



Report to the Council of the London Borough of Southwark

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PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

REPORT ON THE EXAMINATION INTO THE AYLESBURY AREA ACTION PLAN DEVELOPMENT PLAN DOCUMENT

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Examination hearings held on 2 and 3 September 2009

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Introduction and Overall Conclusion

- 1.1 Under the terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004, the purpose of the independent examination of a development plan document (DPD) is to determine:
- (a) whether it satisfies the requirements of s19 and s24(1) of the 2004 Act, the regulations under s17(7), and any regulations under s36 relating to the preparation of the document; and
 - (b) whether it is sound.
- 1.2 This report contains my assessment of the Aylesbury Area Action Plan DPD in terms of the above matters, along with my recommendations and the reasons for them, as required by s20(7) of the 2004 Act.
- 1.3 I am satisfied that the DPD meets the requirements of the Act and Regulations. My role is also to consider the soundness of the Aylesbury Area Action Plan in the terms of paragraph 4.52 of PPS12, that is whether the DPD is justified, effective and consistent with national policy. In line with national policy, the starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The changes I have specified in this binding report are made only where there is a clear need to amend the document in the light of the legal requirements and/or the tests of soundness in PPS12. None of these changes should materially alter the substance of the overall plan and its policies, or undermine the sustainability appraisal and participatory processes already undertaken.
- 1.4 My report firstly considers the legal requirements, and then deals with the relevant matters and issues considered during the examination in terms of testing justification, effectiveness and consistency with national policy. My overall conclusion is that the Plan is sound, provided it is changed in the ways specified. The principal changes which are required are, in summary:
- a) Adjusting the proportions of private and affordable housing in Phases 1 and 4;
 - b) Amending the public sector funding requirement calculations
- The report and Annex set out all the detailed changes required, including those suggested by the Council, to ensure that the plan meets the legal requirements and is sound.

Legal Requirements

Consistency with Local Development Scheme

- 2.1 The Aylesbury Area Action Plan DPD is identified in the Council's revised Local Development Scheme (LDS) which came into effect in June 2008. The submission DPD generally reflects the proposed

subject matter as set out in the LDS, although I deal in more detail with the question of the Cross River Tram under Issue (b) below.

- 2.2 Unusually, the AAP has been prepared in advance of the Core Strategy. Its strategic basis is therefore essentially dependent on the Southwark Unitary Development Plan (UDP) and the London Plan. The UDP was adopted relatively recently, in July 2007, and the AAP is broadly consistent with its policies. The Plan is also in general conformity with the London Plan. The relationship between the policies in the AAP and these documents, together with the Council's other supplementary planning documents is set out clearly in Appendix 2 to the Plan and in Table A2.1. From this I am satisfied that there is a sound strategic policy framework for the plan.
- 2.3 The housing area which it is proposed to renew shows clear signs of stress and there is evidence that the built fabric would be expensive to retain in the long term and would in any event be unlikely to achieve a satisfactory residential environment. Given the extensive renewal that needs to be undertaken and the evident availability of finance for the initial stages, I consider that it is advantageous to bring the AAP forward in advance of completion of the Borough's Core Strategy. As it focuses on a relatively small part of the Council's area, I do not consider that the Plan would unduly prejudice future overall policy for the Borough as a whole or for the adjoining communities.
- 2.4 Preparation of the Core Strategy is proceeding broadly as envisaged in the LDS and consultation on the preferred options took place in June and July 2009. As a result a number of changes to the AAP are proposed to ensure consistency with the published 'Core Strategy Preferred Options'. These are set out in the Annex and are the changes prefixed 'CS'.
- 2.5 I am satisfied that the preparation of the DPD has been generally in accordance with the LDS.

Compliance with Statement of Community Involvement (SCI) and Associated Regulations

- 2.6 The Council's Statement of Community Involvement (SCI) was found sound by the Secretary of State and was formally adopted by the Council in January 2008. The Council's Regulation 30 (1) (d) and (e) Statements show that all of the requirements of the adopted SCI have been met.
- 2.7 Criticisms of the adequacy of the Sustainability Appraisal (SA) in relation to particular policies of the DPD are more appropriately dealt with in considering the justification, effectiveness and consistency tests. However, I deal here with some general criticisms and expand on the matters of sustainability and deliverability in section 3 below.

