

New Southwark Plan Examination

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Programme Officer: Jacqueline Christie

2 June 2020

Dear Ms Seymour

New Southwark Plan Examination

1. Introduction

- 1.1 Thank you for your letter of 20 May 2020 which we found to be a helpful and constructive response to our initial letter. In moving the examination forward it is positive that the Council has already provided a number of additional evidence documents which are now on the examination website under 'Examination Documents'. We are also pleased to see that the Council is putting together additional evidence and material to assist the examination in response to points raised in our letter.
- 1.2 To maintain momentum with the examination we now set out a number of points in response to your letter.

2. Additional Consultation / What is "the submitted plan" under examination?

- 2.1 In our initial letter of 20 April 2020 we raised concern that the 'Amended Policies Version' [APV] consultation in 2019 did not appear to fully accord with the requirements of the Regulations. Accordingly, we welcome the Council's suggestion to undertake additional consultation prior to the examination hearings. We echo the Council's letter of 20 May 2020 in our view that this consultation would achieve the following:
 - (a) Ensure that anyone affected by the changes sought in the APV version are able to make comment prior to any discussion at the forthcoming hearings.
 - (b) Ensure that there is awareness and an early ability to comment on the Council's other proposed changes to the plan, as well as latest evidence and any other further early proposed changes to the Plan in response to our initial observations.
 - (c) Consultation now would enhance fairness and transparency for the forthcoming hearings and frontload the examination process in two ways: (i) where changes to the Plan are consulted on prior to the hearings and are not amended following the consultation or the

examination hearings those changes would not need to be reconsulted on again; and (ii) consultation on proposed main modifications after the hearings would focus solely on any changes discussed/agreed as part of the hearings process.

- 2.2 In line with the Regulations, we are of a view that the submitted plan (the starting point for the examination as of 16 January 2020) must be the Proposed Submission Version (PSV) of 2017/18, as the only version of the plan that has been subject to, in our assessment, a Regulation 19 compliant consultation.
- 2.3 Therefore, as part of the examination process, the 2019 APV content, the January 2020 tracked changes, together with any further changes agreed now in response to our initial letter, must be presented as “the Council’s Proposed Changes to the submitted Plan” and consulted on that basis. These cumulative changes cannot be described as a consultation on a ‘Proposed Submission Plan’ as it would post-date submission.
- 2.4 We will be taking into account all duly made representations on the 2017/18 Proposed Submission Version plan. We will also take into account those representations already received on the 2019 Amended Policies Version content. Accordingly, as part of the next consultation **we do not want people to re-submit representations that have already been made on either the PSV or APV plan content.** The consultation should be clear that the only representations the Inspectors want to receive are (i) from anyone who was unable to comment on the APV content and now wishes to do so; and (ii) anyone who now wishes to comment on the latest proposed changes and the latest evidence base.
- 2.5 We agree with the Council that the consultation will need to be very clear on what can be commented on. As well as a composite plan document which shows the changes (in the usual bold and underline for new text and strikethrough for deleted text) there should also be an accompanying and clearly referenced schedule of those proposed changes (drawn from both the APV changes, the tracked changes and any early changes stemming from our initial observations letter) that affect the substance/operation of the plan (those changes comparable to main modifications). Minor typographical changes/factual updates (consistent with additional modifications) do not need to be referenced but can be included in the composite document for ease of reference. When making comment, we would want representations to be clear which proposed change/main modification reference they were commenting on. We do not consider it necessary that the whole plan is reconsulted on again.
- 2.5 In respect of the January 2020 tracked changes, the Council is correct in its letter of 20 May 2020 that it is commonplace for the Council’s to present further proposed amendments to the plan on submission. In respect of Southwark, we need to be mindful that there are an appreciable

number of proposed changes in the January 2020 tracked changes (embedded in Document NSP01a). Linked to this is evidence base which appears to have been finalised in 2019 after the APV consultation. This is not a criticism of the Council, we appreciate plan-making is a demanding process, often balancing the timing of procedural requirements against available resources to finalise evidence base. However, additional consultation now on the tracked changes, pointing to any evidence base finalised between the end of APV consultation and submission in January 2020, would ensure better transparency of the eventual plan that the Council intends to adopt, rather than dealing with it through post hearing main modifications with the risk of having to re-open hearings again at a late stage of the examination, further protracting the process. Consulting on the tracked changes now would enable the examination hearings to efficiently focus on remaining areas of plan soundness.

