

| Representation | Officer Response |
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| <p data-bbox="188 316 365 343">Evidence Base</p> <p data-bbox="188 355 544 421">DP9 on behalf of British Land NSPPSV158.6</p> <p data-bbox="188 464 474 491">Updated Evidence Base</p> <p data-bbox="188 501 1111 703">Following the Inspector’s letter dated 20th April 2020, Southwark Council was required to provide supporting evidence that was either missing or required updating. Whilst Southwark Council’s response letter dated 20th May 2020 provides a summary of the main clarifications/changes to the evidence base, it is very unclear what the specific changes to each document are.</p> <p data-bbox="188 715 1111 887">Without tracked changes, it is impossible to review how the documents have been amended. In particular, clarification on what changes/updates have been made to the following documents is sought so that we can be certain not to have missed any important changes to the new policies / supporting documentation / evidence base materials:</p> <ul data-bbox="188 895 1111 1251" style="list-style-type: none"> • Health impact assessment (updated July 2020) (EIP77) • Updated Equalities Analysis Impact Assessment (updated July 2020) (EIP76A–C) • Statement of Conformity and legal checklist (EIP75) • Updated Integrated Impact Assessment – IIA (EIP72) • Habitats Regulation Assessment (updated April 2020) (EIP23) • Updated Statement of Common Ground with Environment Agency (July 2020) (EIP64) • Southwark Site Allocations Methodology Paper (updated July 2020) (EIP82) • Tall building background paper (July 2020) (EIP54) <p data-bbox="188 1259 1070 1321">In addition, the Heritage supplementary planning document Consultation Version (July 2020) (EIP55)</p> <p data-bbox="188 1329 1021 1391">has not been uploaded to the consultation website so it has not been possible to review this document.</p> <p data-bbox="188 1399 1010 1430">Further, it is unclear if the Energy Background Paper (EIP59) is a new</p> | <p data-bbox="1140 464 2051 526">The evidence base documents provide a summary at the start to detail main changes to the document.</p> <p data-bbox="1140 571 1731 598">The Heritage SPD will be uploaded in due course.</p> <p data-bbox="1140 643 1738 670">The new energy background paper was prepared.</p> |

document and what the purpose of this report is.
In addition, the Heritage supplementary planning document Consultation Version (July 2020) (EIP55) has not been uploaded to the consultation website so it has not been possible to review this document. Further, it is unclear if the Energy Background Paper (EIP59) is a new document and what the purpose of this report is.

Jason Leech Camberwell Society's Representations
NSPPSV365.10

Heritage policies

3.1 The 'Documents for consultation on Proposed changes to the Submitted New Southwark Plan (August 2020)', available on the LB Southwark webpages, made reference to 'EIP55 - Heritage supplementary planning document Consultation Version (to be uploaded)'. No document was available throughout the consultation and, indeed, on 27 October, all reference to it in the evidence base was removed. The Statement of Common Ground with Historic England also appears out of date. (Active enquiries are been made.) Absent a robust evidence base, it strikes the author that all the heritage-related policies are unjustified and need to be subject to further, proper consultation before they can be considered legally compliant.

3.2 Further consultation is of material importance because, overall, the heritage policies are a bit thin by comparison to the more detailed saved heritage policy of the 2007 UDP (Policies 3.15-3.18) or heritage policies of other boroughs (eg. RB Kensington & Chelsea) which continue to adopt a more prescriptive approach. There is nothing wrong, in principle, with adopting a high-level, light-touch approach. Southwark's skeletal policy framework may be fleshed out clearly and substantively in the will-o'-wisp Heritage SPD, in the same way that LB Hammersmith & Fulham's Planning Guidance SPD (2018) fleshes out the 2018 Local Plan policies in substantial and very useful detail. The problem is that without the flesh on the bones,

The Heritage SPD is not an evidence base it is further guidance.

