Business Rates Task Group was established following the reform of the business rates system that took effect in April 2013. The changes to the system were intended to give local authorities a direct stake in local economic development by allowing Councils to retain a portion of the rates they collected. The Task Group therefore also reviewed the work being undertaken by the Council to support the borough's high streets and town centres.

This report present the findings of the Task Group and argues that the business rate system is no longer fit for purpose as it is based upon a valuation methodology that is capricious and disincentivises high street investment. In the view of this Task Group, the current system creates too many anomalies and distorts a level playing field for retailers. This is because the tax is too heavily linked to individual premises and the rents that particular tenants can negotiate. The Task Group would advocate a locally-consistent banding system that could promote rather than hinder town centre vibrancy. Such a system would also potentially remove the need for the large number of appeals that are still outstanding in Hammersmith & Fulham. The Task Group found that the Council has significant difficulty making financial forecasts when so much of the business rate income it is collecting is still subject to appeal. More needs to be done by the Valuation Office Agency and Government to address this backlog and restore certainty for the Council and local businesses.

Whilst the Task Group believes that reforming the current business rates system is of paramount important, members also identified a number actions that Government and the Council can take to help high streets. A significant issue is the increasing clustering of betting and pay day loan shops. As well as having worrying public health implications, betting shops detract investment and harm the perception of an area. Members of the Task Group reached the conclusion therefore that Government should revise the planning legislation to put betting and pay day loan shops into a separate Use Class, and the Council should consider removing the new permitted development rights and developing planning policy to limit shops becoming betting or pay day loan shops. The Task Group also explored the work the Council is currently undertaking to support local businesses. It recommends a bolder approach to empty shops that includes applying a vinyl-wrapping to shops that are vacant for extended periods, even if the owner cannot be identified.

The Business Rates Scrutiny Task Group

Final Report

"I believe that our high streets have reached a crisis point. I believe that unless urgent action is taken much of Britain will lose, irretrievably, something that is fundamental to our society."

Mary Portas, *The Portas Review*, 2011

"*Governments of all stripes have failed to get to grips with the big issues facing our high streets for years. And now in a period of deep decline there is an arms race for new ideas…none of these initiatives are making much impact and there is a frustrating sense of policy being conducted in the margins. The need to grasp the nettle is bigger than ever.*"

Bill Grimsey, *The Grimsey Review*, 2013

1. Introduction

1.1 On 1st April 2013, changes came into effect that altered how councils collect business rates. London Boroughs now retain 30% of the funds collected through business rates, replacing funding that had previously been received as a Government grant. The intention of the reform was to give local authorities a direct financial incentive to promote economic development. However the reforms also resulted in a significant funding gap for many councils, including Hammersmith & Fulham.

1.2 Whilst local authorities are responsible for the collection of business rates, the rates themselves are calculated by the Valuation Office, which is a Government agency. With the funds collected through business rates being a significant portion of the Council's income, it is therefore important that the rates set by the Valuation Office are correct and fair to minimise the potential for appeals by businesses, and any subsequent delays and underpayments.

1.3 The issue of the country's high streets has been prominent in recent years, with a number of household retail names such as Woolworths, Jessops, Blockbuster and HMV all going into administration. Alongside the larger retailers, smaller firms are also finding it difficult to survive in a world of changing shopping habits and increasing costs. As a result, the sight of empty shops has become increasingly common in Hammersmith & Fulham and nationally. In September 2013, the Local Data Company reported that in Britain's top 650 shopping destinations, there were 22,339 vacant shops – an overall vacancy rate of 14.1%[1]. The UK recession started in 2008 and its effects have been felt since. However London has fared better than many

[1] 'Has planning helped the high street?' in *Planning*, 1st November 2013

parts of the country, which is reflected in the capital's vacancy rate of 7.1% in January 2013, although this still means that there were 3,400 vacant units, which is an estimated 5.4% increase since the beginning of 2010[2]. In Hammersmith & Fulham the overall vacancy rate for high streets is 8.7%, with variances of 12% for Fulham and under 5% for Shepherd's Bush.[3]

1.4 It was in this context that a number of reviews and investigations were instigated, the highest profile being that of the TV personality Mary Portas commissioned by the Government. Portas' recommendations were welcomed but not fully implemented by the Government, and some commentators dismissed them as little more than publicity for a television series. Among those criticising was former retailer Bill Grimsey, who led a small group of industry experts to make alternative proposals. Whilst the diagnoses of the causes and the advocated cures for high street decline varied, it is almost universally recognised that high streets and town centres play a fundamental role in local communities. As highlighted by London Councils, the high street is more than a collection of shops:

> *"While nostalgia might form some of the argument for the support and retention of our high streets, there are bigger issues at stake. As generators of employment, a cluster for businesses to trade and a site for different groups in society to meet and mix, high streets are geographically, economically and socially important"*[4]

1.5 Many of the recommendations of reviews such as Portas and Grimsey addressed national issues beyond the scope of local authorities. However they also identified ways in which councils could help promote successful town centres. The Overview & Scrutiny Board was concerned that reforms in the business rates and planning rules were not helping local high streets to thrive. The Council had not previously explored the methodology of the business rates system so on 15th July 2013 the Board commissioned the Business Rates Scrutiny Task Group to investigate these issues and to investigate how the Council can help foster healthy and successful high streets in the borough.

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[2] *Open for Business: Empty shops on London's high streets*, London Assembly, March 2013
[3] LBHF Performance and Information Group from Local Data Company June 2013
[4] *Streets Ahead? Putting high streets at the heart of local economic growth*, London Councils, July 2013

2. Terms of Reference and membership

2.1 The Task Group set out to investigate how the Council has been affected by the recent reforms to business rates, the performance of the Valuation Office Agency and to explore the Council's powers to promote local economic development and healthy high streets across the Borough. As market traders do not pay business rates, the performance of the Borough's markets was not included in the Task Group's investigations or this report

2.2 The Task Group's aims and objectives were as follows:

- i) To understand how the reform of business rates has impacted upon the Council's income;
- ii) To understand the extent of the impact on the Council's income caused by offices becoming residential properties;
- iii) To review the performance of the Valuation Office Agency in Hammersmith & Fulham;
- iv) To consider what initiatives could be implemented to help reduce the number of empty shops in Hammersmith & Fulham;
- v) To understand the views and experiences of local business owners and retailers; and
- vi) To contribute to a Council policy to promote vibrant and successful town centres across the Borough.

