

Item No. 6.1	Classification: Open	Date: 26/6/06 28/6/06	Meeting Name: Executive Council Assembly
Report title:		Proposed modifications to the draft Southwark Unitary Development Plan (The Southwark Plan)	
Ward(s) or groups affected:		Borough-wide	
From:		Strategic Director of Regeneration	

RECOMMENDATIONS

Recommendations for the Executive

1. That the Executive recommends to Council Assembly the adoption of the proposed modifications to the draft Southwark Unitary Development Plan for consultation.
2. That the Executive comments on the consultation plan set out in appendix C.

Recommendation for the Council Assembly

3. That subject to recommendation 1 above, Council Assembly adopts the proposed modifications to the draft Southwark Unitary Development Plan for consultation.

BACKGROUND INFORMATION

4. The Unitary Development Plan (UDP) guides the use and development of land in the borough. All planning decisions should be in accordance with this plan unless, in the terminology of the planning acts, 'material considerations indicate otherwise.'
5. The current unitary development plan was adopted in July 1995 and was intended to operate for a period of ten years. Preparing or reviewing a development plan is a long process which seeks to establish as much support and agreement as possible in the community. The current review was started in 2000 with an environmental appraisal of the 1995 plan.
6. In 2001 there was extensive public consultation on the initial stages as follows.
7. **Key issues paper** (Issued June 2001, consultation completed August 2001) focused on the future directions for the use and development of land in Southwark to find out what people thought the big issues were and stimulated a discussion involving as many people as possible from the community, businesses and other interest groups; and
8. **Local issues papers** (Issued September 2001, consultation completed November 2001) reflected back all of the comments received on the Key Issues Paper and considered how they related to each of six areas. Forums were also set up in each of the areas to facilitate future consultation.
9. **First Draft for Deposit Unitary Development Plan** was placed on deposit (starting a formal consultation phase according to legal requirements) in November 2002 and at the same time consultation started on 27 draft supplementary planning guidance documents. Placing the plan on deposit allowed residents, community groups, developers, landowners, businesses and others to make representations. Throughout 2003 there were negotiations with objectors to the plan to explore ways in which their objections could be overcome.
10. **Revised Deposit Unitary Development Plan** was placed on deposit in March 2004. This overcame many of the objections to the first deposit but inevitably gave rise to new issues.
11. Although not part of the formal process set down in planning law, the Council produced further drafts of the plan and consulted on them in advance of the public inquiry to ensure as far as possible that any further adjustments to overcome the objections (which included those from the Mayor of London and the Government Office for London) were made.

12. **A public inquiry** was held between April and July 2005 where a government appointed inspector examined the plan and took evidence from the Council and from objectors both in person at the inquiry sessions held at the Town Hall and in writing.
13. **The inspector's report** on the public inquiry was issued to the Council in March 2006. This contains recommendations for further changes to the plan before it is formally adopted. The report is not binding on the Council but if the Council chooses not to follow the recommendations it must state the reasons for this to the Secretary of State. The Secretary of State has the final say and has the power to direct the Council not to adopt the plan if she is not satisfied with the reasons given.
14. **Proposed modifications** to the plan are the subject of this item. The plan has been revised to take into account the inspector's recommendations in appendix A. In many cases the inspector has recommended changes to the wording of parts of the plan and these may be fully accepted. In some cases the inspector has recommended changes and officers have interpreted his intentions to produce improved wording which still maintains the spirit of what the inspector intended. In some cases the plan has been modified, or not modified, contrary to the recommendation of the inspector. These proposed modifications are provided in an officer report at appendix B highlighting the significant changes. Planning Committee on the 19th June have considered the report and provided comments for consideration by the Executive Committee as an addendum to this report. The Executive Committee is being asked to make a recommendation for adoption for consultation to Council Assembly along with any proposed modifications. Council Assembly will then debate the report on June 28th and make the decision on whether to adopt the plan as proposed.
15. **Formal notification of modifications** is the next stage. The modifications are made available for public inspection for six weeks. The Council must advertise this and notify the objectors. Objections received at this stage could lead to a further public inquiry if issues are raised that were not fully considered at the inquiry that has taken place (although this is thought unlikely as the public inquiry examined a range of options in relation to most matters). Otherwise, the Council should prepare a statement of their decisions in respect of all the objections and their reasons for each decision. A consultation plan is appended at appendix C for comment.
16. Following the publication of the modifications and consultation on this, the Council may move on to giving formal notification of the intention to adopt. At that stage the Secretary of State may give notice of their intention to give a direction. Finally, the Council can adopt the plan.
17. It should be noted that the Planning and Compulsory Purchase Act 2004 introduced a new type of plan with new preparation procedures meant to streamline this process and make the system much more responsive. The Southwark Unitary Development Plan, when adopted, will be one of the last prepared under the old system. It has, however, been prepared taking into account many of the features of the new system and it is considered unlikely that it will need substantial replacement for at least 3 years.
18. **Conformity with the London Plan and Intervention by the Secretary of State** The UDP may only be adopted if it is in general conformity with the London Plan. The Mayor's objections to the Southwark Plan include matters that he considers to be ones that relate to general conformity. The inspector has considered these objections and issued recommendations according to his findings including some instances where he disagrees with the Mayor and concludes that matters that have been raised are not matters of general conformity. This includes the designations of suburban areas for housing density purposes.
19. When the council gives notice of its intention to adopt the plan, the Mayor will be asked to issue a statement of conformity indicating whether he considers the plan to be in general conformity with the London Plan. If he does not consider it to be in general conformity with the London Plan he will make representations to the Secretary of State requesting that the council is directed not to adopt the plan or to modify the plan in accordance with specified modifications.
20. The final say on whether the plan is in general conformity with the London Plan will, in effect, be decided by the Secretary of State when she decides whether to issue such a direction.

