

Item No. 16.	Classification: Open	Date: 22 October 2013	Meeting Name: Cabinet
Report title:		Peckham and Nunhead Area Action Plan: Table of Potential Main Modifications required by the Inspector	
Ward(s) or groups affected:		Peckham, The Lane, Livesey, Peckham Rye, Nunhead	
Cabinet Member:		Councillor Fiona Colley, Regeneration and Corporate Strategy	

FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY

Following the examination in public this summer we have received from the Planning Inspector a number of potential changes to the Peckham & Nunhead Area Action Plan which he may decide to make in his final report to the council. At this stage he simply requires the council to consult on these possible changes and not to comment on them. The council will make comments after the consultation process has been concluded in January

RECOMMENDATIONS

That cabinet:

1. Agree to formally consult on the potential main modifications to Peckham and Nunhead Area Action Plan (AAP) publication/submission version (Appendix A). The table of potential main modifications required by the Planning Inspector, subject to consultation is set out in Appendix B.
2. Note the Inspector's post hearing note, setting out the requirement to consult on the potential main modifications (Appendix C).
3. Note the minor updates to some of the supporting documents: the sustainability appraisal (Appendix D), the equalities appraisal (Appendix E), the proposed adopted policies map (Appendix F) and the schedule of proposed changes to the adopted policies map (Appendix G).

BACKGROUND INFORMATION

Background to the AAP

4. We are preparing an area action plan (AAP) for Peckham and Nunhead. The AAP will form part of Southwark's development plan and will be used to make decisions on planning applications. Whilst the AAP must be in general conformity with the London Plan (2011) and the Core Strategy (2011), it can adapt some of these policies to reflect specific issues in Peckham and Nunhead. Alongside the Core Strategy, it may also replace some of the saved Southwark Plan (2007) policies.

5. The AAP covers the majority of the area covered by the Peckham and Nunhead community council, covering Livesey, Peckham Rye, The Lane, Peckham, and Nunhead wards. Small parts of Livesey and Peckham Rye wards are outside the AAP boundary.
6. The AAP has been prepared over a number of years, with six stages of consultation taking place between 2006 and 2012. The most recent stage of consultation was the publication/submission consultation from September to December 2012. This consultation was on the draft AAP. It sets out a detailed vision for Peckham and Nunhead which builds on the vision in the Core Strategy. It sets policies to make sure that over the next fifteen years we get the type of development to deliver the vision. It includes a section on delivery which sets out how the policies and necessary infrastructure will be implemented.
7. The publication/submission version of the AAP was taken to cabinet and council assembly for agreement for formal consultation and submission to the Secretary of State, on 25 September 2012 and 17 October 2012 respectively.
8. The AAP was submitted to the Secretary of State for independent examination in March 2013. The Secretary of State subsequently appointed a Planning Inspector to examine the AAP.
9. The appointed Inspector wrote to the council on 26 April 2013, asking for the council's early response on a range matters. Within these matters he raised a number of concerns where he considered a 'main modification' may be required. Main modifications are changes that are considered significant changes to a plan, which require consultation before being able to be adopted as part of the plan. The Inspector is able to direct the council to make main modifications in order to make a plan sound. He is also able to consider main modifications suggested by the council after their final stage of consultation. In this case, the council proposed one main modification to the Inspector for consideration based on his April note, and a number of minor modifications to provide clarity to the plan and factual updates.
10. An examination in public (EiP) took place from 23 July to 1 August 2013. At the EiP the Inspector considered the soundness of the AAP and whether the council has followed the correct procedural and legal requirements in preparing the AAP. He asked both the council and objectors to put forward their views on a number of issues and questions.

The Inspector's post hearing note- potential main modifications to be subject to consultation

11. Following the EiP, the Inspector wrote to the council on 21 August 2013 to identify potential changes to the AAP which the Inspector wishes to be the subject of further consultation to enable the Inspector to possibly include them as main modifications in his final report.
12. He asks the council to prepare a table of main modifications to reflect his post hearing note (Appendix C), which he requires the council to consult on. He also requires the council to prepare a list of minor changes to the AAP which we must make public alongside the main modifications, but need not be subject to consultation. The Inspector can only direct the council on main modifications. Minor modifications can be agreed by the council.

13. At the moment the Inspector is simply asking the council to consult on these main modifications and not to comment on the appropriateness of the potential main modifications. He sets out that the council will have the opportunity to express their views on these potential changes after the consultation process has been concluded.
14. Once consultation has closed, the council will send the representations received to the Inspector along with the council's comments on the potential main modifications. The Inspector will then publish a report with binding recommendations, expected for receipt in Summer 2014. The council can then choose to adopt the final AAP with any main modifications required by the Inspector, or to withdraw and go back to informal consultation. If we choose to adopt the AAP, it will be taken to council assembly for adoption.

