

<b>Item No.</b> 7.2	<b>Classification:</b> Open	<b>Date:</b> January 27 2010	<b>Meeting Name:</b> Council Assembly
<b>Report title:</b>		Adoption of Local Development Document: Aylesbury Area Action Plan	
<b>Ward(s) or groups affected:</b>		East Walworth, Faraday, Newington, Grange, South Bermondsey, Peckham, Brunswick Park, Camberwell Green	
<b>From:</b>		Strategic Director of Regeneration and Neighbourhoods	

## RECOMMENDATIONS

That Council Assembly: -

1. Consider the recommendations of the Executive; and
2. Consider the binding recommendations of the Planning Inspector on the Aylesbury Area Action Plan (appendix A2) and the comments of Planning Committee; and
3. Consider the Aylesbury Area Action Plan – final (appendix A1) incorporating the binding recommendations of the Inspector and the change proposed by Executive and Planning Committee, adoption statement (Appendix B), consultation report (appendix C), sustainability appraisal (appendix D), equalities impact assessment (appendix E) and appropriate assessment (appendix F); and
4. Adopt the Aylesbury Area Action Plan – final (appendix A1) incorporating the binding recommendations of the Inspector and the change proposed by Executive and Planning Committee and the sustainability appraisal (Appendix D).

## BACKGROUND INFORMATION

5. The Aylesbury Area Action Plan (AAP) has been prepared under the new planning system and is a spatial plan that combines land use planning policies with an employment strategy, a health and services strategy, a transport strategy, an open spaces strategy and a business and delivery plan, to create a holistic plan for the regeneration of the estate and surrounding area.
6. The AAP was prepared over 2008 and 2009, and went through four stages of preparation and consultation (Issues and Options, Preferred Options, Revised Preferred Options, Publication/Submission).
7. The AAP was submitted to the Secretary of State in May 2009 for formal examination.
8. The Aylesbury Area Action Plan (AAP) has been through an Examination in Public (EiP) on September 2 and 3 2009 as required by the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning Local Development Regulations (England).
9. Under the terms of Section 20 (5) of the Planning and Compulsory Purchase Act 2004, the purpose of the EiP of a Development Plan Document is to determine:
  - a. Whether it satisfies the requirements of s19 and s24 (1) of the 2004 Act,

the regulations under section 17 (7) and any regulations under section 36 relating to the preparation of the document; and

- b. Whether it is sound (in terms of paragraph 4.52 of Planning Policy Statement 12 – Local Spatial Planning (PPS12))
10. The AAP was examined independently by an Inspector at the EiP. The Inspector issued his report on October 23 2009, which contains an assessment of the AAP in terms of the above matters, along with recommendations and the reasons for them, as required by s20 (7) of the 2004 Act.
11. The Inspector has concluded that in paragraph 5.1 of the report, that with the minor amendments recommended, which are set out in the annex:
  - The AAP can be considered sound
  - It satisfies the requirements of s20 (5) of the Planning and Compulsory Purchase Act 2004 and that is accords with the advice in PPS12.
12. These recommendations are binding on the council.
13. The council has completed a 'Fact Check' of the Inspectors report, in accordance with paragraph 4.29 of PPS12. The fact check has provided an opportunity to identify any factual errors and to seek clarification on any conclusions that are unclear. It did not provide any scope to question the Inspector's conclusions. The fact check was forwarded to the Planning Inspectorate on November 6 2009.
14. The draft AAP was reported to Planning Committee for their comments on December 8 2009. Planning Committee comments are reported in paragraph 16 below.
15. The council's Executive considered the draft AAP on December 15 2009 and agreed that the draft AAP, incorporating the one change recommended by Planning Committee, is considered by Council Assembly for adoption.

#### **Comments of Planning Committee**

16. Planning committee considered the draft AAP and noted that there is a typographical error in column 7 of appendix C of the proposed changes to the AAP. The plus (+) sign in the text "3+ bed" should be deleted. It is now superfluous as the inspector recommended that the council specify the number of 3, 4 and 5 bedroom homes that will be provided.

#### **KEY ISSUES FOR CONSIDERATION**

17. The AAP has been examined by an independent inspector and the council has received a binding report. His overall conclusion is that the AAP is sound and therefore there are no significant issues that need to be addressed.
18. Prior to the examination in public the council provided the inspector with a list of proposed changes to the AAP to provide updates due to changes during the consultation period. The most significant of these were that we alter the proportions of private and affordable housing in phases 1 and 4 to reflect funding proposals agreed with the HCA and also to amend the public sector funding requirement calculations. These proposals were agreed by IDM in May 2009. The inspector agreed with the council that these changes would improve the document and has confirmed that they should be incorporated into the final AAP.