- 2.8 The consultation exercises on the AAP were conducted against a background of previous public participation focussed on the public housing. In particular, there was concern expressed in the representations and at the hearings that the AAP runs contrary to a ballot of tenants carried out in 2001 in which a large proportion of tenants indicated that they wished to remain in their present, Council-rented accommodation whereas the Plan proposes an overall reduction in the number of such homes. However, there is a need to distinguish between the specific housing and tenancy issues which formed the focus of the earlier participation exercises and the much wider remit of the AAP consultation, undertaken to inform the preparation of a spatial plan. I do not consider that there is any fundamental conflict between the outcomes of the consultation exercises carried out by the Council in recent years.
- 2.9 I accept that the SCI indicates a wide variety of consultation exercise types and that the Council did not use all of them in preparing the AAP. I am confident, however, that the methods used in preparing the AAP were sufficient to ensure a reasonable opportunity for residents of the AAP area and surrounding communities to make their views known. Whilst the exercise focussed largely on the Master Plan Area, now known as the Action Area Core (AAC) I consider this to have been an appropriate strategy given the intensive change proposed in this zone. Given that the effect of the proposals in the AAP on Burgess Park itself would be relatively modest, I am not convinced that the residents of the areas outside the AAP boundary but adjoining the Park were unduly disadvantaged by the less intensive publicity strategy in these areas. The recent changes in the Council's internal arrangements for managing the Park do not seem to me to imply that the Council would not in future consult in accordance with the SCI on the more detailed measures referred to at para 4.5.5 of the Plan. This would provide an opportunity for meaningful public participation in any significant proposals which would affect the Park itself.
- 2.10 I am satisfied that the DPD was prepared in compliance with the SCI after it had been approved in draft by the Council, and before that in compliance with the minimum requirements set out in the 2004 Regulations.

Other Legal Requirements

- 2.11 At the hearing the Council confirmed that the statutory requirements for the preparation of the DPD had all been met.
- 2.12 I am satisfied that the DPD has regard to national policy.
- 2.13 The Greater London Authority has indicated that the Plan is in general conformity with the London Plan and I am satisfied that this is so.
- 2.14 I am satisfied that the DPD has had regard to the sustainable community strategy for the area.

- 2.15 I am satisfied that the DPD complies with the specific requirements of the 2004 Regulations (as amended) including the requirements in relation to publication of the prescribed documents; availability of them for Inspection and local advertisement; notification of DPD bodies and provision of a list of superseded saved policies.
- 2.16 Accordingly, I am satisfied that the legal requirements have all been met.

3 Justified; Effective and Consistent with National Policy

- 3.1 The plan focuses on proposals to replace an area of housing built by the local authority in the 1960s and 1970s in what was previously known as the 'Masterplan Area'. I have no doubt that dealing with the clearly evident shortcomings of this housing is the principal challenge which the Council has faced in the AAP area. I consider that the main issues are:
- (a) whether the proposed tenure mix is appropriate;
 - (b) whether the Plan's policies are the most appropriate in terms of minimising energy needs and achieving sustainable development;
 - (c) whether the proposed improvements to public transport facilities are appropriate and achievable; and
 - (d) whether the Plan provides satisfactorily for delivery of development and monitoring its effectiveness.
- 3.2 I note that, to achieve consistency with the emerging Core Strategy, the Council now wishes to replace the title 'Masterplan Area' with 'Action Area Core' (AAC). This is one of the changes I recommend in Section 4.

Issue (a) – Tenure Mix

- 3.3 The tenure mix proposed in Policy BH3 would, in the AAC, result in an overall reduction in the number of social rented homes from the present total of about 2,250. Whilst the number of dwellings would increase significantly to about 4,200, only 50% of these would comprise affordable housing and of those, 25% would be intermediate homes (i.e. part rented and part mortgaged). As a result the number of dwellings available to rent would fall by about 30% to 1,575. This would also reduce the number of dwellings available to rent in the Borough as a whole. However, the Council provided evidence which establishes to my satisfaction that it would not be financially possible to raise the proportion of affordable housing in the area above 50% and this was not seriously challenged. Thus, whilst a range of tenure mix options was evaluated in the SA (summarised at paragraph 5.2.1 of Volume I), it seems to me that the chosen mix is the only one that is reasonably practicable.