KEY ISSUES FOR CONSIDERATION

The Inspector's post hearing note

15. The Inspector's post hearing note (Appendix C) sets out a number of potential main modifications requiring consultation. These are set out below. As stated above, the council cannot provide the Inspector with comments on the appropriateness of these main modifications at this stage, but there will be an opportunity to do this at a later date.
16. The note also refers to the need for the council to prepare a table of proposed minor changes to include minor factual updates to the AAP. These changes need to be made public alongside the table of main modifications but are not required to be consulted upon and the Inspector cannot comment on these minor changes. The minor changes will be agreed in a separate report by the director of planning, in consultation with the cabinet member for regeneration and corporate strategy.

The potential main modifications

17. The full table of potential main modifications, subject to consultation is set out in Appendix B.
18. *Policy 4: Hot food takeaways.* We previously suggested what we felt were minor changes to policy 4: Hot food takeaways to factually correct the location of Tuke School and to make it clear that the figure showing the schools is indicative as the policy restricts hot food takeaways around all secondary schools, whose location might change across the lifetime of the plan. The Inspector requires this change to be considered as a main modification.
19. *Policy 6: Business space.* The Inspector requests the policy be amended to include reference to artist and creative enterprises within the policy and the supporting text. Whilst we already refer to this within other policies, his view is it also needs to be referred to within policy 6 for the AAP to be sound.
20. *Policy 17: Affordable and private homes.* The Inspector is content with the minimum 35% affordable policy but requires the wording 'subject to financial viability' to be inserted into the policy. This is already the requirement within Core Strategy policy 6 and the Affordable Housing SPDs so the change is simply to repeat existing borough-wide policy.

21. The Inspector also requires a further change to this policy, the supporting text and the fact box on affordable housing to try and resolve the issue of non-conformity with the London Plan. At the publication/submission stage of consultation the Greater London Authority issued the council with a letter of non-conformity with the London Plan, asking the council to include the product 'Affordable Rent' within the affordable housing policy. No resolution could be reached between the council and the GLA on this, and so the GLA attended the EiP to put forward their view that the AAP is not in conformity with the London Plan. The Inspector is pragmatically proposing that the council removes the AAP requirement for 50% social rented and 50% intermediate and makes a commitment to looking at this borough-wide through the New Southwark Plan. He says that this will enable the AAP to be in conformity with the London Plan. The GLA agreed on this approach. This will mean that the council continues to use saved Southwark Plan policy 4.4 until the New Southwark Plan is prepared, which requires a split of 70% intermediate and 30% social rent. The Inspector has considered the Revised Early Minor Alterations (REMAs) to the London Plan in preparing his post-hearing note, along with the Inspector's Report into the REMAs and the Mayor's response to the REMAs. However, at the time of his note and at the time of this cabinet report, the Mayor has not yet adopted the REMAs. The council, along with a number of other London boroughs is applying to judicially review the REMAs. The council and many other boroughs feel that the REMAs go further than is intended by the National Planning Policy Framework, removing the flexibility that boroughs should have to develop their own affordable housing policies to reflect their local needs and circumstances. The Inspector may need to consider this further once the REMAs are adopted.
22. *Policy 26: Building heights.* English Heritage objected to parts of this policy, both in terms of the proposed building heights and the need to cross refer more clearly to the built heritage. The Inspector accepts the proposed building heights but requires the policy to be reworded to place more of an emphasis on the built heritage.
23. *Policy 45: Proposals sites.* The Inspector requires the deletion of wording setting out that the policy requirements in the proposals sites schedule must be met for planning permission to be granted.
24. *Presumption in favour of sustainable development.* In the Inspector's April note, he asked the council to include a generic policy on the presumption in favour of sustainable development, in accordance with the National Planning Policy Framework in order to ensure a sound plan. The council subsequently suggested a main modification to this effect.
25. *Proposals site PNAAP1: Aylesham Centre.* The Inspector asks us to make it clear that the capacity figure for Aylesham Centre is additional to what is already there.
26. *Proposals site PNAAP2: Cinema/Multi-storey car park.* The Inspector is of the view that there is not enough evidence to justify including this site within the AAP due to its existing temporary uses and the existing cinema use. He asks for removal of this designation and within the table linking back to saved Southwark Plan policies, to remove to saved proposals site designation 69P for clarity. He suggests that the council relook at this designation through the preparation of the New Southwark Plan.

27. *Proposals site PNAAP4: Copeland Industrial Park.* The inspector requires the “required land use” of B use class to be defined as Class B1. This will make it clear that it is not suitable for industrial uses but more office based B1 uses, as discussed with the site owners at the EiP. This is the intention of the policy.
28. He also asks for the inclusion of wording to say ‘the continued use of the Bussey building by creative and artistic enterprises will be supported and encouraged.’
29. *Proposals site PNAAP 6: Peckham Rye Station.* The Inspector asks for a change to include an updated figure/map highlighting Blenheim Court and wording to say that it will be retained and made available for Class B1 business use and that the continued use of these premises by creative and artistic enterprises will be supported and encouraged.