- 2.6 The Council has provided some latest evidence during this early stage of examination, notably the Gypsy & Traveller Needs Assessment and the updated Habitat Regulations Assessment. Again, this is not unusual in plan examinations and it is helpful that it is available prior to hearings. We would advise that the Council considers carefully whether this latest evidence prompts any further changes the Council wishes to make to its Plan and where it does that these are also consulted on as part of this early 'Council's Proposed Changes to the Submitted Plan'.
- 2.7 We also note that the Council intends to update the Integrated Impact Assessment (IIA), update various background papers, include site-specific indicative capacities and include greater clarity on the overarching spatial strategy including a key diagram. We welcome this and look forward to seeing the work produced in the forthcoming weeks. We would also recommend that updated IIA is made available alongside the 'Council's Proposed Changes to the Submitted Plan' consultation with suitable signposting. In addition, we refer back to our initial letter and advise the Plan will also need an embedded housing trajectory. The detailed trajectory can be in an annex as suggested by the Council, but we expect to see in the Plan itself a summary trajectory and accompanying text on how a deliverable supply would be calculated in Southwark. Where we have already identified these changes would be necessary, there would be merit in the Council consulting on these now, again to enable a more focussed and efficient set of examination hearings. We appreciate that this may raise issues of delegated approval/sign-off.
- 2.8 We endorse the Council's proposals on consultation methods (akin to Regulation 19) bearing in mind the likely duration of the COVID-19 pandemic and the need to make reasonable efforts to ensure fair participation. The Council has outlined that it intends a 12 week consultation in line with its adopted Statement of Community Involvement (SCI). Table 10 of the 2008 SCI refers to an informal period of 6 weeks "before the formal 6 week period to make sure there is enough time." We

would be sympathetic to a shorter consultation period to maintain examination momentum (for example 8 weeks would amply exceed the 6 week minimum period). However, we accept that would require the Council amending its SCI. We note that the draft revised SCI [document O0001a] proposed an 8 week period for development plans (the statutory six week consultation period plus two weeks for advance notice). The Council will be aware that the Planning Practice Guidance on 'Plan-Making' as it relates to SCIs was updated on 13 May 2020 setting out current guidance on how and why SCIs could be updated.

- 2.9 In summary. The proposed submission plan can only be the 2017/18 Proposed Submission Version of the plan. We will have regard to representations already made on the Amended Policies Version in 2019 and hear from anyone who made comments at that stage who wishes to be heard. However, to ensure transparency and fairness we endorse the Council's suggested approach to undertake additional consultation at this early stage of the examination. The consultation will be confined to (i) allowing those who were unable to comment on the Amended Policies Version to now make representations on its content; and (ii) to enable wider comment on the Council's proposed changes (the January 2020 tracked changes and any other changes on or since submission) together with latest evidence base updates. We will work with the Council on ensuring the consultation assists the examination in that time taken now will make for more expedient process during and after the hearings.

3 Other Matters

Duty to Cooperate

- 3.1 The examination is now in receipt of all the Duty to Cooperate statements that the Council indicated it would provide at the point of plan submission. We have no further questions at this stage but will return to Duty to Cooperate when we issue our Matters, Issues & Questions for the hearings in due course. As you will be aware when considering the legal Duty to Cooperate we can only take into account that activity up to the point of submission (16 January 2020). It may well be the case that issues which are sometimes considered to be legal Duty to Cooperate matters are, in essence, matters of plan soundness. From our initial reading of the material, one area we are likely to explore further is in relation to Old Kent Road and dialogue with Lewisham on providing for employment needs within the wider area, including potential within the Surrey Canal Road/Bermondsey 'Dive Under' location.