The Heritage policies are sound and contain all of the relevant information for decisions to be made about planning applications. SPD is guidance to the policy and provides further detail and is not part of the development plan for examination.

The council's emerging Heritage SPD that will shortly undergo public consultation. It provides detailed guidance on how to apply the relevant policies of the Southwark Plan and the emerging New Southwark Plan concerning the historic environment. It will also guide the process of deciding which buildings should be added to the council's list of unlisted Buildings of local interest.

The Heritage policies are sound. They follow the approach set out in the revised NPPF (2019).

the author cannot tell whether LB Southwark's overall approach to heritage is consistent with national policy (specifically para. 185 of the NPPF), conservation best practice (as laid out by Historic England) and, ultimately, justified. The absence of a satisfactory evidence base for heritage strikes at the heart of the Plan's soundness in terms of heritage.

3.3 The concomitant question is whether the New Southwark Plan benefits from having five separate, thin and repetitious policies for heritage assets (plus one for archaeology which is distinct) instead of a single policy addressing all the distinctions (between listed buildings and conservation areas, say) through sub-clauses.

3.4 The absence of policy detail notwithstanding, there are several problematic threads running through the New Southwark Plan's heritage policies. These are:

- the (apparent) obligation to enhance heritage significance;
- proportionality;
- statements of significance.

The (apparent) obligation to enhance heritage significance

3.5 The phrase 'conserves and enhances' appears throughout the New Southwark Plan as an obligation (rather than an ambition):

'Development...will only be permitted if it conserves and enhances...'. This is a direct departure from the saved UDP heritage policies (3.15-3.18), all of which use the phrasing 'preserve or enhance'.

3.6 The departure is demonstrably retrograde and problematic. Although the enhancement of heritage assets can and should be encouraged, it should be one of the Council's ambitions. It cannot be an obligatory requirement for development. To 'conserve and enhance' is, moreover, a non sequitur of mutually exclusive actions.

3.7 This obligation on developers is inconsistent with national policy, statute and well-established case law. The judgement in *South Lakeland District Council v Secretary of State for the Environment* [1992] 1 All E.R. 45 held that while the intention of the 1971 Act, as well as its successor (the Planning (Listed Buildings and Conservation Areas) Act 1990), was that a high priority be given to the preservation or enhancement of the character or appearance

of a conservation area, that object could be achieved either by a positive contribution to preservation or enhancement or by development that left character or appearance unharmed. The lawful policy requirement, therefore, is the avoidance of harm to heritage assets; not their proactive enhancement.

3.8 All proposed policies referring to Southwark's heritage must, therefore, be rephrased to read 'conserve or enhance...' or 'preserve or enhance...' where it refers to the obligations of an applicant rather than the Council's overall ambitions. This would follow the statutory phrasing in the 1990 Act and the interpretation of the Council's general duty in s72 of the Act as defined by case law.

Proportionality

3.9 When re-drafting the policies to conform with law, thought should be given to conveying the importance of proportionality in the exercise of development control. With the exception of proposed Policy P22: Archaeology, none of the other heritage policies in the New Southwark Plan make the point that the conservation of heritage assets must be 'commensurate to their significance', even though this is a fundamental aspect of managing change to the historic environment.

3.10 Para. 184 of the NPPF states that heritage assets are 'an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.'

3.11 In its Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment (2008), Historic England has established a framework through which change to the historic environment can be managed objectively and effectively. The leitmotiv of the Conservation Principles is proportionality. Specifically, Conservation Principle 5 states that:

'5 Decisions about change must be reasonable, transparent and consistent
5.1 Decisions about change in the historic environment demand the application of expertise, experience and judgement, in a consistent, transparent process guided by public policy.'

5.2 The range and depth of understanding, assessment and public engagement should be sufficient to inform and justify the decision to be made, but efficient in the use of resources. Proportionality should govern the exercise of statutory controls.

