



## Mayor and Cabinet

### **Report title: Response to Sustainable Development Select Committee on the Local Plan**

**Date:** 11<sup>th</sup> November 2020

**Key decision:** Yes/No.

**Class:** Part 1

**Ward(s) affected:** All

**Contributors:** Executive Director of Housing, Regeneration and Environment

### **Outline and recommendations**

Approve the officer's response and report to Sustainable Development Select Committee.

## **Timeline of engagement and decision-making**

21<sup>st</sup> January 2020 - Sustainable Development Select Committee

### **1. Summary**

The report sets out the comments which were made at the Sustainable Development Select Committee on 21st January 2020 on the emerging Local Plan. It then provides Mayor and Cabinet with a response on the comments.

### **2. Recommendations**

- 2.1. Approve the officer's response and report to Sustainable Development Select Committee.

### **3. Policy Context**

#### **3.1. Lewisham Corporate Strategy**

- 3.2. Lewisham's existing statutory development plan, and the emerging draft new Local Plan, will play a key role in delivering the Council's Corporate Strategy 2018-2020 as such the plan will engage with all of the key priority areas of the Corporate Strategy:

1. Open Lewisham – Lewisham is a welcoming place of safety for all where we celebrate the diversity that strengthens us
2. Tackling the housing crisis – Everyone has a decent home that is secure and affordable
3. Giving children and young people the best start in life - Every child has access to an outstanding and inspiring education and is given the support they need to keep them safe, well and able to achieve their full potential.
4. Building an inclusive local economy - Everyone can access high quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
5. Delivering & defending: Health, Social Care and Support - Ensuring everyone receives the health, mental health, social care and support services they need.
6. Making Lewisham greener - Everyone enjoys our green spaces and benefits from a healthy environment as we work to protect and improve our local environment.
7. Building safer communities - Every resident feels safe and secure living here as

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### 3.3. **National Planning Policy Framework (NPPF)**

- 3.4. The preparation of a new Local Plan must comply with the National Planning Policy Framework (NPPF) (revised July 2019). The NPPF sets out the Government's planning policies for England and how these are expected to be applied.
- 3.5. Paragraphs 15-19 of the NPPF outline the expectations and requirements for local authorities in preparing a new Local Plan. Specifically, local authorities need to ensure that new plans are succinct and up-to-date, provide a positive vision for the future, and present a framework for addressing housing need and other economic, social and environmental priorities. Local authorities also need to ensure that plans be prepared with the objective of contributing to the achievement of sustainable development, and are shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees.
- 3.6. Paragraphs 24-27 of the NPPF further outlines the requirements for local planning authorities to ensure that their plan addresses the relevant strategic matters that have broader spatial implications that cross administrative boundaries ("duty to co-operate"), and that effective and on-going joint working between strategic policy-making authorities and statutory bodies has taken place to inform the relevant strategic policies in the new Plan.
- 3.7. Local plans are also required to be reviewed at least once every five years, and updated as necessary (Paragraph 33), and ensure that the existing strategic policies can provide a sufficient supply of new homes over a minimum five year period (Paragraph 73-76). Given that Lewisham's current Core Strategy was published in 2011, and sites allocated for development in the Core Strategy have largely been taken up or built out, the Council is obliged at this time to prepare a new Local Plan to meet the requirements of Paragraph 33 and 73-76 of the NPPF.
- 3.8. Further, the new Local Plan needs to comply with the Town and Country Planning (Local Planning) (England) Regulations 2012 ("the Regulations"). Regulation 18 outlines the first steps that must be undertaken in preparing a local plan, including who needs to be notified, and how a local authority should consider feedback received during public consultation when preparing a final draft Plan for submission to the Secretary of State

## 4. **Background**

- 4.1. On the 21st January 2020 the Sustainable Development Select Committee were asked to consider Lewisham Local Plan - Regulation 18 stage "preferred approaches" document (Draft Local Plan). The Sustainable Development Select Committee (the Committee) resolved that they would refer their views/comments to Mayor and Cabinet as follows:
  - The Committee commends the work that has been carried out by officers in developing the draft local plan. It particularly welcomes the engagement that has

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been carried out with councillors.

- The Committee recommends that there should be greater emphasis in the new plan on the 'Urban National Park' initiative which is proposed in the south of the borough.
- The Committee recommends that - when deciding on designating any new conservation area - careful consideration should be given to the potential impact on residents' future ability to install energy saving features (such as solar panels and external insulation).
- The Committee would welcome stronger enforcement activity to protect the borough's heritage assets and listed buildings. It is particularly concerned about the borough's historic pubs.
- The Committee recommends that funding for planning enforcement should be maintained and, where possible, strengthened.
- The Committee recommends that officers give further consider about how best to protect the borough's trees.
- The Committee is concerned about the impact of impermeable paving on flood risk in the borough. It recommends that officers should investigate the options for removing permitted development rights for paving on front gardens in order to ensure that permission is only given for sustainable permeable paving.
- The Committee recommends that further consideration should be given to ensuring that affordable housing for students is allocated to those who are most in need.