2.3 The membership of the Task Group was:

- Cllr Lucy Ivimy (chair)
- Cllr Robert Iggulden
- Cllr Max Schmid

3. Methodology

3.1 The Task Group's work was member-led and it conducted its investigations by inviting a number of witnesses to attend meetings and engage in discussions on the topics detailed in the Terms of Reference. Witnesses included officers from the Council's Finance & Corporate Services, Housing & Regeneration and Transport & Technical Services departments, the Valuation Office Agency (VOA), the Department of Communities & Local Government (DCLG), a development and infrastructure consultancy and the local Business Improvement District (BID).

3.2 The topics discussed at Task Group meetings were as follows:

Meeting one:

- introduction to business rates reform
- an overview of the Council's existing activity to support town centres
- planning policy
- approval of the Task Group's project plan

Meeting two:

- different approaches to high street management
- permitted development and the use of Article 4 directions

Meeting three:

- The Valuation Office Agency
- The Portas Review and The Grimsey Review

Meeting four:

- targeting resources and establishing a hierarchy
- how shopping areas are classified and prioritised by the planning system
- the key issues for the different shopping areas in Hammersmith & Fulham
- case studies of successful high street interventions in Hammersmith & Fulham

Meeting five:

- The DCLG and business rates
- The HammersmithLondon Business Improvement District

3.3 Members also received and considered a range of written documentation and research, including the Government-commissioned *The Portas Review*, responses such as *The Grimsey Review*, a study conducted by the Royal Borough of Kensington & Chelsea in 2007 and publications such as the British Retail Consortium's report *Business Rates: The Case for Reform*.

4. Findings and conclusions

The impact of business rates reform

4.1 Prior to 2013/14 all business rates income collected by local authorities was paid to Government, which then gave councils grant funding. However since 1st April 2013, London Boroughs now retain 30% of the business rates collected. For 2013/14, the London Borough of Hammersmith & Fulham forecasts that it will collect £164.2million of business rates. Of this, 50% is payable to the Government and 20% to the Greater London Authority (GLA), leaving £49.26million to be retained by the Council. In order to ensure that authorities with a high business rates tax base did not benefit from the new system, a tariff was also introduced. The tariff for Hammersmith & Fulham, payable to the Government, is £2.83milion in 2013/14. The net sum to be retained by the Council is thus £46.43m. Under the previous system, the Council could have anticipated receiving £54.03m.

4.2 The Government, recognising that the reforms could reduce councils' income, has also introduced a 'safety net' level, which is 92.5% of previous funding levels. For Hammersmith & Fulham the safety net for 2013/14 was set at £49.98m. This means the Council received a safety net payment of £3.55m to protect its income at that level. Under the new system the Government assumes a level of collection for Hammersmith & Fulham that exceeds what is actually expected to be collected, with a gross loss to the Council of £7.60m, for 2013/14, reduced to £4.05m after the income is topped-up to the safety net level.

4.3 The Task Group welcomes the reforms allowing councils to retain an element of business rates, however members were concerned and disappointed at the significant loss of income. Despite the safety net payment, in 2013/14 Hammersmith & Fulham was over £4million worse off as a result of the reforms: a very significant sum representing 8% of the Council Tax collected by the authority. This reduction in income has meant that there has had to be reductions in Council spending. The intention of the reform was to give councils a financial incentive to help promote local economic development. However with such a significantly reduced income the capacity of the authority to do so has been restricted. Moreover, Hammersmith & Fulham are so far below the safety net level that it will be some time before any increased business activity would represent higher income for the Council. The resourcing of the Economic Development, Learners & Skills department is discussed elsewhere in this report, but it would appear to the Task Group that funding reductions introduced in 2013 have the potential to undermine the aspirations of the reform.

Recommendations:

- Government should revisit the rate collection estimate that was made for 2013/14 that led to a £4million loss for Hammersmith & Fulham to ensure collection assumptions more closely reflect actual collection rates

4.4 The Secretary of State for Communities and Local Government, Eric Pickles, has during the course of the Task Group's investigations announced packages of support for small businesses. These include a £1,000 discount in business rates in 2014/15 and 2015/16, to be funded by central Government, for retail premises with a rateable value up to £50,000. Under the powers granted by the Localism Act 2011, councils have the power to also introduce discretionary relief schemes, however the costs of discretionary schemes must be funded entirely by the local authority. The Task Group considered whether discretionary relief schemes might be appropriate for Hammersmith & Fulham, but given the £4m loss in income it felt that these could not be delivered without having a detrimental effect on council services elsewhere. Furthermore, relief schemes such as those launched in Brighton & Hove which gave discounts to businesses moving into properties that had been vacant for six months or more, were not judged to be appropriate. The Task Group was of the view that such schemes were unfair to steady businesses and could give an unintended advantage to firms that were more mobile and easier to regularly relocate as they moved from one long-term vacant property to another. Such relief schemes were therefore unlikely to deliver the aim of economic growth and failed to address the systemic issues. The Task Group noted that only around 5% of councils nationally had adopted discretionary relief schemes.

The impact of ongoing appeals

4.5 The Council's loss of income after the business rates reform was further exacerbated by the uncertainty caused by the number of ongoing appeals in the borough. For the business rates scheme to function efficiently, it is imperative to ensure that the rates businesses pay are accurate and up to date. If a business owner is of the view that their rates are not accurate, they can appeal to the Valuation Office Agency (VOA), which investigates the circumstances of the valuation and if agreement cannot be reached with the business, the issue is referred to the Valuation Tribunal. Throughout this process, the business continues to pay its rates at the level originally set by the VOA. If the Tribunal then decides that the rates paid were too high, the business is then entitled to a refund of rates paid, backdated to the valuation date prior to the appeal being submitted (either 1st April 2010 or 1st April 2005). The local authority is therefore required to pay successful appellants sometimes significant amounts of money – for inaccurate valuations it did not make.