THE DRAFT PLAN

21. Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs) are prepared by the government to explain statutory provisions and provide guidance to local authorities and others on planning policy and the operation of the planning system. Planning Policy Statement no.1 (PPS 1) 'Delivering Sustainable Development,' published February 2005, sets out the government's overarching planning policies on the delivery of sustainable development through the planning system. This states:
- 'Planning is a tool for local authorities to use in establishing and taking forward the vision for their areas as set out in their community strategies. The planning process already offers local communities real opportunities to influence how they want their areas to develop. More effective community involvement is a key element of the Government's planning reforms. This is best achieved where there is early engagement of all the stakeholders in the process of plan making and bringing forward development proposals. This helps to identify issues and problems at an early stage and allows dialogue and discussion of the options to take place before proposals are too far advanced.' (PPS 1, para. 11)
22. The draft plan is based on the community strategy. Part one provides strategic guidance on the key issues facing land use planning in Southwark. Underpinning the plan are twenty strategic priorities that inform different policies which are categorised into seven chapters (with the addition of the final two chapters as part of these modifications) within Part Two. The seven chapters are:
- Tackling Poverty and Wealth Creation;
 - Life Chances;
 - Clean and Green;
 - Housing; and
 - Transport.
 - Opportunity Areas
 - Local Policy Areas
23. The new Southwark Plan has undergone a sustainability appraisal. This was initially undertaken independently by Forum for the Future, a national charity that has sustainability expertise and CRISP a local community group. The aim of the sustainability appraisal is to evaluate how well the Southwark Plan supports relevant sustainable development objectives and will contribute to the achievement of sustainable development through individual policies, sections and as a whole.

KEY ISSUES FOR CONSIDERATION

24. The Inspector presented the council with 557 recommendations. Officers recommend in appendix B that 461 are accepted, 65 are accepted in part and 31 are rejected. If a recommendation is accepted the exact inspector's change or wording has been made. If the recommendation is accepted in part the meaning of the inspector's change or wording has been made, however the wording is not exactly as the inspector suggested. This is usually to provide further clarity and/or to achieve consistency through the document or with the London Plan. If a recommendation has been rejected, officers disagree with the substance of the recommendation. This may be due to a difference in interpretation of national or regional guidance or due to the approach taken in Southwark to meet the needs of the community.
25. Of those recommendations rejected, the key issues that need to be decided by members are set out below with officer recommendations. The inspector's recommendations that the council should accept are:

Elephant and Castle Early Housing Site – Dickens Square

26. **Part 1, Section 8.2 and Appendix 4 Site 9P** Dickens Square has been proposed by the council as an early housing site for the Elephant and Castle with 92 residential units to re-house residents of the Heygate Estate. The Inspector finds that the site should be deleted as a residential site as the site qualifies for designation as Borough Open Land and that the site should be designated as Borough Open Land. The Inspector's recommendation has taken

into account all relevant information, the site does meet the criteria for Borough Open Land and should be designated as such.