5.3 Potential conflict between sustaining heritage values of a place and other important public interests should be minimised by seeking the least harmful means of accommodating those interests.

5.4 If conflict cannot be avoided, the weight given to heritage values in making the decision should be proportionate to the significance of the place and the impact of the proposed change on that significance.'

3.12 The proposed policies' wording should be rephrased accordingly. Policies' reasoned justification would benefit from reference made to paras. 193-197 of the NPPF and to Historic England's Conservation Principles.

3.13 Alternative sample wording can be found in Policy DC8: Heritage and Conservation of the Hammersmith & Fulham Local Plan (2018) which reads: 'a. the presumption will be in favour of the conservation, restoration and enhancement of heritage assets, and proposals should secure the long term future of heritage assets. The more significant the designated heritage asset, the greater the presumption should be in favour of its conservation.'

Statements of significance

3.14 With NPPF para. 185 in mind, paras. 189 and 190 take on a critical importance. In the New Southwark Plan there appears to be limited care about the need for applications to be determined with reference to a robust statement of significance. In practice, the NPPF's 'minimum requirement' that the historic environmental record be consulted is routinely disregarded because LB Southwark currently has no system in place to provide the historic planning record for individual properties in the way other boroughs do. Also, of the 48 conservation areas in Southwark covering about a quarter of the borough, 36 have a conservation area appraisal (and many of these are well over a decade old). Both in policy and practice, this situation is not unacceptable in a local authority which has (as the New Southwark Plan points out) 2,500 listed buildings.

3.15 Reference must be made in the New Southwark Plan to the national

policy requirement for a statement of significance to accompany applications for the redevelopment of heritage assets, as appears in other local plans.

Sample wording from Hammersmith & Fulham's Policy DC8 again:

'g. applications should include a description of the significance of the asset concerned and an assessment of the impact of the proposal upon it or its setting which should be carried out with the assistance of a suitably qualified person. The extent of the requirement should be proportionate to the nature and level of the asset's significance. Where archaeological remains of national significance may be affected applications should also be supported by an archaeological field evaluation.'

3.16 Hammersmith & Fulham's Planning SPD supplements Policy DC8(g) with the following two Key Principles:

'Key principle - AH1: Information requirements for applications for consent affecting heritage assets

The council will require an applicant to provide a description of the significance of the heritage assets affected and the contribution of their setting to that significance.

Key principle - AH2: Protection of Heritage Assets

There will be a presumption in favour of the conservation of heritage assets and the more significant the heritage asset, the greater the presumption in favour of its conservation will be. The council will seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal (including by development affecting the setting of a heritage asset) taking account of:

- (i) evidence provided with the application
- (ii) any designation records
- (iii) the historic environment record and similar sources of information
- (iv) the heritage assets themselves
- (v) the outcome of the usual consultations with interested parties; and
- (vi) where appropriate and when the need to understand the significance of the heritage asset demands it, expert advice (from in-house experts, experts available through agreement with other authorities, or consultants, and complemented as appropriate by advice from heritage amenity societies).

Where the loss of the whole or a material part of a heritage asset's significance is justified, the council will require the developer to record and advance understanding of the significance of the heritage asset before it is lost, using planning conditions or obligations as appropriate.'

3.17 Key principle AH1 very sensibly creates an information requirement which is underpinned by Article 7(1)(c)(ii) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Para. 5.7 of the Planning SPD thereby goes on to state that:

'the council will not validate applications where the extent of the impact of the proposal on the significance of any heritage assets affected cannot adequately be understood from the application and supporting documents.'

3.18 This is not an onerous requirement on developers. It is entirely proportionate to the statutory responsibility owners have as custodians of their listed properties.