4.6 The Task Group noted that the speed and clarity of the appeals process was particularly important for Hammersmith & Fulham. When members met with the VOA, they were informed that as of 31st March 2013 there were still 1,280 outstanding appeals from the 2010 ratings list, with 2,660 appeals resolved. There was also 100 appeals still outstanding from the 2005 list. The VOA could not confirm the value of the outstanding appeals when they attended the Task Group meeting, but Council data as of 31st December 2012 valued the outstanding 2010 appeals as having a total rateable value of £175million, with a further £24million for the 2005 appeals. The Task Group noted that in some instances, the Council had been required to refund a business up to 30% of the rates it had paid since 2008. On top of the one-off impact on the Council's budget, the appeals could permanently reduce the Council's underlying business rate base and its future income. Long term financial planning is therefore extremely difficult as the Council does not know what appeals will be heard in the forthcoming year. The Bi-Borough Director of Finance noted that in the 2013/14 Budget, the Council anticipated collecting approximately £200millon in business rates, but £50million of this was subject to appeal.

4.7 The VOA met with Task Group members and explained to them the appeal process and the target timescales for resolution. Once a ratepayer had formally challenged their rateable value, the issue was placed in a holding programme before then being placed in a live programme. The appeal then entered into a four to six week discussion and evidence gathering period. If the ratepayer and the VOA could not reach an agreement at the end of this process, the matter was then referred to the Valuation Tribunal and was no longer under the control of the VOA. The Tribunal's procedures then have a target of reaching an outcome within ten weeks. The VOA acknowledged however that for complex cases resolution was often only reached in nine to ten months, rather than the ten week target. The Task Group noted that prior to the 2013 reform, councils were only informed of appeals once they had been resolved. Members therefore welcomed efforts by the VOA to improve transparency and keep local authorities informed by publishing quarterly lists of new and ongoing appeals. However, it remained a significant concern that the appeals process took so long and that there was such a large number of outstanding appeals, with no apparent penalties for public organisations failing to meet their own targets. Members were also concerned at an apparent lack of clarity with many appeals being settled outside of the Tribunal.

Recommendations:

- The VOA should commit resources and work with the Valuation Tribunal to reduce the time appeals take to resolve in order to give greater clarity to local authorities and ratepayers
- The DCLG should explore whether to introduce a system of financial penalties to compensate ratepayers and local authorities in instances when the VOA and the Valuation Tribunal fail to meet their target timescales for resolving appeals

4.8 The Task Group heard that one of the main reasons why there were so many appeals in Hammersmith & Fulham was because of the Westfield shopping centre. Westfield opened in October 2008 and the VOA were required to calculate what a reasonable rent for each store would have been at the previous antecedent valuation date of 1st April 2003 (the antecedent valuation date for the entire 2005 valuation list). Valuation officers therefore based their valuation on evidence such as rents at comparable locations and the building plans. The VOA felt that it did not receive a level of cooperation that it would have expected from the shopping centre's management, with Westfield appearing reluctant to engage in dialogue or to provide the necessary information. Members of the Task Group also noted that the witnesses from the VOA acknowledged that the VOA did not have a good enough relationship at the time with the Council in its role as local planning authority. Therefore, based on the limited information available, the VOA formed an opinion of the market value of the units at Westfield. Since the valuations were made however, more evidence has become available and it had become apparent that the valuations were not accurate.

4.9 As a consequence of the initial valuations at Westfield being inaccurate, the Council had had to refund significant sums of money to the businesses that had been paying more than they should have been for a number of years. Members therefore welcomed the VOA's assertion that the mistakes made had not been repeated when Westfield Stratford was built and that all sides had worked together more openly to allow a more accurate assessment of each unit. However the Task Group remain concerned that the Council and businesses are still experiencing a legacy of uncertainty with so many appeals still outstanding. Of particular concern is the forthcoming extension to Westfield which will include a John Lewis and many other new retail units. The Task Group therefore recommends that the local authority seeks to actively engage with Westfield and the VOA to ensure all necessary information is shared.

Recommendations:

- Council officers should meet with the VOA and Westfield as soon as possible to discuss the ways in which the three partners can work together to share information to ensure the valuations of the new retail units in the Westfield extension are as accurate as possible

4.10 The Task Group also discussed the ways in which the Council and the VOA shared information. It heard that the VOA was working on providing as much information as possible to help local authorities forecast their business rate income. However the VOA is restricted by legislation which limits the information it can publish. Section 18 of the Commissioners of Revenue and Customs Act 2005 states that "*Revenue and Customs officials* [ie Valuation Officers] *may not disclose information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs.*" This means that the VOA is not able to share with local authorities occupier names and other information that could assist the council in billing and rates collection. Valuation Officers are also restricted in what they can share in relation to an appeal when a ratepayer submits additional information. The Task Group can see no justification for this and recommends that Government amends legislation to allow information to be shared which would enable councils to make more accurate business rate collection forecasts. Members also noted and supported the request of the VOA that the Council should share the rent schedules for all properties where it was the landlord. This information would help the VOA make a more accurate assessment of a property's rateable value, and would therefore benefit the ratepayer.

Recommendations:

- The Government should amend legislation to enable the VOA to share all relevant information with local authorities
- The Council should ensure that it shares with the VOA the rent schedules for all properties where it is the landlord

The business rates system and the valuation methodology

4.11 Members of the Task Group heard how the current business rates system operates, and noted that retailers often cited the amount they paid as among their biggest challenges. The VOA described how their valuation of a property's rateable value is based on the real-world rents, and not whether these rents were considered 'fair' or not. In this sense, the VOA follow the market rather than drive it. Their approach to valuing properties is outlined in the Local Government Finance Act 1988 (specifically schedule 6). Case law also determines what evidence the VOA used to calculate RV, and which evidence should carry the most weight. For example upward only rent reviews are considered, but only as secondary evidence behind new lettings on or near the antecedent date. With rates being so inextricably linked to an individual premises and a tenant's bargaining power with regard to rent, the Task Group feels that the current business rates system is overly capricious and in breach of the principle of fair taxation that it should be apply equally to all those who pay it.

