

Representation	Officer Response
<p data-bbox="185 316 398 347">Legal Compliance</p> <p data-bbox="185 355 465 419">Southwark Law Centre NSPPSV167.2</p> <p data-bbox="185 464 398 496">Legal compliance</p> <p data-bbox="185 501 1104 815">The inspector’s comments and Southwark Council’s subsequent approach In the first substantive letter sent by the examination’s appointed inspectors to Southwark Council dated 2 April 2020, concerns were raised about the extent of the changes from the 2017/2018 Proposed Submission Version (PSV) consultation on the proposed submission to date. We share these concerns, as well as those about whether a further consultation could remedy them. We submit that given the extent of the changes and the restrictions in place due to the Covid-19 pandemic, the current consultation is unable to adequately address the inspectors concerns.</p> <p data-bbox="185 823 1115 1428">This consultation has taken place with a remedied statements of representations procedure but we do not believe the consultation in its form as taken over the past 9 weeks has remedied the defect of the lack of clarity in the updated New Southwark Plan, along with additional evidence bases, which has meant most local people have not felt able to understand and engage with the consultation. This comment is made with the learning from outreach done by Southwark Planning Network and Southwark Law Centre to make sure that people in Southwark are aware of this additional consultation. We have heard back that the New Southwark Plan web page is very difficult to navigate, with two versions of the final plan on different pages of the dedicated website (one dated 7 February 2020 and one dated August 2020). This has led to considerable confusion, and the guidance from Southwark Council has been minimal, while the outreach for this consultation has been non-existent. There has been two mail-outs informing those registered with the council’s mySouthwark mailing list about the consultation. There have been no general or targeted online events and there were no socially distanced information points or events when these</p>	<p data-bbox="1137 464 2067 528">The consultation is set out in the consultation report, this will be uploaded on the website.</p> <p data-bbox="1137 571 1966 635">As the website is updated, the front page refers to specific document numbers in order to provide clarity.</p> <p data-bbox="1137 678 2067 959">A new Statement of Community Involvement is being prepared which sets out that the consultation required by the council through the planning application and plan-making process. A development consultation charter has also been introduced which sets out the minimum consultation requirements developments have to undertake. This also requires developers to submit an engagement summary setting out clearly engagement they have undertaken and setting out local concerns and how they have addressed them and how the feedback has shaped the development.</p> <p data-bbox="1137 1002 2000 1102">The consultation hub error was only reported at the last part of the consultation, once it was raised this was addressed immediately and the consultation was extended by a week as requested by respondents.</p> <p data-bbox="1137 1145 2011 1246">The Inspectors confirmed that the Examination in Public should continue, including consultation on the plan. Further government guidance can be found here.</p> <p data-bbox="1137 1289 1473 1321">Public Sector Equality Duty</p> <p data-bbox="1137 1329 2022 1393">Section 149 of the Equality Act 2010 provides that a public authority must have due regard to the need to:</p>

were permissible during the course of the consultation. There has been no effort to explain why another consultation is taking place and how people may be able to effectively engaged with it, as detailed in the Statement of Community Involvement. We also submit that this consultation has not been consistent with the public sector Equality Duty found at section 149 of the Equality Act 2010.

Additionally, Southwark Council's consultation hub suffered a malfunction which meant that respondents were not sure that their messages have been received, and if they did not click "no" to the last question their comments would not have been received. In conclusion, we submit that this consultation has been so fundamentally flawed that it does not constitute a Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 compliant consultation, and therefore is not a legally valid consultation.

It is also our view that Southwark Council have not been clear about why they are consulting on the New Southwark plan again, which has led to further confusion. We are of the view that the Inspectors comments could have been clearly summarised, which was not the case in documents explaining the occurrence of the additional consultation.

Non-compliance with statement of community involvement

We submit that the New Southwark Plan is not compliant with other sections of the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012. Firstly, this consultation is not compliant with Southwark Council's adopted statement of community involvement (which has not itself been amended to reflect the restrictions in place due to the COVID-19 pandemic).

The current Southwark Council Statement of Community Involvement was last adopted 12 years ago, in 2008. Section 10A (b) on the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012 state the following "in respect of a statement of community involvement, the review must be completed every five years, starting from the date of adoption of the statement of community involvement, in accordance with section 23 of the Act." The guidance on plan-making reflects this statutory provision and

1. eliminate discrimination, harassment, victimisation and any other prohibited conduct;
2. advance equality of opportunity between persons who share a relevant protected characteristic and those who do not;
3. foster good relations between those who share a relevant protected characteristic and those who do not.