Housing in Preferred Office Locations

27. **Policy 1.4** allows housing to be permitted in the Preferred Office Location. The inspector supports this approach in paragraph 2.1.88 of his report. However this does not entirely meet an objection by the Greater London Authority. The Greater London Authority would like a requirement for housing on sites that increase floorspace in the Preferred Office Location. This is because Mayor considers the need for housing to be so great that it should be required even in the office location as this is within the Central Activities Zone in line with policy 3B4 of the London Plan.

Tall Buildings

28. **Policy 3.20** sets out general considerations for locating tall buildings. This includes a statement that they are generally suitable in the central activities zone and particularly in the opportunity areas and that they are inappropriate in most parts of Southwark. The inspector calls this an unsubstantiated statement and contrary to policy 4B.8 of the London Plan and against national planning policy in paragraph 2.3.202 of his report. He considers that there are likely to be large areas of the borough where tall buildings will not be appropriate but this would be better established by applying the criteria. The modified plan includes this recommendation as the council cannot claim that its proposed policy is in line with national and regional policy. He also recommends some minor changes to the criteria for approving tall buildings including providing a definition of 'points of landmark significance.' This highlights the benefits that will be brought by adopting a supplementary planning document on tall buildings to expand upon and explain the tall buildings policy.

Rotherhithe Suburban Zone

29. **Policy 4.1 and appendix 3** sets out the suggested density levels for residential development. The Inspector has supported the council's approach to density and the density levels suggested in paragraph 2.4.53. However the Greater London Authority would like the suburban north zone to be reclassified with as urban as the Mayor considers this approach to be contrary to the overriding objective of the London Plan to maximise the use of sites and to achieve sustainable development within London.

Tram Route and Proposed Tram Depot

30. **Policy 5.4 and appendix 4, site 63P** Policy 5.4 supports public transport improvements including the Cross River Tram. The inspector supports the general approach to identifying the route for the tram although he recommends in paragraph 2.5.34 of his report that the purpose of policy 5.4 should be to safeguard this and other public transport routes and prevent development that would prejudice implementation of these schemes. Proposal 63P allocated a large area in central Peckham for a range of uses including a tram depot. The inspector was not fully convinced of the regeneration benefits of the tram proposal but accepted that a smaller depot as part of a split – site solution – i.e. finding another site for a depot elsewhere on the system would be acceptable and would allow the retention of the Rye Lane frontage. Transport for London have since reviewed their requirements for a tram depot and have accepted that complying with the inspector's recommendation would be viable. The intention is, therefore, to modify the plan as recommended.

31. The inspector's recommendations that the council should reject are:

Elephant and Castle Early Housing Site – Library Street

32. **Part 1, Section 8.2 and Appendix 4 Site 7P**, 'Library Street Neighbourhood housing office and land between Library Street, St James Street, Milcote Street and Devidge Street' has been proposed by the council as an early housing site for the Elephant and Castle with 46 residential units to re-house residents of the Heygate Estate. The Inspector finds that the land is not large enough to qualify as Borough Open Land or Other Open Space. The Inspector then recommends in paragraph 1.8.2.75 of his report that this site should be deleted as a housing site or that the council should investigate the possibility of some of the land being allocated for housing by discussions with BOST to find a compromise. This compromise

could involve a residential development of the land previously occupied by the library and now occupying the housing office or moving BOST to another location. Assuming all the inspectors recommendations were accepted the council would have lost capacity for 138 units reducing the total programme to 700 units less than 500 of which would be affordable. This would represent a 16% reduction in the re-housing programme and is not judged to be sufficient to meet the expected demand for new homes from Heygate residents. In addition the council still has to secure detailed planning consents for the remaining sites and this might lead to a further reduction in numbers. Therefore in the interests of ensuring a viable early housing programme with sufficient flexibility to meet demand and planning requirements the inspector's recommendation should be rejected. The Inspector accepted that site 7P does not meet the criteria for protection as either BOL or other open space and therefore should not be designated as such. Furthermore the need for the site is essential for the delivery of the Elephant and Castle Opportunity Area regeneration programme.