- 3.4 I am in no doubt that some existing tenants value the generous space standards that some of the existing flats provide and that the extensive glazing which is a feature of most of the flats provides a light and airy living space. However, there are fundamental shortcomings in the urban form which is characterised by monolithic blocks of flats of up to 14 storeys accessed largely by elevated walkways. The internal stairways and dark corridors appear to offer opportunities for crime and this was a view expressed in consultation on the Plan. Evidence obtained for the Sustainability Appraisal showed that some areas near the Walworth Road were in the 10% most affected in terms of crime in England. At street level the buildings present a forbidding and unkempt appearance and pedestrian routes are constrained by the layout of what in many cases are particularly large buildings. Whilst it is possible that some of the maintenance shortcomings of the buildings could be addressed, I agree with the Council that refurbishment would be unlikely to achieve satisfactory living conditions in the longer term.
- 3.5 The AAP includes detailed design guidance in Appendix 6 which sets out space standards equivalent to the present council rented flats for the new social rented housing (Parker Morris + 10%) and this would be expressly required by Policy BH5. I consider that the new development built in accordance with this guidance would, notwithstanding the significant increase in the number of dwellings in the area, provide much improved living conditions and I find no evidence to suggest that the overall reduction in the provision of social rented housing would in itself be harmful.
- 3.6 Development of Phase 1a has already begun and, following discussions with the Homes and Communities Agency, the Council has established that it would not be possible to achieve the 50/50 split between private and affordable homes in the prevailing economic climate. It therefore proposes to adjust the overall balance in Phase 1 in favour of additional affordable homes, so that the split is 59% affordable to 41% private. To balance this, Phase 4 would be adjusted to 58% private to 42% affordable (the slight difference in percentage terms arising from the higher overall housing numbers in Phase 4). I agree that this is rational and it seems to me that it would have the added advantage of increasing the number of rented houses available through the early part of the plan period which would help in the process of decanting tenants from dwellings which are to be demolished.
- 3.7 **In order to make the Action Area Plan sound, the following changes should be made:**
- C1 Delete Policy BH3 and replace it with the text set out in the Annex;**
 - C2 Delete Paragraph 3.3.8 and replace it with the text set out in the Annex;**
 - C3 Delete Table A7.1 and replace it with the version in the Annex.**

Issue (b) - Energy needs and sustainable development

- 3.8 The new dwellings in the AAC must, under Policy BH6, be designed to connect to a district heating scheme, one of the key measures by which the Council propose to achieve development which would result in zero carbon growth. This is an ambitious aim, on the face of it, and evidence was given at the hearings about another scheme in south east London where the benefits of such a scheme failed to materialise.
- 3.9 However, there is already a district heating installation on the Aylesbury estate with its associated infrastructure and a boiler house. Further, a combined heat and power (CHP) scheme is being developed in conjunction with a major redevelopment at Elephant and Castle, just to the north of the Plan area. Such schemes have the potential for efficient energy supply given that space heating is provided from the waste heat and I am satisfied that there is a reasonable prospect that a linkage to the Aylesbury area is practicable. I am also satisfied that, even if the consortium undertaking the Elephant and Castle scheme, Dalkia, is not subsequently able to extend that scheme to the Aylesbury area, it would be possible to establish a separate Multi Utility Service Company for the AAC.
- 3.10 I am conscious that the reduction in potential CO₂ emissions arising simply from a gas-fired district heating system, even as part of a CHP scheme, is necessarily limited. I have also taken into account the relatively restricted scope for the use of waste heat from electricity production during the summer months, given that only limited information was available at the hearing about the use of that heat in connection with cooling plant for buildings at the Elephant and Castle. However, I have no reason to dispute the Council's evidence that, in the longer term, the CHP plant could be fuelled by biomass, including a proportion generated from sources within the Borough itself. On the Council's own evidence, this would have the greatest potential to reduce the CO₂ emissions arising from the proposal but I also give only limited weight to the evidence of lack of success of the South East London Combined Heat and Power scheme which was not, I was advised, designed with use of waste heat in nearby dwellings in mind.
- 3.11 Government guidance on local requirements for decentralised energy supply to new development is set out in the '*Planning and Climate Change*' supplement to Planning Policy Statement 1: *Delivering Sustainable Development*. I am content that the energy supply requirements in part (I) of Policy BH6 have been drawn up with proper regard to this guidance against a sound evidence base.
- 3.12 The Council accepted at the hearing that the overall calculation of the carbon neutrality of the proposals in the AAP had not taken account of the emissions likely to arise from demolition and construction activities associated with the proposal. However, no