4.12 The witnesses explained that surveyors use the zoning method to determine the value of a property, and that the VOA use it accordingly. Zoning is based on the assumption that the front (ie closest to the street) 20' (6.1m) of a shop is the most valuable (and termed Zone A), with each subsequent 20' being of progressively lower value (Zones B, C etc). The theory is that because Zone A of a shop is closest to the potential customer on the street, it has the potential to generate more income. Therefore once the per square metre value of a shop's Zone A was calculated, this value is halved for the area of the shop in Zone B, halved again for Zone C and so on until any remainder of the shop is calculated as having a value that is 12.5% of Zone A. The values of the Zones was aggregated to create a rateable value for the whole shop. Due to this method, smaller shops that might have their entirety in Zone A paid a higher per square metre rate than larger shops, with more of their floor-space falling into the cheaper Zones. The zoning method is not used for larger shops with a floor-space over 20,000 square feet. The representatives from the VOA therefore asserted that comparing the rateable value per square metre of two premises, even if they were neighbours, was not appropriate.

4.13 The Task Group believes however that shop owners are far more likely to compare the rates they pay per total square metre rather than the price per square metre of the shop-floor that is within an arbitrary proximity to the street. In light of changing customer habits, the Task Group also challenges the assumption that the front 20' of a shop is actually the most valuable. Customer shopping behaviour has evolved and retailers have adopted far more developed methods to encourage spending, such as special offers and promotional signage, than simply placing stock nearer the street. This is evident in most supermarkets where it is low cost fruit and vegetables that first welcome customers, not higher cost alcohol, as research has led to greater understanding of customer habits and preferences. The Task Group recognise that the VOA use the zoning method of valuation because it is the preferred method of surveyors, but its use now seems archaic. In this sense the Task Group agrees with the view expressed by the British Retail Consortium (BRC), which identifies that the business rates system has failed to keep up with the changing trading patterns, particularly ecommerce. With the tax being based on property, the BRC explain

> *"the system for business rates is no longer fit for purpose because it disincentivises expansion and investment in property and creates an upwardly spiralling burden of costs for those in physical premises."*[5]

The system therefore encourages more businesses to invest in internet-based activity, to the detriment of our high streets.

4.14 It is the view of the Task Group that the zoning method and the direct linking of business rates to rents is not only out-dated, but is also unfair and punitive to small businesses, aggravating the competitive advantages held by larger retailers. The VOA's valuations are based upon assumptions made regarding the rent that a property could reasonably expect to attract at a given time. Therefore two neighbouring properties of different sizes are unlikely to be paying the same amount. For example the VOA would assess the likely rent to be paid by a small shop on King Street in Hammersmith by considering the local rental market and what rent the shop could expect to attract. For a shop of this size, there might be many potential tenants, which would mean that a landlord could demand a higher rent, which would in turn mean that the shop's rateable value was higher. However a much larger shop next door might have a much lower number of potential tenants as there were only a few retailers that could expect to fill such a large space. As a result, the larger shop pays a lower rent per square metre, and so has lower business rates per square metre. This trend is further driven by the offer of very low rents per square metre to large brands that act as 'anchor tenants' on high streets and in retail developments. The Task Group believes therefore that the system of linking commercial taxation to rents in this way replicates and amplifies the advantage that larger business already have over smaller ones.

4.15 The system creates too many anomalies where neighbouring businesses pay such differing levels of business rates, and these are detrimental to the high street. By linking business rates to rental levels, the system also creates anomalies whereby profitable and successful businesses pay less rates than some less successful ones, just because they pay less rent. Members note for example the Centrica power plant in Peterborough that at a 2011 Tribunal hearing had its business rates slashed to just £1 dating back to 2005. Whilst

[5] *Business Rates: The Road to Reform*, British Retail Consortium, February 2014

this case is being appealed by the VOA, it illustrates the outdated notion of rent-based valuations. The variation in rates paid by businesses in the same locality is illustrated in the table below, which presents the business rates paid by a number of retailers in the Kings Mall and Kings Street in Hammersmith. By making the smaller shops pay more per square metre, the system fails to offer them the support they need to develop and help drive local economic growth. Relief schemes such as those announced by the Chancellor in the Autumn Budget Statement offer welcome but relatively very minor support to small businesses, and this Task Group has reached the conclusion that a more substantial reform of the business rates system is required if they are to be truly supported.

Retailer	**Business Rates valuation per square metre**
Primark, Kings Mall	£46
Sainsbury's, Kings Mall	£200
Carphone Warehouse, Kings Mall	£1,100
Clinton Cards, Kings Mall	£1,100
River Island, Kings Mall	£1,250
TK Maxx, King Street	£62

4.16 It is the view of the Task Group that the valuation methodology used by the business rates system needs significant reform. Commercial taxation should help promote economic growth not limit it, and there needs to be a level playing field that does not disadvantage small businesses. The Task Group suggests that a more suitable form of taxation should be based on a system of local banding where instead of every property being individually valued, properties should be categorised with all properties within the same locality and category paying the same price per square metre. The business rates payable would therefore be calculated by a set price per square metre, multiplied according to the level set by the local banding system (eg major town centre or satellite parade) and then by the category of shop (eg food or hardware retailer). This system would still retain the broader link between overall rents and rates to recognise significant regional disparities in the value of retail space. However, unlike the existing system, under such a new system two neighbouring or nearby shops could expect to pay a comparable amount per square metre and the anomalies noted above would be significantly reduced. Members also believe that such a system would help to remove the uncertainty created by the current appeals system as the tax would be far more transparent and less contestable. A simpler band-based system would be easier and quicker to administer, and therefore cheaper, as well as having the potential to have significantly fewer appeals. The Task Group notes that such a proposal conforms with the BRC's fourth option as described in its publication *Business Rates: The Road to Reform* and recommends that Government explore this issue further. On 13th February 2014, the

Government announced the terms of reference for its review of business rates administration. This Task Group is of the view that the review should focus not just on administration of the system, but on the system in its entirety as it is not currently fit for purpose.