19. We proposed these changes as they enabled us to keep the mix of affordable and private housing the same for the entire area. We increased the affordable housing and reduced the private housing in phase 1 to gain HCA funding to unlock development to make it viable. This has then been changed in phase 4 to reduce the affordable housing and increase the private housing by the same amount to keep the overall figures the same.
20. The inspector has recommended that we make these changes as follows.

### **3 Justified; Effective and Consistent with National Policy**

*(a) Tenure mix 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 (d) – Delivery and monitoring**

*3.23 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.*

#### **Monitoring 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.*

21. In addition to those changes proposed by the council, the inspector has recommended a very small number of additional changes. These are very minor in character. The most significant of these is that we clarify that any development in Burgess Park is for “open space activities”. This reference is not intended to change the policy, but simply draw attention to the fact that Burgess Park is Metropolitan Open Land. These are set out in detail below.

*(c) Public transport 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.*

*Burgess Park 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....’*

22. The AAP has been brought forward in advance of the adoption of the Core Strategy Development Plan Document. The Inspector considers that the AAP focuses on a small part of the council’s area, and would not unduly prejudice future overall policy for the borough as a whole or for the adjoining communities.

23. The council does not have the opportunity to question the Inspector's conclusions. The report is binding on the council, and it is up to the council to decide whether to adopt it or not.
24. Once adopted by Council Assembly it will be a development plan in the council's local development framework (LDF) and will be used as the basis for determining planning applications in the area. Together with the Core Strategy which is currently at the publication/submission stage, and other AAPs, it will replace the adopted Southwark Plan.
25. The AAP is needed at this time to facilitate the development of the Aylesbury Estate and the regeneration of the surrounding area, including Burgess Park in a sustainable manner ensuring that community impacts are taken into account.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

#### Functions and Responsibilities

26. The Aylesbury AAP is now at the adoption stage. This report is brought before members of Council Assembly upon the recommendation of Executive and Planning Committee to adopt the AAP with the Inspector's binding recommendations and one minor factual change. By virtue of paragraph 9, Part 3A of the Constitution the function of adopting development plan documents such as this AAP is reserved to Council Assembly.
27. By virtue of Regulation 4(1), paragraph 3(d) of *the Local Authorities (Functions and Responsibilities) (England) Regulations 2000* ("the 2000 Regulations") (as amended by the *Local Authorities (Functions and Responsibilities) (Amendment) (No 2) (England) Regulations 2005* - Regulation 2, paragraph 4) the approval of a DPD is a shared responsibility with Council Assembly and cannot be the sole responsibility of the Executive. It is noted that on December 8 and 15 2009 respectively, the Planning Committee and Executive having considered the Inspector's binding report and a deputation by local groups, including the Burgess Park, recommend that Council Assembly adopt the AAP in accordance with the Inspector's binding report.
28. Accordingly, members of Council Assembly are advised to consider the content and recommendations of the binding Inspector's Report, the accompanying documents and deputation before determining to adopt the AAP together with the accompanying sustainability appraisal.

#### Examination in Public

29. Regulation 7 of the *Town and Country Planning (Local Development) (England) Regulations 2004* ('the Regulations') provides that Area Action Plans must be development plan documents (DPDs). The AAP is identified in the council's revised Local Development Scheme, which was approved in May 2008.
30. As set out in the report, the AAP was subject to an examination in public (EiP) by a planning inspector appointed by the Secretary of the State on 2 and 3 September 2009.
31. The purpose of the independent examination is set out in section 20(5) of the 2004 Act. This is required to determine whether the submitted DPD has been prepared in accordance with certain statutory requirements under s19 & s24(1)

of the 2004 Act and the associated regulations (*The Town and Country Planning (Local Development) (England) Regulations 2004; SI.2004 No. 2204*) and whether it is sound.

32. In making an assessment of soundness, the AAP was examined against the requirements set out in Planning Policy Statement 12 (2008) – *Local Spatial Planning* (PPS 12).
33. The Inspector concluded in his binding decision dated October 23 2009 that the AAP was sound subject to his recommended amendments set out in his report. Members' are advised that the Inspector findings are binding upon the council. Therefore, the AAP must be adopted in a form which incorporates the Inspector's recommendations. If members were not minded to accept the Inspector's recommendations, the entire process would need to be re-commenced and fresh consultation undertaken.