evidence was available on this point and, whilst I accept that the CO₂ emissions from this aspect of the scheme are likely to be material, I have to set them against the long term benefits of improved energy efficiency of the resultant buildings. I am not convinced that the Council's calculations were so skewed on this matter as to render them unreliable. By the same token, I acknowledge that the location of taller buildings on the southern edge of the AAC would reduce the potential for solar gain in the zone immediately to the north, but this effect would be limited. In any event I have found that the plan would result in far reaching improvements to the urban form of the area, a factor to which I ascribe considerable weight.

- 3.13 Policy BH7 requires that all homes in the AAC must achieve Code for Sustainable Homes (CfSH) Level 4 in terms of energy efficiency and I had some reservations about the impact of this comparatively high standard on the cost of constructing dwellings to this standard. However, given that the Council will control the land on which they will be built, there is scope to achieve this aim which in any event is in line with the Council's corporate objectives. Further, since the government has indicated that it aims to require the more stringent CfSH Level 6 for all new homes in 2016, for the bulk of the plan period an even higher standard is likely to be required.
- 3.14 Overall I conclude that the plan would be likely to meet the targets it sets itself in terms of zero carbon growth development and would result in an appropriately sustainable form of development. No changes are required to ensure that this aspect of the Plan is sound.

Issue (c) – Public transport

- 3.15 For most of the plan preparation period Transport for London (TfL) were promoting a proposal for the Cross River Tram scheme, which would have significantly improved accessibility to the AAC, and this was the basis of the options considered in the SA. Shortly before the Submission document was finalised the scheme was dropped. Policy TP2 was, therefore, necessarily framed to focus on improvements to bus services, although it continues to identify a high capacity public transport route on the proposals map. I judge this sufficient to allow for subsequent provision of extra bus stops and turning/waiting spaces if these prove to be required. It would also allow for the tram proposal to be reconsidered subsequently. I am satisfied that this constraint on the options open to the Council has not materially affected the soundness of this aspect of the AAP.
- 3.16 I agree that there is scope for flexibility in the provision of improved public transport because much of the new residential development will be on redeveloped sites so the absolute number of people the network will have to serve will not increase significantly until Phase 4, beyond 2020. At this stage it is envisaged that developer contributions could be achieved and there appears to me to be

sufficient evidence to have confidence that these could be sought without unduly harming the overall viability of Phase 4.

3.17 I am concerned, however, that the wording of the plan is vague on this point, particularly in the light of the evidence given at the hearing that an increase in the frequency of services on the principal existing route running along Thurlow Street through the centre of the AAC, service No. 343 is likely to be most effective. This seems rational, given that high public transport accessibility levels (PTALs) are already achieved to the east and west of the plan area. I recommend below that paragraph 5.3.3 is adapted accordingly.

3.18 **In order to make the Action Area Plan sound, the following change should be made:**

C4 Delete the last sentence of paragraph 5.3.3 and replace it with the following text: *However, it will be necessary to raise PTALs further and improvements to the frequency of the existing bus services which run through the Core Action Area as well as new routes to Peckham and Elephant and Castle will be sought in Phase 4 in co-operation with TfL and with developer funding.*

Issue (d) – Delivery and monitoring

Funding the Housing Component

3.19 So far as Phase 1 of the regeneration is concerned, social housing grant (SHG) has been obtained for the first part (Phase 1a) which is already effectively under way. The Council is working with the Homes and Communities Agency to secure SHG for the remainder of Phase 1 and I am satisfied that the mechanisms proposed are the most appropriate and thus most likely to be successful.