Elephant and Castle Consultation Arrangements

33. **In section 8.2 of part 1** the inspector has recommended an addition in paragraph 1.8.2.61 of his report as follows:

Consultation on the regeneration of Elephant and Castle will be comprehensive and tripartite, involving the Council, the developer(s) and all relevant interests including community groups. This wording is not relevant for inclusion in the Southwark Plan as the Council's Consultation process for planning is provided within the Statement of Community Involvement as required by paragraph 18 of the Planning and Compulsory Purchase Act 2004. Repeating consultation procedures is not required as part of the Unitary Development Plan as this document along with the Statement of Community Involvement comprise parts of the Local Development Framework.

Agreements to Provide Training for Local Unemployed People

34. **Policy 1.1** contains a requirement for the provision of training and mentoring schemes for local people to be secured through planning obligations where relevant. The inspector recommends in paragraph 2.1.20 that this should be deleted. He considers this to be a laudable aim particularly bearing in mind the relatively high unemployment levels in parts of the Borough and the low level of skills particularly in the identified high need groups. However he questions the extent to which the land use planning system is an appropriate vehicle for this purpose.

Old Kent Road Waste Management Facility and the Future of Manor Place Depot

35. **Policy 3.8 and Appendix 4, Site 50P** Manor Place depot. The inspector recommends in paragraph 2.3.103 that Manor place could only become available for housing when the Old Kent Road facility becomes available if the council can demonstrate that there is no need for future waste disposal facilities (municipal and industrial). The council is allocating a very large site at Old Kent Road to meet the future waste needs of the borough in the most sustainable location possible. Manor Place should be released once the site is operational at Old Kent Road for a number of reasons. These are the inappropriate location of Manor Place in a residential area, the restrictions placed on regeneration of the Manor Place site as part of the Opportunity Area and the potential that will be lost for providing much needed housing.

Community Impact Statement

36. The Unitary Development Plan will have impacts over a very wide range of policy areas including tackling poverty, community cohesion, education, provision of housing and access to services including transport. In doing this it is structured around and takes forward the vision of the Community Strategy.

37. Sustainability appraisals have been carried out at key stages to ensure that the plan is consistent with the objectives of the Community Strategy and other higher level policies and that the policies contained in it are consistent with one another.

38. The sustainability appraisals incorporated equalities impact assessments to assess whether and how the plan may impact on particular communities or groups differently. The last such assessment was carried out in February 2005 when the final changes to the Southwark Plan were being agreed in advance of the public inquiry.
39. The public inquiry into the plan held between April and July 2005 included an in-depth examination of the impact of the plan on equalities and diversity. The question whether the plan had fully considered the requirements of the Race Relations Act and the methods of assessing its impact were the subject of objections heard at the inquiry. The inspector has reported that he is satisfied that the Council has correctly and adequately carried out all its responsibilities under the Race Relations legislation. He noted that an equalities impact assessment had been undertaken with the advice of an external expert in equalities who has done extensive work for the Commission for Racial Equality and that it was discussed at the Equalities and Diversity Panel.
40. A sustainability appraisal of the modifications has been carried out and is appended as appendix D.
41. The Unitary Development Plan has positive implications in relation to equal opportunities for both policy setting and inclusion in consultation processes. Although the proposed modifications generally involve minor changes to the wording of plans to ensure that they are fully effective and compliant with national planning policy, a small number of recommendations made by the inspector have potential implications for equalities and diversity target groups. These are:
- Policy 1.1
 - Policy 3.3
 - Policy 4.4
 - Proposal 7P
 - Proposal 9P
 - Proposal 63P
42. The implications of these recommendations and the related modifications are to be discussed with the Equalities and Diversity Panel on June 20 2006 and any conclusions reached by the panel will be reported to the Executive.

Resource/Financial Implications

43. This report does not bring any further resource or financial implications.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Borough Solicitor

44. The transitional provisions of the Planning and Compulsory Purchase Act 2004 (Schedule 8) provide that where a development plan is on deposit prior to the commencement of that Act on 28 September 2004, it shall continue to proceed to adoption under the provisions of the Town and Country Planning Act 1990 and the Town and Country Planning (Development Plan) Regulations 1999. The process for the adoption of the Southwark Plan as outlined above is in conformity with the earlier legislation.
45. The Environmental Assessment of Plans and Programmes Regulations 2004 were introduced by the Office of the Deputy Prime Minister to implement the requirements of the EU Directive 2001/42/EC within the UK. These came into force on 20 July 2004. Regulation 6 (1) requires a responsible authority to carry out a strategic environmental assessment (SEA) of a plan of which the first formal preparatory act is before 21 July 2004 and which is not adopted or submitted to legislative procedures for adoption before 22nd July 2006. It is not certain whether the Southwark Plan will have been formally adopted by 21 July 2006. For this reason it was decided that the Executive make a decision under regulation 6(2) whether it is feasible to make an SEA assessment.