## **5. Officer's Update and response to Mayor and Cabinet**

- 5.1. A response to each of the comments/views is provided below:
- 5.2. The Committee commends the work that has been carried out by officers in developing the draft local plan. It particularly welcomes the engagement that has been carried out with councillors.
- 5.3. Response: Noted
- 5.4. The Committee recommends that there should be greater emphasis in the new plan on the 'Urban National Park' initiative which is proposed in the south of the borough.
- 5.5. Response: Officers are supportive of the 'Urban National Park' Initiative and the Local Plan identifies the corridor as a Strategic Green Link in Part 3, within Lewisham's East Area principles. Much of the corridor is designated as borough SINC and the entire corridor is designated Metropolitan Open Land (MOL) and therefore is afforded substantial planning protection through the existing and Draft London Plan as well as protection through Lewisham's existing and Draft Local Plan.
- 5.6. The term "Urban National Park' is not recognised planning policy terminology which is why it is referred to within the plan as a Strategic Green Link. Officers will continue to work with relevant councillors to ensure that the Plan is providing sufficient weight for the initiative and provides a robust link between higher-level policy within the plan and the emerging Grove Park Neighbourhood Plan.
- 5.7. The Committee recommends that - when deciding on designating any new conservation area - careful consideration should be given to the potential impact on

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residents' future ability to install energy saving features (such as solar panels and external insulation).

- 5.8. Response: Noted
- 5.9. The Committee would welcome stronger enforcement activity to protect the borough's heritage assets and listed buildings. It is particularly concerned about the borough's historic pubs.
- 5.10. Response: The Local Plan provides a robust set of policies (set within the parameters of higher level policies/regulations) to protect heritage assets and listed buildings through the planning process and where enforcement action is required. Unfortunately, due to national permitted development rights the council's ability to protect non-designated heritage assets (including those that are Locally Listed) is limited. Whilst uncommon, one option could be to prepare a non-immediate Article 4 Direction for all buildings and structures on the Local List to remove certain permitted development rights, including demolition. A non-immediate Article 4 significantly reduces the risk of compensation claims. Officers do have concerns that this could alert owners to existing permitted development rights and that we could see the loss of further buildings in the 12 month period necessary for the making of a non-immediate Article 4. The making of an Article 4 would also require officer resources not programmed into current or future work programmes. This option is therefore not currently proposed.
- 5.11. See response to 3.14 for further details of enforcement activity in response to heritage assets
- 5.12. A detailed response on pubs was presented to Mayor and Cabinet on the 11th March 2020.
- 5.13. The Committee recommends that funding for planning enforcement should be maintained and, where possible, strengthened.
- 5.14. Response: The Planning Service has increased the number of enforcement officers employed within the planning enforcement team over the last year.
- 5.15. As a result of the increase in staffing, a more proactive stance can be taken in key areas.
- 5.16. In this respect key heritage assets within the borough that have been identified at risk such as Deptford High Street Conservation Area currently has a dedicated enforcement officer to remedy the impact of unsympathetic alterations to residential and commercial buildings.
- 5.17. Priority is also placed on looking at unauthorised residential conversions which are substandard and do not meet local and national planning policies. Greater emphasis is also being placed on "rogue landlords" where properties are being converted into large Sui Generis HMOs and also self-contained residential outbuildings "beds and sheds" which tend to cause problems of local anti-social behaviour, overcrowding and

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greater environmental waste problems.

- 5.18. The Committee recommends that officers give further consider about how best to protect the borough's trees.
- 5.19. Response: Please refer to Chapter 8 Green Infrastructure and Natural Environment in the draft Local Plan. Policy GR4 – Urban greening and trees
- “Development proposals should seek to retain existing trees, as well as the associated habitat with regard for the urban forest, and maximise opportunities for additional tree planting and green infrastructure, particularly trees in characteristically urban settings such as streets. All proposals must suitably demonstrate that tree retention along with tree and other green infrastructure planting have been considered as part of the design-led process....”*
- 5.20. The Council's ability to protect trees under current regulations is limited to land in council ownership (parks and streets), trees within conservation areas and trees that form part of a planning application through DM policies.
- 5.21. Where a site requires planning permission (to build housing etc) and we identify trees of significant amenity value that are worthy of retention we can place planning conditions on the approval to protect those trees and/or insist on replacement planting as part of the application should any tree be removed.
- 5.22. Other than in dealing individual planning applications the Council has very little control over trees in private ownership outside conservation areas.
- 5.23. Within conservation areas, under current regulations we have limited powers to resist the felling of trees in rear gardens that are not visible from the public realm. Furthermore there is no legislative power to insist on replacement planting unless the tree has a Tree Preservation Order on it. On top of this permitted development rights for household extensions, conversions of front gardens to driveways and garden outbuildings further erode the boroughs existing green infrastructure.
- 5.24. The Planning Team's one tree officer does an excellent job in persuading people whenever possible to avoid the felling of trees and/or persuade them to plant replacements but with limited resource this is a significant challenge for the Council and affects the amount of proactive tree work that can be undertaken across the Borough.
- 5.25. The Committee is concerned about the impact of impermeable paving on flood risk in the borough. It recommends that officers should investigate the options for removing permitted development rights for paving on front gardens in order to ensure that permission is only given for sustainable permeable paving.
- 5.26. Response: The National Planning Policy Framework (NPPF) 2018 paragraph 53 states that:
- “The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require*