Recommendations:

- Present valuation methods are capricious and breach the principles of fair taxation, therefore the Government's business rates administration review should expand its terms of reference to consider the basis of the business rates system rather than just its administration
- Government should explore with the British Retail Consortium the feasibility of adopting a business rates system based on a local banding system with a view to removing current anomalies that harm small businesses

Supporting our high streets

4.17 The 2013 reform of business rates was designed to give local authorities an incentive to support local economic growth by allowing them to retain a portion of the income collected from businesses. The Task Group welcomes this reform but remains concerned at the funding shortfall this has created. Despite the Council now receiving £4million less, members were pleased to note the wide range of work currently being undertaken to help support local businesses. The Council's Economic Development, Learning & Skills department currently has a small Business Investment team of three officers who support borough-wide business engagement. Recent key achievements include:

- Delivery of a number of small business-facing initiatives, such as the H&F Business Desk (a one-stop portal for support); H&F Enterprise Club (a monthly entrepreneurs event); Business Connects (a quarterly e-newsletter); H&F Means Business (an annual networking exposition)
- 1,085 SMEs positively advised and supported through Business Desk
- 800 SMEs registered for two major networking events
- 60 SMEs prepared for intensive procurement coaching under a new supply-chain initiative
- 28 large businesses buying advertising in the Business Directory, making the publication free to SMEs

The Task Group supports the work currently undertaken by the Business Investment team, but believes that the Council should take steps to make businesses more aware of what it is spending the income from business rates on despite the reduced funding levels. Suggestions for Council activity should also be sought to ensure resources are directed to where businesses want them. Having recognised the significant stresses faced by small retailers, in part due to the anomalies in the business rates system, the Task Group recommends that these businesses are prioritised by the Council in the support it gives.

Recommendations:

- The Council should make it clearer to businesses what it is and has been spending business rate income on and seek suggestions for further activity from businesses
- The Council should prioritise the support provided by the Economic Development, Learning and Skills Department to local businesses, particularly small retailers

4.18 An issue or particular concern for the Task Group was the number of vacant shops in the borough. Whilst it was noted that Hammersmith & Fulham has a lower vacancy rate than many other parts of London and the country, members felt that the Council could do more to reduce vacancy rates further, particularly in those areas such as North End Road with high and worsening levels of vacancies. The presence of an empty shop can have a wider impact on the surrounding area as it creates an image of decline and neglect, which is magnified when other shops nearby are also vacant. Those living and working in the area can therefore have a loss of pride, which creates a self-perpetuating spiral of further decline. The more empty units in a high street, the lower the customer footfall, which also makes it harder for other shops to survive. The Task Group heard how applying a vinyl-wrap to the front of the shop had proven effective in West Kensington and other parts of the country. The vinyl improved the image of the area by dispelling notions of neglect and also advertised the opportunity that the empty shop presented, creating an overall perception of a successful and vibrant area.

4.19 Members noted the efforts made by the Business Investment team to locate the landlords to obtain permission to apply the vinyl-wrapping, but were concerned at how time consuming and resource intensive the process was, particularly in light of the limited resources available. Many landlords and shop owners are almost impossible to identify as they often list their address only as being at that shop, and were content to keep the property vacant for a number of years. Some also fail to pay business rates. As a result the Council has a number of properties where it would like to apply vinyl-wrapping, but it has not been able to seek permission to do so. The Task Group therefore recommends that the Council adopts the approach taken by authorities such as Wandsworth, whereby shops that have been vacant for an extended period and the owner cannot be identified, are vinyl-wrapped without the owner's consent. Should the owner then make themselves known, a discussion could then take place as to whether the wrapping should be removed by the Council or left in place until a new tenant is identified.

4.20 Whilst having a clear benefit to the borough's high streets, adopting a policy of vinyl-wrapping vacant shops will also have a budgetary implication for the Council. The Task Group therefore discussed the concept of the vinyl-wrapping including an element of commercial advertising that could be sold to cover the costs of the scheme. Such adverts would also represent a commitment from businesses in the area that they supported the high street and had a stake in its success. Officers have advised that, in accordance with national planning legislation, any vinyl with an element of advertising would require planning permission. If the council wished to remove the legal requirement for planning applications for such development, it could introduce Local Development Orders (LDOs) to ‘automatically’ grant planning permission for certain specified types of development in certain areas, although the costs and benefits of introducing such LDOs would have to be considered. Members also reached the conclusion that the Council should designate an Empty Shops Officer to be responsible for locating owners of vacant shops, arranging for the vinyl-wrapping and identifying opportunities for advertising to cover the costs.

Recommendations:

- The Council should adopt a policy of vinyl-wrapping shops that have been vacant for an extended period where the owner cannot be identified, without asking for consent from the owner, and undertake this in accordance with planning legislation
- The Council should designate an Empty Shops Officer to coordinate the efforts to fill vacant shops

4.21 The Task Group met with a local development and infrastructure consultant and noted his analysis that ultimately, town centres across the country had too much retail space due to macro-economic changes such as the growth of internet retail and the drift towards out-of-town centres. This view is prevalent in the publications reviewed by the members, such as the London Assembly’s *Open for Business* report. The report notes that long-term trends of reductions in shop numbers have been exacerbated by recent economic conditions and that “there is a process of consolidation and shrinkage taking place in many high streets as a result of structural economic factors, and this is likely to continue”[6].