3.20 Much of the funding for Phases 2 and 3 will be dependent on successful bids under the government's Private Finance Initiative (PFI). Since this is in essence a bidding process, there is no guarantee that the Council will be successful. However, so far as Phase 2 is concerned, the Council has been successful in its initial application in the Round 6 PFI process and has been invited to progress to the next stage. A 'soft market testing exercise' is being conducted to hone the subsequent bid process, in accordance with current guidance on PFI submissions. At the hearing the Council indicated that the exercise was proceeding satisfactorily and that the input from the housebuilding industry, which is a crucial part of the technique, had not led to concerns over the future viability of the overall scheme. Whilst the whole exercise will take a further three years, I recognise that the extent of the involvement of the Homes and Communities Agency thus far gives a clear indication that the bid is soundly based.

- 3.21 I am conscious that the PFI system cannot provide certainty for the funding of Phases 2 and 3, and I am also aware that its efficacy has been questioned in some quarters including recent comments by the National Audit Office. Nevertheless, it remains a cornerstone of government policy in terms of delivering major public sector led enterprises. Even if PFI subsequently ceases to be part of national policy, it is likely that some other form of funding structure would replace it and I do not consider that the Council can be faulted for formulating its strategy on the basis of current national guidance. A significant element of stability is assured since the Council controls the necessary land.
- 3.22 There are likely to be some additional development costs arising in the later stages. In particular, meeting CfSH level 6 will increase construction costs, but as this will apply to all new housing, it would not affect viability of the AAP proposals compared to schemes elsewhere. There is also likely to be a need for contributions to enhanced public transport in Phase 4, but this would be spread over a large number and proportion of private homes, reducing the impact on the cost of individual units. No change is required to the Plan in this respect.
- 3.23 However, changes to the national economic position mean that the public sector funding requirement has changed significantly since the Submission document was published in January 2009 and the Council has recalibrated its calculation of the requirement. **In order to make the Action Area Plan sound, the following changes should be made:**
- C5 Change the capital programme and funding shortfall figures in paragraphs 7.4.2 to £1.2bn and £169m respectively;**
 - C6 Change the capital programme and funding shortfall figures in paragraphs A7.1.24 to £1.2bn and £169m respectively and remove the last sentence referring to social housing grant;**
 - C7 Delete table A7.2 and replace it with the version in the Annex.**

Burgess Park

- 3.24 I am aware from discussions at the hearings that residents outside the plan area have concerns about the future uses to which Burgess Park might be put as the Council comes to deliver the objectives of Policy PL8. This is referred to at para 2.7 above. Whilst I acknowledge that there have been a number of proposals for built development in the Park which have been resisted in the past, the AAP does not include any schemes which in themselves would introduce a significant element of new buildings within the area, which is in any event designated as Metropolitan Open Land. Nevertheless, it seems to me that Policy PL8 could be clearer on this point and without a change to the wording the Plan would be unsound.

3.25 In order to make the Action Area Plan sound, the following change should be made:

C8 Policy PL8: second sentence after 'designed to' insert '....facilitate open space activities which will....'

Monitoring

3.26 For the most part the output indicators in Section 8 of the AAP are straightforward and they reflect where possible those already used by the Council in its Annual Monitoring Report and Corporate Plan. Some are necessarily less easy to quantify but a measure of the Plan's progress may need to be assessed by opinion surveys. One of the indicators for Policy PL2, however, required that a percentage of approvals meeting the Plan's design requirements should be recorded. The Council subsequently decided that this was too vague to be measurable and I agree with this assessment. Other indicators already in the Plan will be sufficient.

3.27 In order to make the Action Area Plan sound, the following changes should be made:

C9 Delete the indicator for Policy PL2 in Section 2.3 which refers to the percentage of approvals meeting design requirements.

4 Minor Changes

4.1 The Council wishes to make a number of minor changes to the submitted DPD in order to clarify, correct and update various parts of the text. Although these changes do not address key aspects of soundness, I endorse them on a general basis in the interests of clarity and accuracy. These changes are shown in the Annex with the prefix 'E' in the first column.

5 Overall Conclusions

5.1 I conclude that, with the amendments I recommend, the Aylesbury Area Action Plan DPD can be considered sound, that it satisfies the requirements of s20(5) of the 2004 Act and that it accords with the advice in PPS12.

B J Juniper

INSPECTOR