3.19 When placing such an obligation on developers, however, a system underpinning applicants' and officers' ability to consult the historic record must also be put in place if heritage policy is to be effective. Currently, it appears to the author that proper assessment of proposals to heritage assets in LB Southwark is defective. Anecdotally, over the past year alone, a not insignificant number of applications have been determined on the basis of heritage significance and historic development which applicants or officers have simply made up to justify their development aims or instinctive prejudices. It is expected that the author's representations to senior officers to create a service to provide applicants with historical planning records will be implemented prior to adoption of the New Southwark Plan.

3.20 With regard to conservation areas, LB Southwark must accelerate the writing and updating of conservation area appraisals pursuant to its statutory obligations under s69 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To leverage its limited resources, the Council is recommended to enlist the support of local amenity societies which have rich local knowledge and may be able to competently produce a Historic Area Assessment (HAA) for new areas which warrant conservation area designation.

3.21 Similarly, if the Council's ambition is to enrich its understanding of its history and (lost) heritage, the provisions of para. 199 of the NPPF (also Hammersmith & Fulham's Key principle AH2) should also appear prominently within its heritage policies:

'Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible'. This requirement will likely be fulfilled by virtue of the submission of a substantive statement of significance and will, therefore, not be any more onerous on agents of change than the information requirements of an application for listed building consent and/or planning permission.

WSP on behalf of Apex Investment Group Ltd
NSPPSV474.6

EVIDENCE BASE DOCUMENTS

Current Draft Old Kent Road Area Action Plan (December 2017)

The site has been identified by the Council as being able to deliver residential and commercial floorspace as part of the current Draft Old Kent Road Area Action Plan ("OKR AAP"), published in December 2017, within the Marlborough Grove and St James's Road Masterplan area (ref. OKR11) in the Cantium Retail Park and Marlborough Grove sub-area. The age of this document and its draft status affords it limited weight and limits its usefulness as a framework for developments coming forward within the Old Kent Road OA now. We understand that the next iteration of the OKR AAP will be published before the end of 2020 and will be subject to an informal consultation before formal consultation under Regulation 19 and submission to the Secretary of State for Examination later in 2021.

We would anticipate that in the preparation of this new document, which will need to be subject to the Regulations to be afforded development plan status, the Council will take steps to engage with the landowners of sites proposed for allocation within the masterplan area to ensure the delivery of

The Old Kent Road Area Action Plan will be subject to public consultation in January 2021.

The Heritage SPD will be uploaded in due course. This will subject to public consultation.

P16 is considered compliant with the Mayor's adopted London Plan (2016) and the emerging draft New London Plan, as the workings of our plan-led approach is set out in the emerging Tall buildings background and research paper with an urban context evaluation section mapping out constraints within the Borough. Further to this specific site allocations have been identified to anticipate tall building development within the guidance section to ensure that there is a clear plan-led approach to constructing tall buildings. The background and research paper also discusses how 'appropriate, sensitive and in appropriate locations' have been identified. The detail of heights however shall not be covered in the NSP as it is a strategic policy document, but rather in the AAP or SPD associated to the

new homes and employment floorspace within the Old Kent Road area, in accordance with the requirements of the New Southwark Local Plan.

Heritage Supplementary Planning Document Consultation Version

It is assumed that this document will provide additional guidance on the application of draft Policies P20 and P25 in the Proposed Changes to the Submitted New Southwark Plan (referred to earlier in this representation). However, at time of writing, this document has not been uploaded to the Examination Library or list of consultation documents.

Tall Buildings Background Paper (June 2020)

Paragraph 1.5 of the document states:

“The London Plan requires Development Plans to map the locations where tall buildings will be an appropriate form of development in principle and to indicate the general building heights that would be appropriate. This should be based on the visual, environmental and cumulative impacts of tall buildings and their potential to contribute to new homes, economic growth and regeneration and their public transport accessibility.”