Consultation

30. The Planning and Compulsory Purchase Act 2004 (amended 2008), the Town and Country Planning (Local Planning) (England) Regulations 2012, and the council’s statement of community involvement (2008) set out the consultation requirements for area action plans.
31. The council has carried out extensive consultation on the AAP, with information on the consultation already submitted to the Secretary of State. This included a consultation strategy, a consultation plan for every stage of consultation and a consultation report. The Inspector has not raised any issue with the consultation carried out so far within his post-hearing note.
32. The council is now required to consult on the main modifications in accordance with our SCI, the Act and the Regulations. We will carry out the following consultation:
 - *15 October 2013 to 6 January 2014:* Consultation on the main modifications, alongside making the minor changes public for information. In accordance with our Statement of Community Involvement this will include six weeks informal consultation and six weeks formal consultation.
 - *By 29 November 2013:* By the start of formal consultation (26 November 2013) we will write to everyone on our planning policy mailing list, publish the consultation in our local newspaper, and make the table of main modifications and the table of minor changes available on our website and the Peckham and Nunhead libraries and one stop shop.
 - *6 January to 24 January 2014:* Council collation of representations and if appropriate officer comments on the representations received.
 - *24 January 2014:* Submission of the representations, if appropriate officer comments and the council’s view on the appropriateness of the potential main modifications.

Community impact statement

33. The purpose of the AAP is to facilitate regeneration and deliver the vision of the sustainable community strategy, Southwark 2016, ensuring that community impacts are taken into account. We have prepared an equalities impact

assessment and a sustainability appraisal to make sure that the AAP is having a positive impact on different groups and that the AAP is delivering the most sustainable option for Peckham and Nunhead. We have made minor updates to both these documents to reflect the potential main modifications. The changes do not affect overall outcome of either of these documents.

Financial implications

34. There are no immediate resource implications arising from this report as any additional work required to complete the work will be carried out by the relevant policy team staff and budgets without a call on additional funding.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

35. Council assembly has already considered and approved the submission version of the Peckham and Nunhead AAP in October 2012 prior to formal consultation. Once the consultation had taken place, the draft AAP was then submitted for an Examination in Public before a Planning Inspector appointed by the Secretary of State.
36. The Inspector has now come forward with a number of requirements and recommendations. The terminology used by the Inspector is significant because, as outlined in the report, if the Inspector categorises a change as a “main modification” then the Inspector can require the council to incorporate these changes in order to make the plan sound.
37. The amendments which are required are listed between paragraphs 17 and 29 of the report. Some of these changes are, from the council’s perspective, of limited significance as they only reflect existing borough-wide policies. Others are of greater concern and one such example is the Mayor of London’s approach to Affordable Rents explained in paragraph 21 where the council along with other London Boroughs is considering making an application to judicially review the Mayor’s decision.
38. After the further consultation and the publication of the Inspector’s report, the AAP must go back to council assembly (as required by Part 3A, paragraph 10 of the Southwark Constitution) for a final decision on whether or not to adopt as explained in paragraph 14 of the report which sets out the procedure required in accordance with section 23(2) Planning and Compulsory Purchase Act 2004 as amended by section 112, Localism Act 2011.
39. The final report to council assembly will provide a full explanation of the amendments which have been made and the alternatives available

Strategic Director of Finance and Corporate Services

40. This report recommends that cabinet agree to formally consult on the potential main modifications (Appendix B) and note the appendices relating to the sustainability appraisal, equalities analysis, schedule of changes to the adopted policies map and proposed adopted policies map.

41. There are no immediate financial implications arising from the adoption of the recommendations, and staff time to effect these recommendations will be contained within existing budgeted revenue resources.
42. Any specific financial implications arising from the final Peckham and Nunhead Area Action Plan will be included in subsequent reports for consideration and approval.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
London Plan 2011	http://www.london.gov.uk/priorities/planning/londonplan	planningpolicy@southwark.gov.uk
Southwark Statement of Community Involvement 2008	http://www.southwark.gov.uk/info/856/planning_policy/1238/statement_of_community_involvement_sci	planningpolicy@southwark.gov.uk
Saved Southwark Plan 2007	http://www.southwark.gov.uk/info/856/planning_policy/1241/the_southwark_plan	planningpolicy@southwark.gov.uk
The Core Strategy 2011	http://www.southwark.gov.uk/info/200210/core_strategy	planningpolicy@southwark.gov.uk

APPENDICES

No.	Title	Held at
Appendix A	Peckham and Nunhead Area Action Plan publication/submission.	http://www.southwark.gov.uk/futurepeckham
Appendix B	Table of potential main modifications required by the Inspector, subject to consultation	Hard copy provided with the report
Appendix C	The Inspector's post hearing note.	http://www.southwark.gov.uk/futurepeckham
Appendix D	The sustainability appraisal	http://www.southwark.gov.uk/futurepeckham
Appendix E	The equality analysis	http://www.southwark.gov.uk/futurepeckham
Appendix F	The proposed adopted policies map	http://www.southwark.gov.uk/futurepeckham
Appendix G	The schedule of proposed changes to the adopted policies map	http://www.southwark.gov.uk/futurepeckham

AUDIT TRAIL

Cabinet Member	Councillor Fiona Colley, Regeneration and Corporate Strategy	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Alison Squires, Planning Team Leader	
Version	Final	
Dated	10 October 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		10 October 2013