#### Sustainability Appraisal

34. The Planning and Compulsory Purchase Act 2004 also requires sustainability appraisal (SA) of all emerging DPDs. In accordance with this provision, a sustainability appraisal was prepared to ensure the wider impacts of the AAP's policies are addressed. The sustainability appraisal has informed the preparation of the AAP and is recommended for adoption by Members. The SA should be expressly adopted along with the AAP and must have a separate adoption statement pursuant to *Environmental Assessment of Plans and Programmes Regulations 2004* (16) (3) and (4).

#### Adoption Process – Procedural Requirements

35. Members' are advised that should the AAP be adopted by Council Assembly, following the recommendation of the Executive, a number of statutory requirements will need to be complied with by the council. These requirements are set out in *Regulations 35 and 36 Town and Country Planning (Local Development)(England) Regulations 2004* (as amended by the 2008 Regulations) and must be complied with as soon as reasonably practicable after the date of adoption.
36. In summary, Regulation 35 (1) and (2) require that as soon as reasonably practicable after the day of adoption of the AAP, the council must comply with section 20(8) of the Planning and Compulsory Purchase Act 2004 to publish the Inspectors recommendations and reasons as follows: -
  - a. That the recommendations of the Inspectors report be deposited for the purposes of public inspection at the same venue that the pre-submission proposal documents were deposited;
  - b. That Inspectors recommendations be published upon the council's web-site; and
  - c. That notification of publication be provided to those persons who requested to be notified of the recommendations publications.
37. Regulation 36 further provides that as soon as reasonably practicable after the day of adoption of the AAP the council must make available for inspection the following documents at the same place where the pre-submission documents were deposited and publish notice of the adoption in a local paper:
  - a. the AAP;
  - b. an adoption statement, and
  - c. the sustainability appraisal report; and

- d. publish the adoption statement on the Council's web-site;
- e. give notice by local advertisement of the adoption statements and details of where the AAP can be inspected;
- f. send the adoption statement to any person who has asked to be notified of the adoption of the AAP; and
- g. send the AAP and adoption statement to the Secretary of State.

Application to the High Court

38. The AAP has been prepared in accordance with the relevant legislation and regulations. This is the final version, which will, when adopted, establish the planning policy framework for the Aylesbury Estate and the regeneration of the surrounding area, including Burgess Park. Any party aggrieved by the AAP may make an application to the High Court within 6 weeks of the publication of the adoption statement. Such applications may only be made on limited grounds namely that the document is not within the appropriate power and / or that a procedural requirement has not been complied with. Officers believe this risk is minimal as the AAP has been prepared in accordance with the relevant regulations and guidance and that due process has been followed.

Saved UDP Policies

39. If this AAP is not adopted planning applications in this area will be assessed against saved Unitary Development Plan policies, which did not anticipate redevelopment on the scale now being proposed within the specific area. This would hinder efforts to regenerate the Aylesbury Estate and surrounding regeneration area.

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**Departmental Finance Manager**

41. There are no specific financial implications associated with this paper. The financial implications of any particular policy or strategy should be addressed as part of any specific proposal.

**BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Report on the Examination into the Aylesbury Area Action Plan Development Plan Document – 23 October 2009	Planning and Transport	Julie Seymour
Core Strategy publication/submission (available on request)	Planning and Transport	Julie Seymour

## APPENDICES

No.	Title
Appendix A	The final Aylesbury Area Action Plan incorporating the binding recommendations of the Planning Inspector and the change recommended by Executive and Planning Committee (Appendix A1) (circulated to members separately)  Planning Inspector's binding recommendations on the Aylesbury Area Action Plan (Appendix A2) (available on the internet)
Appendix B	Adoption Statement (available on the internet)
Appendix C	Aylesbury publication/submission consultation report (available on the internet)
Appendix D	Aylesbury publication/submission interim sustainability appraisal (available on the internet)
Appendix E	Aylesbury publication/submission equalities impact assessment (available on the internet)
Appendix F	Aylesbury publication/submission appropriate assessment (available on the internet)

## AUDIT TRAIL

<b>Lead Officer</b>	Anne Lippitt, Strategic Director of Regeneration and Neighbourhoods	
<b>Report Author</b>	Julie Seymour, Head of Planning Policy	
<b>Version</b>	Final	
<b>Dated</b>	January 15 2010	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Departmental Finance Manager	Yes	Yes
<b>Executive Member</b>	Yes	No
<b>Date final report sent to Constitutional Team</b>	January 15 2010	