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*planning permission for the demolition of local facilities).”*

- 5.27. Officers would therefore have to evidence and demonstrate that such an Article 4 is justifiable within this context (similar to the HMO review that supported the successful implementation of the Article 4 to the southern wards). This would require additional officer resource and is likely to take up to 6 months to prepare. Given the current financial constraints of the Planning Service, is not proposed as part of current or future work programmes at this time.
- 5.28. However, many of our conservation areas have Article 4 Directions that currently remove this permitted development right but these only cover a small proportion of the borough. As stated above, a borough wide non-immediate Article 4 Direction would be a resource intensive piece of work.
- 5.29. It should also be noted that as part of the process, the Secretary of State could call it in to make the final decision.
- 5.30. The Committee recommends that further consideration should be given to ensuring that affordable housing for students is allocated to those who are most in need.
- 5.31. Response: Policy H08 – Purpose built student accommodation (PBSA) within the draft new Local Plan outlines our approach to student accommodation in line with the Draft London Plan. The supporting text paragraph 7.75 states:

*“Draft London Plan Policy H17 provides that at least 35% of PBSA should be secured as affordable housing. This is in order to ensure that students with an income equivalent to that provided to full-time UK students by state funded sources of financial support for living costs can afford to stay in PBSA.*

*We will apply the definition of affordable student accommodation as set in the draft London Plan and its supplementary guidance. Affordable rent levels may be subject to periodic review over the life of the Local Plan, taking into account any significant changes that may be made to the Government’s student maintenance loan regime.”*

## **6. Financial implications**

- 6.1. The additional work requested would require additional funding for the Planning Service to be take forward, including for additional officer resource. Given the current financial constraints of the Council and ongoing budget pressures, officers do not currently plan to programme additional workstreams.

## **7. Legal implications**

- 7.1. There are no legal implications arising from this report

## **8. Equalities implications**

- 8.1. The Council’s Comprehensive Equality Scheme for 2016-20 provides an overarching

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framework and focus for the Council's work on equalities and helps ensure compliance with the Equality Act 2010. It describes the Council's commitment to equality and fairness for citizens, service users and employees through its powers to influence access to good quality housing, education, safety & security, health and leisure services.

- 8.2. The emerging new Local Plan will be subject to an Integrated Impact Assessment (IIA) in line with the statutory requirements for plan making, and this assessment will incorporate considerations relevant to Equalities Impact Assessment. The emerging new Local Plan will be prepared having regard to findings of the IIA through an iterative assessment process. An interim Integrated Impact Assessment report will be published alongside the draft Local Plan at the next Regulation 18 stage of public consultation.

## 9. Climate change and environmental implications

- 9.1. There are no climate change or environmental implications arising from this report.

## 10. Crime and disorder implications

- 10.1. There are no direct crime and disorder implications arising from this report.

## 11. Health and wellbeing implications

- 11.1. There are no health and wellbeing implications arising from this report.

## 12. Background papers

- 12.1. None.

## 13. Glossary

Term	Definition
Article 4 directions	An article 4 direction is a direction under article 4 of the General Permitted Development Order which enables the Secretary of State or the local planning authority to withdraw specified permitted development rights across a defined area.
Core Strategy	The core strategy is the key planning policy document for our borough. It is our plan for the future and sets out the key decisions about how much development will happen in the borough and where, when, and how it will take place. Our core strategy covers a 15 year period from 2011 to 2026.

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Term	Definition
HMO	Houses in Multiple Occupation
Local Plan	A plan for the future development of a local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. A local plan can consist of either strategic or non-strategic policies, or a combination of the two.
Metropolitan Open Land (MOL)	Metropolitan Open Land is a designation is unique to London, and protects strategically important open spaces within the built environment.
Permitted development rights	Permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application. Permitted development rights are subject to conditions and limitations to control impacts and to protect local amenity.
Rogue landlords	A rogue landlord is a landlord who does not meet their legal obligations to provide safe accommodation and carries out unlawful activities.
SINC	Sites of Importance for Nature Conservation
Sui Generis HMOs	Houses in Multiple Occupation which are occupied by 7 or more unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. Planning permission is always required for these.

## 14. Report author and contact

14.1. David Syme – Strategic Planning Manager (david.syme@lewisham.gov.uk)

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## **15. Comments for and on behalf of the Executive Director for Corporate Resources**

15.1. John Johnston – Acting Group Finance Manager, Financial Services  
(john.johnston@lewisham.gov.uk)

## **16. Comments for and on behalf of the Director of Law, Governance and HR**

16.1. Paula Young – Senior Lawyer, Legal Services (paula.young@lewisham.gov.uk)

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