Like draft Policy P16, Figure 3, included on p4 of the document, does not provide sufficient detail to provide a clear understanding of where tall buildings will be appropriate within OA's, as required by the London Plan. It is acknowledged that applications will be considered on a site-by-site basis and that other locations may also be deemed suitable where appropriate, but no further guidance is given as to the circumstances within which a tall building could be demonstrated to be suitable through the application process. It is clear that a one-size-fits all approach to the locations of tall buildings should be avoided, in order to maximise site efficiencies especially within Opportunity Areas.

In line with the adopted London Plan, p6 of the document states: “In large areas of extensive change, such as Opportunity Areas, the threshold for what constitutes a tall building should relate to the evolving (not just the existing) context.”

At paragraph 7.6, the document refers to the Council's use of a VU.CITY

area vision of the site allocation.

VU City modelling will be required with the submission of planning applications. The Old Kent Road Area Action Plan also includes VU City modelling of tall buildings.

310-330 St James's Road falls within site allocation NSP64, the indicative residential capacity is provided for the wider site in the plan. Further information of phasing of sites is provided in the Site Allocations Methodology Report.

model to enable a greater understanding of developers' proposals in context. However, no VU.CITY modelling for the Old Kent Road Area Strategy set out on p35 of the background paper has been included in the document. This is a significant failing.

The Old Kent Road OA Strategy states that the emerging OKRAAP is due to be submitted in early 2020 and adopted in November 2021. At time of writing, the emerging OKRAAP referred to in the Old Kent Road Area Strategy has not been published and is due to be published for informal consultation in December 2020. We are concerned that the Tall Buildings Background Paper and Old Kent Road Area strategy for tall buildings which is included within the document, merely seek to justify the Council's approach to the location of tall buildings, as opposed to providing a clear and justified evidence base, to justify the tall buildings policy in the New Southwark Plan. The emerging OKRAAP must include VU.CITY modelling undertaken on development proposals coming forward within the masterplan area so that the emerging masterplan context can be properly taken into consideration when assessing the potential of individual sites to accommodate tall buildings.

310-330 ST JAMES'S ROAD, BERMONDSEY

The development of 310-330 St James's Road offers an opportunity to delivery high quality residential-led development of circa 200 homes and new employment floorspace on site which is proposed for allocation in the New Southwark Plan.

An Old Kent Road Information update on the emerging draft AAP produced in March 2020 by Makower Architects shows a building of 38 storeys immediately to the rear of our client's site on the Six Bridges Trading Estate. Being planned to the west of this tower are three stepped towers of 14, 12 and 8 storeys with heights ascending towards Old Kent Road (north to south) and stepping up from St. James's Road (east to west). Based on the existing and emerging site context within the Old Kent Road masterplan area, there is clear potential for a tall building of over 30 metres at 310-330 St James's Road.

The development of a tall building at 310-330 St James's Road is capable of

delivering the following benefits within the Old Kent Road OA:

- ☒ Mixed use, residential-led development within an identified regeneration area on a site proposed for allocation in the New Southwark Plan;
- ☒ The development of circa 200 homes across a range of sizes, including the provision of family homes;
- ☒ The provision of 35% affordable housing (25% social rented and 10% intermediate);
- ☒ The re-provision of industrial floorspace, and the creation of new, high quality multifunctional employment floorspace, including 10% affordable workspace;
- ☒ The provision of private and communal amenity space and playspace and a contribution towards public open space within the Old Kent Road OA;
- ☒ Car-free development with wheelchair accessible spaces and cycle parking;
- ☒ The provision of predominantly dual-aspect units and exemplary sustainable design;
- ☒ The delivery of significant improvements to the current physical environment along St James's Road and the existing streetscape; and
- ☒ The creation of new pedestrian linkages through the site to the rest of the evolving masterplan area.

Our client is currently in pre-application discussions with the Council and a planning application is due to be submitted in early 2020. The site is, therefore, capable of coming forward for development within the next five years to deliver much needed new homes and affordable housing within the Old Kent Road OA and the allocation should be amended to reflect the clear potential of the site to deliver circa 200 new homes.