4.22 Members also noted that constrained public sector funding and a fragmented ownership model that inhibited development or investment were significant obstacles for healthy town centres. The Task Group heard how an asset management rather than facilities management approach could be one way of overcoming this. If all of the building assets were under a single core control with investment actions plans and targeted interventions as part of a curatorial approach, there could be active management with a single cohesive strategy rather than passive investment by a multitude of investors with short-term aspirations. Such a model had proven to be successful in Regent Street, Covent Garden and Carnaby Street, and was to some extent also evident at shopping centres such as Westfield where the centre management is able to create a preferred offer of certain shops and restaurants. Town centre high streets however are not under single ownership and local authorities are unlikely to have the funding to purchase the majority of units that would allow

[6] *Open for Business: Empty Shops on London’s High Streets*, The London Assembly, March 2013

it to become the town's 'curator'. It is also an issue of debate as to whether it is a local authority's role to take such an active role in the market.

4.23 In light of the trend for declining shop numbers and the obstacles facing high streets, the Task Group recommends that the Council takes steps to ensure its limited resources are allocated as efficiently as possible. The Economic Development, Learners & Skills department does not have the resources to support all 29 of the borough's shopping areas, so the areas should be prioritised so that Council resources can have the maximum impact. The Task Group considered an initial assessment of the 29 shopping areas based on factors such as community and consumer demand, the importance to the local economy and the 'look and feel' of the area (ie issues relating to anti-social behaviour or graffiti). The potential for a curatorial approach on a smaller scale due to existing Council ownership was also considered. Using this assessment, members support a three-part classification of the centres for the purposes of prioritising EDLS interventions and actions:

Top priority:	North End Road Bloemfontein Road
Second priority:	areas for additional small scale initiatives; e.g. tackling empty shops, small planning changes, encouragement of local trading associations
Third priority:	already prosperous and successful areas – monitoring success

4.24 North End Road and Bloemfontein Road should be the Council's top priority because they represent the areas where Council resources can yield the best results. North End Road currently has a high number of vacancies in an area of that provides an important offer of more specialist independent shops. Bloemfontein Road should be included as a priority area because it is wholly owned by the Council's Housing Revenue Account. Therefore the area offers the Council an opportunity to adopt a curatorial approach to improve the area and attract a better mix of tenants to the shopping parade. In its management of the area, the Council should ensure it consults with local residents on the White City Estate and other surrounding residential areas to establish community demand and then take active steps to deliver an environment that meets that demand. Should the approach prove successful, the Council should then consider how it could be applied to other areas and share its success with other authorities. Across shopping areas of all priorities, the Council should also continue its policy of installing 'stop and shop' short term parking bays where possible.

Recommendations:

- The Council should undertake an exercise to prioritise the borough's 29 shopping areas to ensure resources are utilised as effectively as possible
- The Council should adopt a curatorial approach to Bloemfontein Road to attract a suitable mix of tenants to the shopping parade that serve local demand on the White City Estate and other nearby residential areas

4.25 The Task Group also met with the HammersmithLondon Business Improvement District (BID) to discuss the perspective of the BID's members. Businesses in Hammersmith town centre pay a levy to the BID of an average of 1% of their business rates to fund a series of programmes and events, additional Police and street cleansing as well as initiatives such as Christmas decorations and lights. The majority of the BID's membership is drawn from the office sector, with employers keen to provide as pleasant an atmosphere as possible for its employees in order to attract and retain them. The Task Group noted the initial findings of the BID's mid-term review which canvassed the views of its members:

- 82% think that the street cleaning in the area is good or excellent
- 91% think that the hanging baskets are excellent
- 87% feel safe

It is clear to the Task Group therefore that the HammersmithLondon BID should be commended for its considerable success at promoting the area as a good environment to work in.

4.26 Members were particularly interested to learn from the BID that the office-based employers felt that it was in their interest for the high street and town centre to be as successful and vibrant as possible. By having a pleasant and attractive environment in which to go to work, employers are more likely to recruit the best staff and to retain them. The health of the borough's high streets are therefore not just important for the local retail economy, but also as a means of attracting and retaining wider investment in Hammersmith & Fulham. The Task Group is therefore conscious of other findings from the BID's mid-term review, namely:

- 45% think Hammersmith needs better shops
- 31% want more restaurants
- Whilst 87% feel safe, the majority of the 13% who do not work in in the leisure industry, suggesting an issue with evening safety

It is therefore the view of the Task Group that the Council should acknowledge the value of restaurants and leisure premises in Hammersmith and explore adopting a policy that, where possible, preference is given to vacant shops in major centres being converted into use class A3 (restaurants and cafes) if they are to cease to be A1 (shops). Recognising that encouraging an evening economy can have an impact on crime and disorder in the vicinity, the Task Group believes that the Council should assess evening safety in the town centres to ascertain whether increased provision is necessary.

Recommendations:

- The Council should adopt a policy that recognises the value of restaurants and the leisure offer in Hammersmith and encourage increased provision, and assess evening safety in the town centres

Planning reform

4.27 In May 2013, the GPDO Amendment 2013[7] came into force. This had the effect of altering the established Use Classes Order by allowing certain premises of use classes A1 (Shops); A2 Financial and Professional Services; A3 (Restaurants and cafes); A4 (Drinking Establishments); A5 Hot Food Takeaways; B1 (Business); D1 (Non-Residential Institutions); or D2 (Assembly and Leisure) to convert into 'flexible' high street uses (A1; A2; A3; B1) for up to two years without a need to apply for planning permission from the local authority (although the authority would need to be notified of the change). This is significant because this allows change of use from the above use classes to A2 use class (which includes betting shops and payday loan shops) without requiring permission. A number of authorities lobbied against this amendment and sought instead to place betting and payday loan shops into a distinct category of their own, but the Government view was that councils had the power to issue an Article 4 directions. Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 enables local planning authorities to restrict permitted development rights in its area or part of its area. Therefore if a planning authority issued an Article 4 direction, the provisions of the GPDO Amendment 2013 that allowed the use classes above to become betting or payday loan shops, would not apply.