Strategic Flood Risk Assessment (SFRA)

- 3.2 We are now in receipt of all of the SFRA documentation, including the Level 2 sequential test paper. Having had the opportunity to review these documents, it is clear that there are a number of allocations that fall

within more vulnerable uses (e.g. residential or mixed use developments that include residential) within Flood Zone 3. As the sequential test paper highlights, these need to be considered via the 'Exceptions Test' and this element does not appear to have been covered by the aforementioned documents. As such, the affected sites should be subject to the exceptions test in accordance with Paragraph 160 of the Framework and the national Flood Risk and Coastal Change guidance. If an Exceptions Test Paper was completed to accompany the forthcoming 'Proposed Changes' consultation that would assist later stages of the examination. We would also invite you to consider whether the outcomes of this paper reveal the need for any further modifications to the plan, and if so, these should be captured as part of the forthcoming consultation to enable comments to be submitted.

Habitat Regulations Assessment (HRA)

- 3.3 We are now in receipt of a revised HRA and latest correspondence from Natural England (1 May 2020), all of which is now on the Examination website. We have no further questions at this stage but reserve the right to return to it as part of our Matters, Issues and Questions in due course.

Conformity with the London Plan (Regulation 21)

- 3.4 We note the helpful response of the Council to information contained within the various background papers on conformity with the London Plan. We have also read the Duty to Cooperate Statement of Common Ground with the Greater London Authority. The Council's letter at Appendix 1 infers that a "general Statement of Conformity" is being prepared to clarify matters. We look forward to receiving that document in due course.

4. Moving Forward

- 4.1 As set out above, we are keen to maintain dialogue with the Council, through the Programme Officer (Jacqueline Christie), on moving the plan examination forward. This will include ensuring that the forthcoming consultation best supports the examination but will also include other areas of the Plan we may wish to clarify with the Council to ensure that future hearings are particularly focussed. This would be increasingly necessary were virtual hearings required if social-distancing measures remain in place for some time. In short, there may well be a number of matters that can be appropriately dealt with in writing rather than through hearings. Additionally, we welcome and support the Council's reference to potentially securing statements of common ground with representors. Where these statements can be secured, it is often beneficial to the examination, and again can help focus / structure hearing sessions on critical areas of plan soundness.

- 4.2 After the consultation on the 'Council's Proposed Changes to the Submitted Plan' we would intend to issue our Matters, Issues and Questions (MIQs) on those areas of plan soundness and legal compliance we want to focus on. Those MIQs will enable further statements to be prepared for the hearings. We will be setting a 4 week deadline for those statements. How soon the Council can instigate the consultation will be determinative on when the hearings take place. Realistically we are probably looking at December 2020 at the earliest.
- 4.3 At present in these COVID-19 times the starting point for the Inspectorate is that Local Plan hearings will be virtual events for the foreseeable future (see latest Inspectorate guidance on Local Plans issued 28 May 2020). Clearly, matters may well change if government guidance on events is updated, however, it is important that we maintain lines of communication through the Programme Officer as guidance/practice on virtual hearings evolves. At this early stage if the Council's Local Plans teams has any initial views or concerns on the practicalities of virtual hearings please raise them with us informally through Jacqueline and we will consider them carefully.
- 4.4 As set out in the Council's letter we are anticipating a number of additional documents. As has now been established, given we are in examination we will need to see and agree additional documents before they are uploaded on the examination website. We will also need to see and agree the forthcoming consultation content. The Council's letter indicates it will be consulting in June 2020 but perhaps in light of this letter, timescales are an area we can revisit through dialogue via the Programme Officer? We would be keen to support the Council getting to consultation as soon as possible.
- 4.5 We trust this letter is of assistance to the Council in moving matters forward but if there is anything on which you require further clarification please do not hesitate to contact us through Jacqueline.

Yours sincerely

David Spencer & Philip Mileham

Inspectors.