The Public Sector Equality Duty (PSED) is not a duty to achieve a particular result, but rather to have due regard to the need to achieve the statutory goals. This means that in formulating the NSP, we must conscientiously consider the need to eliminate discrimination; advance equality of opportunity and foster good relations. In order to do so, we should consider how our policies are likely to affect those with protected characteristics (as defined in section 4 of the Equality Act).

We have prepared an Equalities Impact Assessment ("EqIA") to consider the potential impacts of its draft policies on different groups. The EqIA considers the impact of draft policy P11 on persons with relevant characteristics, and notes that the safeguarding of existing gypsy and traveller sites, subject to need, is expected to have a positive impact. It also recognises that the provision of policy criteria against which to assess potential new sites may have the effect of restricting the sites on which gypsy and travellers may be accommodated, which may result in some adverse effects, but considers that this is necessary in the interests of good planning.

The EqIA explains that the PPTS definition of gypsies and travellers does not include those who have ceased to travel permanently. Consistent with the PPTS, draft policy P11 does not seek to meet any wider need for pitches to meet the needs of settled gypsies and travellers, but the EqIA notes that the Council is committed to working to meet this wider need through other mechanisms outside of planning policy.

The EqIA demonstrates that we have considered the likely impact of draft

details that “Local planning authorities must review their Statements of Community Involvement every 5 years from the adoption date. It is important that Statements of Community Involvement are kept up-to-date to ensure effective community involvement at all stages of the planning process. Therefore, a local planning authority should regularly review and update their Statement of Community Involvement to reflect any changes to engagement.”

The Draft Statement of Community Involvement prepared in 2019 has not been adopted, nor fully consulted on because of the Covid-19 pandemic. It is therefore not clear that Southwark Council currently has a valid Statement of Community Involvement upon which to conduct this consultation. The consequence of this is that there is no legitimate expectation of how the community should be consulted that is up to date and therefore the current consultation is unlawful.

This consultation also runs contrary to various provisions in the current, out of date Statement of Community Involvement. The consultation was for 8 weeks, not 12 weeks as is detailed on the 2008 Statement of Community Involvement. As aforesaid, there have been no consultation events by the council aimed at engaging people, which has disproportionately impacted on more disadvantaged groups, particularly those who are digitally excluded. Furthermore, there has been no copy of the final plan made available for in-person inspection as required by the Statement of Community Involvement. Again this will have disproportionately impacted on the ability of those who are digitally excluded to engage with the plan consultation, and these are more likely to be people who were also excluded from the non-regulation compliant consultation in 2019.

Finally, in terms of the general context, we have very significant concerns that the additional consultation and the fact that the examination process is taking place during a global pandemic, the impact of which has been felt worse by the already most disadvantaged groups in the borough. For example, the local plan provides policies of the local economy and affordable housing when many people are struggling to keep their businesses afloat and struggling to pay their rent or mortgage repayments. We wish to emphasise

policy P11 on gypsies and travellers. The EqlA is intended to be a ‘live’ document that is continually updated. We will consider further whether the decision to provide pitches to meet only those falling within the PPTS definition is likely to disproportionately affect particular groups of people with protected characteristics.

that we write this comment as England prepares to enter another month long lockdown on 5 November 2020 to curb the increasing Covid-19 infection rates. We submit that it is not appropriate for Southwark Council to be re-consulting on a vastly amended local plan, which is the most important planning policy in the borough, in the current circumstances.

The Equality Act 2010 – section 149 and the public sector equality duty Southwark Council seeks to demonstrate that it has complied with the Public Sector Equality Duty (PSED) in its Local Plan preparation through the Integrated Impact Assessment (“IIA”) which accompanies the New Southwark Plan and has been updated with each new draft. The IIA aims to fulfil the Council’s legal and policy requirements to produce a Sustainability Appraisal, Strategic Environmental Assessment, Equalities Analysis and Health Impact Assessment.