4.28 The change in permitted development rights is of significant concern for the Task Group with a substantial increase in the number of betting shops in particular being clearly apparent in the borough's town centres. A reason for this is that betting shops are limited by law to no more than four Fixed Odds Betting Terminals (FOBTs) per branch, and that these terminals have extremely high profit margins. In order to circumvent the four FOBT limit, the company will open another branch in close proximity, such is the profitability of the FOBTs. There is some debate over whether or not a proliferation of betting shops is actually bad for the health of high streets. For example the chair of the Association of British Bookmakers highlighted that the average betting shop pays around £10,000 in business rates which councils cannot afford to turn away, and that ultimately bookmakers exist because there is a public demand for their services[8]. However, as Hammersmith & Fulham is four million pounds below the Business Rates safety net level, this argument does not apply to the borough.

4.29 There remains a prevailing opinion that a proliferation or clustering of betting shops is detrimental to the high street by negatively impacting upon the streetscene and people's perception of an area and by creating wider problems such as gambling addiction. Research by the Campaign for Fairer Gambling has also found that the FOBTs are the most addictive form of

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[7] The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013

[8] 'Betting shops are not the cause of high street problems, they are the solution' by Neil Goulden in *The Guardian*, 8th July 2013

gambling[9] and that betting companies are clustering their shops in areas of high footfall to attract as much custom as possible. This is then contributing to higher rents as landlords seek the maximum return on their investment, but the rest of the high street suffers. As a result, the overall high street environment highlighted as critical by the HammersmithLondon BID is not realised, and retailers suffer in surrounding shops. North End Road is an example of this, where large clusters of betting shops and payday lenders are surrounded by the borough's highest rates of vacancies. The Task Group is of the view therefore that whilst the Council might prefer a betting shop over an empty property, the wider negative effects of that betting shop outweigh the financial benefits.

4.30 It is clear to the Task Group that betting shops and payday loan shops should be in a Use Class of their own and that permitted development rights allowing shops or restaurants to convert without permission should be removed, and it calls on Government to amend the necessary legislation accordingly. The borough's retail and leisure offer cannot improve or revive if there are too many betting shops as they create a negative image of an area. The Task Group also notes from its investigations that many retailers considering moving to an area would decide not rent a shop if it were in the vicinity of a betting shop or payday lender. Members of the Task Group believe that as well as lobbying Government to amend the permitted development rights, the Council should also consider the use of an Article 4 direction and develop planning policy to restrict the concentration of betting and payday loan shops.

Recommendations:

- The Government should revise the necessary legislation to make betting shops and payday loan shops a separate and distinct Use Class and remove permitted development rights to that Use Class
- The Council should recognise the harmful effect of too many betting shops on the borough's high streets and look at the use of an Article 4 direction to remove permitted development rights and develop planning policy to restrict the concentration of betting and payday loan shops

4.31 The GPDO Amendment 2013 also changed the permitted development rights to allow change of use from Use Class B1(a) (office) to C3 (residential) and the more recent GPDO Amendment 2014[10] allows permitted development from A1 (shops) and A2 (financial and professional services) to C3 (residential) without the need for planning permission (subject to a number of detailed caveats). Allowing office space and shops to convert into residential without planning permission makes it difficult for councils to plan effectively and to manage the transition. Local authorities generally receive less income from a property paying Council Tax than they would from the same property

[9] *Betting shops are a growing problem, so let's work together to solve it* by the Campaign for Fairer Gambling, published by the LGiU 20th September 2013

[10] The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014

paying business rates. However the Task Group acknowledges that there is an ongoing pattern of declining shop numbers and decreasing customer demand for physical retailers as discussed earlier in this report. The Council should foremost promote the interests of local businesses and work with them to make shopping areas attractive so that the decline in demand for retail space in Hammersmith & Fulham is less in relative terms than in other parts of the country. If there is a reduction in demand for retail space, the Council should develop planning policy to ensure any reduction in the number of shops in the borough occurs in a managed way that does not impair the retail space that remains. In a borough such as Hammersmith & Fulham where residential values are high, there is a clear motivation for landlords to get maximum profit by converting even viable office or shop space into residential use. However to allow this to happen without controls would undermine the vitality of the high streets: the less commercial an area becomes, the lower the footfall, making the remaining businesses less viable.

4.32 The Council's Development Management Local Plan approved in July 2013 details the percentage of retail frontage that should be preserved in the different town centres across the borough. However the Task Group believes that the Development Management Local Plan should recognise that the continuity of shopping parades needs to be preserved to retain identity and to avoid fragmentation. It therefore supports an approach similar to that adopted in Plymouth where retail area was only contracted from the edges inwards, reducing the number of shops but retaining the continuity[11]. Therefore it is recommended that the Council explores adopting a policy that allows for a reduction in the number of shops only by shrinking the areas designated as retail centres, rather than allowing a set number of conversions dispersed throughout. Such an approach would allow for each shopping area to be considered individually with boundaries set with consideration to each area's social function as well as commercial. In this context, the Council should also no longer apply blanket percentages of retail area it is prepared to lose to residential uses in high streets and parades. It should instead prioritise areas according to their importance to the Borough economy and allow no or less shrinkage in those areas of greater importance. The Task Group is also of the view that the Council should ensure that there are no obstacles to retail premises being converted or used for workshops doing light industrial work.

Recommendations:

- The Council should consider adopting planning policy that allows retail to residential conversions in the borough's shopping areas only by contracting the areas designated as protected retail frontages from the edges inwards, thus protecting the continuity of high streets and shopping parades. The amount of shrinkage permitted should be determined by the importance of the location to the local economy and should therefore vary by street and parade.

[11] 'Has planning helped the high street?' in *Planning*, 1st November 2013

5. Final conclusions

5.1 The Business Rates Scrutiny Task Group has investigated the impact of business rates reform and support for local high streets in depth. The over-riding conclusion reached is that the current system of business rates is not fit for purpose. It disincentivises physical investment in our town centres and reinforces the disadvantages that smaller retailers experience when compared to larger chains. By linking business rates directly to market rents, there are too many anomalies created, such as the £1,250 per square metre valuation of River Island in Hammersmith and the £62 per square metre for TK Maxx across the road. There are a number of ways in which the current system could be improved, such as reform of the appeal system to remove the uncertainty and punitive effects caused by inaccurate valuations or relief schemes for small businesses, but such improvements would fail to address the in-built systemic problems. The Task Group is therefore disappointed that the Government's current review of business rates will only consider the administration of the system. By not conducting a far-reaching review of business rates in their entirety, the Government is missing an opportunity to help high streets and town centres across the country, and this Task Group urges it to reconsider the terms of reference of its review.