Reg. 6(2): “Nothing in paragraph (1) shall require the environmental assessment of a particular plan or programme if the responsible authority –
(a) decides that such assessment is not feasible; and
(b) informs the public of its decision.”

46. The Executive resolved on 5 April 2005 that the sustainability appraisal of the Emerging Southwark Plan which has been carried out at all stages of its preparation, has ensured that the principles of sustainable development have been thoroughly incorporated into the Plan, and that it was not feasible at that time to carry out an SEA on the Southwark Plan. This decision was made publicly available and made available to the Government Office for London in fulfilment of the requirements of the regulations and the resolution of the Executive.
47. It is considered that the process outlined above for the preparation and eventual adoption of the Southwark Plan is in conformity with all relevant legislative requirements.
48. Under the legislative regime, the Council may chose not to follow the inspector’s recommendations and where this occurs, the local authority must set out the reasons for rejecting any of the proposals, which has been done in terms of the officer recommendations, both in summary in this report and in full in the appendices attached.
49. The rejection of the tripartite consultation the inspector proposes for Elephant and Castle is in accordance with relevant national policy and legislation given the preparation and use of the Statement of Community Involvement which sets out the standards to be achieved by a local authority in involving the community in the preparation, alteration and continuing review of all development plan documents and planning applications. The SCI has been prepared under the legislative scheme under the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Local Development) (England) Regulations 2004 and PPS12 and is currently out for consultation. The SCI can be subject to independent examination in public; any recommendations by the inspector are binding and must be adopted by the Council.
50. The proposal regarding policy 1.1 seeking to target training and employment opportunities toward local people through planning obligations where relevant is not specifically identified as appropriate within Circular 5/05 *Planning obligations*, however, neither is it prohibited, and the circular states that it is not intended to provide an exhaustive list of examples of planning obligations. In order for a planning obligation to be lawful, it must be
 1. relevant to planning
 2. necessary to make the proposed development acceptable in planning terms
 3. directly related to the proposed development
 4. fairly and reasonably related in scale and kind to the proposed development; and
 5. reasonable in all other respects.
51. Circular 5/05 specifically states that the relationship between a particular planning benefit and an individual development must be a matter of planning judgment, exercised in the light of local circumstances, and not an issue for detailed national prescription. The planning judgment as recommended by officers is outlined in the appendices attached.
52. In respect of the rejection of the inspector’s recommendation that requirement for sustainability appraisals for major developments be removed from the plan, it must be noted that the provision of sustainability appraisals for planning applications is not a legislative requirement. However, section 39 of the Planning and Compulsory Purchase Act 2004 requires that any body exercising any function under a local development document must exercise that function with the objective of contributing to sustainable development. Section 62 of the Town and Country Planning Act states that applications for planning permission shall include such particulars and be verified by such evidence as may be required by regulations or directions given by the LPA.
53. It is considered that the legal implications for both the process towards adoption of the UDP and the officer recommendations on the UDP modifications are set out in full above.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Southwark Plan	Planning Policy Team Chiltern House	Davina Morgan 020 7525 5471

APPENDICES

Note: The appendices have been circulated in a separate document to all councillors given the size of the appendices.

No.	Title
Appendix A	The draft Southwark Plan June 2006 (Unitary Development Plan) – modifications version
Appendix B	Officer comments on the Inspector's recommendations
Appendix C	Consultation Plan
Appendix D	Sustainability Appraisal – available on request and on the website at www.southwark.gov.uk/udp

AUDIT TRAIL

Lead Officer	Strategic Director of Regeneration	
Report Author	Julie Seymour Planning Policy Manager	
Version	Final	
Dated	15 th June 2006	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor and Secretary	Yes	Yes
Executive Member	Yes	Yes
Date final report sent to Constitutional Support Services		15 June 2006