The IIA fails to comply fully with Southwark Council’s duties under the PSED for three main reasons. First, insufficient baseline information on equalities has been collected to enable the Council to take a properly informed decision on whether the policies in the plan advance equality of opportunity between those with and without protected characteristics or foster good relations. Second, while the IIA’s framework objectives and sub-criteria for assessment rightly seek to test the Plan policies for impacts on different specified groups, the actual analysis of site visions, strategic policies and development management policies is thin, uses boilerplate clauses and does not delve deeply enough into the consideration of the potential impact of policy on groups with different protected characteristics. Southwark Council has failed to follow its own stated aim of assessing whether its policies are effective for all target groups. To some extent, this is a direct consequence of the fact that insufficient baseline evidence has been gathered, as this evidence is necessary to properly consider the potential impact of Plan policies. The analysis in the IIA also makes no attempt to model how the long term benefits of policy compliant development will be far-reaching and will significantly narrow the inequality gap. Rather it simply assumes that the benefits of regeneration will be accessible to all. Third, there has been a

wholesale failure to consider the impact of the policies in the New Southwark Plan on one group protected by the Equality Act 2010, namely Gypsies and Travellers. We support the submission made by Southwark Traveller Action Group in this regard.

Representation	Officer Response
<p>Policy Compliance</p>	
<p>Southwark Law Centre NSPPSV167.3</p> <p>Policy compliance Consistency with the declaration of a climate emergency Southwark Council made a declaration of a climate emergency in March 2019. This declaration is now reflected in Strategic Policy SP6, reason number 1 which states “The Council has declared a climate emergency with the ambition to meet climate neutrality by 2030.” Despite this express commitment, there is very little evidence that this declaration has influenced further drafts of the New Southwark Plan. The New Southwark Plan, in its current form, is inconsistent with this declaration.</p> <p>Whole-life cycle carbon emissions The New Southwark Plan has no policies for reduction of embodied carbon in the manufacturing and construction stage of development. There is no policy on whole life-cycle assessments for developments. These emission during the manufacturing, transportation, construction and end of life phases of all built asset, commonly referred to as embodied carbon, have largely been overlooked historically but contribute around 11% of all global carbon emissions. Carbon emissions released before the building or infrastructure begins to be used, sometimes called upfront carbon, will be responsible for half of the entire carbon footprint of new construction between now and 2050.</p> <p>In particular, we are concerned that the draft New Southwark Plan does not have a policy on how to assess whole life cycle carbon emission, equivalent to paragraph 9.2.1 of the new London Plan. This paragraph states “to fully capture a development’s carbon impact, a whole life-cycle approach is needed to capture its unregulated emissions (i.e. those associated with cooking and small appliances), its embodied emissions (i.e. those associated with raw material extraction, manufacture and transport of building</p>	<p>The draft Corporate Climate Strategy is still in the process of being developed and going through consultation. The details as set out in this strategy once adopted will be reflected in the NSP policy. The strategy itself follows the declaration of a Climate Emergency as set out in SP6.</p> <p>The New London Plan and the Climate Change Act as legislated by the UK government set out a target to meet net carbon zero by 2050. As demonstrated in the Energy Background Paper (2020), the policies in the NSP are designed to meet this target to align with national and regional planning policy and planning policy guidance, and law. As a council, we have declared a Climate Emergency and set a target to meet net carbon zero as a borough by 2030. This policy will be reviewed in the context of this target which is only based on a council declaration. This is set out in the Environmental Committee Scrutiny Report November 2020.</p>

materials and construction) and emissions associated with maintenance, repair and replacement as well as dismantling, demolition and eventual material disposal).”

There is no strategic policy addressing specifically climate change and noting the impact of greenhouse gas emissions to global warming. There is no policy, equivalent to London Plan Policy SI 2, on minimising greenhouse gas emissions. The New Southwark Plan is therefore unsound and inconsistent with regional policy (the London Plan) in this respect. Furthermore, we believe that without a policy on minimising greenhouse gas emissions, policy P64 on improving air quality remains unsound as it is not positively prepared or effective in terms of its claim to improved air quality and mitigate the effects of poor air quality. We are also concerned that this policy lacks a proper evidence base, therefore so starting point to monitor progress from so that it can be assessed as to whether it is achievable.

We also consider that the following matters should be addressed and re-considered in light of the declaration of a climate emergency:

1. Transport and travel – We are of the view that the New Southwark Plan should take into account all sustainable methods of transport, for example including the consideration of a tram to connect the Old Kent Road area from the north to the south of the Borough more effectively. (Policies P48 – P54)
2. Increase/improve the number, the quality and the diversity of trees. (policy P60)
3. Increase green corridors in the borough and contribute a strategy for large scale urban greening, which would also mitigate overheating in the borough and contribute to the flood defence strategies. (Policy 56)
4. There should be a policy on recycling and the repurposing of existing buildings.

5. There should be a proactive approach to reducing fuel poverty.
(Policy P68 and P69)