5.2 The Task Group began its investigations with six aims and objectives, and its findings are as follows:

i) To understand how the reform of business rates has impacted upon the Council's income

The business rates reform introduced in April 2013 has resulted in the Council losing £7.6million in income. The Government also introduced a top-up payment to a safety-net level, but the Council has still experienced a £4.05million reduction in income as a consequence of the reform. Despite the intention to give councils an incentive to promote local economic development, the reforms have restricted the capacity of local authorities to do so by reducing funding by so much.

ii) To understand the extent of the impact on the Council's income caused by offices becoming residential properties

The Council receives less income from a property paying Council Tax than it would the same property paying business rates. The Task Group believes that how the transition from commercial to residential is managed is more significant than the impact on Council income.

iii) To review the performance of the Valuation Office Agency in Hammersmith & Fulham

The Task Group is concerned at the large number of outstanding appeals and the time it is taking for the appeals to be resolved. It recognises that the Valuation Tribunal is now responsible for many of these appeals, but feels that more needs to be done to expedite the process. Members welcome the recent efforts made by the VOA to be more open in their work and to share more information with the Council. However the Task Group also believes that the performance of the VOA is hindered by the requirement that it use an out-dated and inefficient valuation methodology.

iv) To consider what initiatives could be implemented to help reduce the number of empty shops in Hammersmith & Fulham

Regardless of the extent to which the business rates system can be reformed, it is also apparent that the Council can take actions that will help the borough's high streets. Hammersmith & Fulham might be in a more robust economic position than many areas nationally and across London, but more can be done. The Council has a proven track record of supporting local businesses but it should be bolder in its action by vinyl-wrapping long-term vacant shops rather than be preoccupied with the low chances of legal action from absent landlords.

v) To understand the views and experiences of local business owners and retailers

It is clear to the Task Group that local business owners have a number of concerns, with the costs of rent and business rates being significant ones. Members share these concerns, particularly regarding the unequal costs per square metre of rates paid. The Task Group welcomes the positive impact of the HammersmithLondon Business Improvement District and groups such as Love West Ken and recognises the importance of the wider perception of an area for continual success and vitality.

vi) To contribute to a Council policy to promote vibrant and successful town centres across the Borough

Hammersmith & Fulham has town centres and high streets that its residents can be proud of, but they need to be protected. The Task Group therefore believes that policies should be adopted that limit the increase and concentration of shops such as betting and payday loan shops that are at odds with the image of an area of success and vibrancy.

6. Full list of recommendations

6.1 The Task Group makes the following recommendations to **the Council**:

i) Council officers should meet with the VOA and Westfield as soon as possible to discuss the ways in which the three partners can work together to share information to ensure the valuations of the new retail units in the Westfield extension are as accurate as possible

ii) The Council should ensure that it shares with the VOA the rent schedules for all properties where it is the landlord

iii) The Council should make it clearer to businesses what it is and has been spending business rate income on and seek suggestions for further activity from businesses

iv) The Council should prioritise the support provided by the Economic Development, Learning and Skills Department to local businesses, particularly small retailers

v) The Council should adopt a policy of vinyl-wrapping shops that have been vacant for an extended period where the owner cannot be identified, without asking for consent from the owner, and undertake this in accordance with planning legislation

vi) The Council should designate an Empty Shops Officer to coordinate the efforts to fill vacant shops

vii) The Council should undertake an exercise to prioritise the borough's 29 shopping areas to ensure resources are utilised as effectively as possible

viii) The Council should adopt a curatorial approach to Bloemfontein Road to attract a suitable mix of tenants to the shopping parade that serve local demand on the White City Estate and other nearby residential areas

ix) The Council should adopt a policy that recognises the value of restaurants and the leisure offer in Hammersmith and encourage increased provision, and assess evening safety in the town centres

x) The Council should recognise the harmful effect of too many betting shops on the borough's high streets and look at the use of an Article 4 direction to remove permitted development rights and develop planning policy to restrict the concentration of betting and payday loan shops

xi) The Council should consider adopting planning policy that allows retail to residential conversions in the borough's shopping areas only by contracting the areas designated as protected retail frontages from the edges inwards, thus protecting the continuity of high streets and shopping parades. The amount of shrinkage permitted should be determined by the importance of the location to the local economy and should therefore vary by street and parade

6.2 The Task Group makes the following recommendations to **Government**:

xii) Government should revisit the rate collection estimate that was made for 2013/14 that led to a £4million loss for Hammersmith & Fulham to ensure collection assumptions more closely reflect actual collection rates

xiii) The DCLG should explore whether to introduce a system of financial penalties to compensate ratepayers and local authorities in instances when the VOA and the Valuation Tribunal fail to meet their target timescales for resolving appeals

xiv) The Government should amend legislation to enable the VOA to share all relevant information with local authorities

xv) Present valuation methods are capricious and breach the principles of fair taxation, therefore the Government's business rates administration review should expand its terms of reference to consider the basis of the business rates system rather than just its administration

xvi) Government should explore with the British Retail Consortium the feasibility of adopting a business rates system based on a local banding system with a view to removing current anomalies that harm small businesses

xvii) The Government should revise the necessary legislation to make betting shops and payday loan shops a separate and distinct Use Class and remove permitted development rights to that Use Class

6.3 The Task Group makes the following recommendations to the **Valuation Office Agency**:

xviii) The VOA should commit resources and work with the Valuation Tribunal to reduce the time appeals take to resolve in order to give greater clarity to local authorities and ratepayers

Recommendation i) is also made to the VOA:

i) Council officers should meet with the VOA and Westfield as soon as possible to discuss the ways in which the three partners can work together to share information to ensure the valuations of the new retail units in the Westfield extension are as accurate as possible