



The Planning
Inspectorate

Report to the London Borough of Lewisham

by Roy Foster MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 13 January 2014

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

REPORT ON THE EXAMINATION OF LEWISHAM TOWN CENTRE LOCAL PLAN

Document submitted for examination on 28 September 2012

Examination hearings held on 15-16 January and 9 July 2013

File Ref: PINS/C5690/429/4

Abbreviations Used in this Report

| | |
|-------|------------------------------------|
| AA | Appropriate Assessment |
| CS | Lewisham Core Strategy |
| LBL | London Borough of Lewisham |
| LP | London Plan |
| LTCLP | Lewisham Town Centre Local Plan |
| MM | Main Modification |
| NPPF | National Planning Policy Framework |
| PSA | Primary Shopping Area |
| RCS | Retail Capacity Study |
| SA | Sustainability Appraisal |

Non-Technical Summary

This report concludes that Lewisham Town Centre Local Plan provides an appropriate basis for the planning of the town centre over the next 15 years provided that the plan is modified in a number of ways.

The Council specifically requested me to recommend any modifications to the plan that may be necessary for its adoption. I have fully considered all the representations made about the relevant issues, including all the representations made as a result of the two stages of modifications advertised by the Council, following the examination hearings. Having done so, I recommend inclusion of the modifications set out in Appendix 1.

Those modifications can be summarised as follows:

- Change to ensure that the requirement of Regulation 8(5) is met;
- New text clarifying the total amounts of residential and retail development provided by the plan, in accordance with the Core Strategy;
- Additional text to reflect the presumption in favour of sustainable development;
- A set of modifications to define/redefine the boundaries of (a) the plan area (b) the 'town centre', (c) an extended boundary to the Primary Shopping Area, (d) the 'edge-of-centre' sites and (e) the primary and secondary shopping frontages;
- Modifications to clarify the particular intended retail roles of the 'edge-of-centre' sites at Loampit Vale, Conington Road and Ladywell.

Introduction

1. This report contains my assessment of the Lewisham Town Centre Local Plan (LTCLP) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the plan's preparation complied with the duty to co-operate, recognising that there is no scope to remedy any failure in that regard. It then considers whether LTCLP complies with other legal requirements and is 'sound'. The National Planning Policy Framework (NPPF) states at paragraph 182 that a sound Local Plan is one which has been positively prepared and is justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the authority has submitted what it considers to be a sound plan. The basis for my examination is the draft LTCLP submitted in September 2012. This is the same as that consulted upon earlier in the year.
3. The Council has specifically requested me (under section 20(7C) of the Act) to make any main modifications (MM) necessary to rectify matters which would otherwise make the plan unsound/not legally compliant and therefore incapable of being adopted. This report concludes that some MMs are necessary and identifies them in bold thus (**MMx**). These MMs have been subjected to sustainability appraisal (SA) and public consultation and are set out in full in Appendix 1 which forms an attachment to this report.

Assessment of Duty to Co-operate

4. Section s20(5)(c) of the 2004 Act requires that I consider whether or not the Council has complied with the duty to co-operate imposed on it by S33A of the 2004 Act concerning the plan's preparation.
5. Responding to my request, the Council provided its view on that issue in a paper dated 16 November 2012. This sets out an audit trail of evidence that constructive, active and on-going engagement has taken place with the Mayor of London and relevant London Boroughs on the main 'strategic matters' covered by the plan. An appendix to the Council's paper identifies the activities, processes and outcomes relating to each of those matters.
6. The paper also indicates the interaction and cooperation which took place between LBL and the public bodies listed in part 2 of the Town and Country Planning (Local Planning) (England) Regulations 2012. I conclude that this activity was of appropriate type, depth and frequency for the various matters which it was necessary to cover. Satisfactory consultation and engagement has also taken place with the London Enterprise Panel.
7. I therefore conclude that the statutory duty to co-operate has been fulfilled.

Assessment of Soundness

Main Issues

8. Taking account of (i) all the representations made concerning the submitted

plan and the sets of advertised MMs, (ii) the questions that I raised with the Council and others about soundness-related matters and the participants' written response statements, and (iii) the discussions that took place at the hearings, the soundness of the plan can be considered in the context of the following three issues.

Issue 1 – Has the plan been 'positively prepared'?

9. Paragraph 182 of the NPPF requires plans to be positively prepared, ie *'based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so'*.
10. The Council's paper of 16 November 2012 clearly sets out the ways in which it has engaged positively (a) with neighbouring authorities both individually and as part of various local and London-wide groupings, (b) with Government organisations, and (c) with communities within the Borough. The evidence base for the plan demonstrates that needs and infrastructure requirements have been adequately objectively assessed, often by independent consultants.
11. The submission of the LTCLP succeeded the adoption of both the London Plan (LP) and the Lewisham Core Strategy (CS). Neither of these places any requirement on the LTCLP to meet unmet needs from beyond the Borough. On the other hand this plan has its part to play in meeting the identified Borough needs. Although its allocations make appropriate contributions, the plan as submitted does not clearly quantify the extent to which it contributes towards meeting the strategic requirements of the CS. **MM8** rectifies this by providing additional text clarifying the plan's total provision for residential and retail floorspace. This enables an understanding of LTCLP's contribution to the total provision in the Borough alongside the strategic allocations made in the CS and the other allocations made in the Site Allocations Local Plan and the forthcoming Catford Town Centre Local Plan.

Issue 2 – Does the plan adequately reflect the presumption in favour of sustainable development established in the NPPF?

12. **MM2** introduces new text appropriately reflecting the presumption in favour of sustainable development set out in the NPPF and making the LTCLP sound in that respect.

Issue 3 – Are the plan's retail policies clearly consistent with the NPPF?

Definition of the 'town centre' and the 'primary shopping area'

13. NPPF paras 23-27 require local plans to (a) positively promote competitive town centre environments, thereby enabling the management and growth of the centre over the plan period and (b) define the extent of town centres and primary shopping areas (PSA), based on clear definitions of primary and secondary frontages.
14. The LTCLP is ambiguous and therefore confusing in relation to the way it meets requirement (b) above and will therefore make it more difficult to achieve the aims at (a). The plan's ambiguity arises from the fact that the boundary of the area covered by policy LAAP1 and Figure 3.1 defines the outer

edge of the area covered by the plan itself rather than clarifying the areas to be regarded as relevant to the sequential test for main town centre uses. Moreover, the PSA currently includes only existing frontages; it does not reflect the Council's intention that future developments at an extended Lewisham Centre and the proposed Lewisham Gateway site will form critical elements of the PSA in the context of the Core Strategy's ambition to achieve 'metropolitan' status by capitalising on Lewisham's good communications network, including the nearby terminus of the Docklands Light Railway.

15. This lack of soundness is resolved by a number of modifications (**MM3-MM7 and MM18**). Together, these changes remove this ambiguity by identifying the outer limit covered by the LTCLP as the 'plan area boundary' and, within that, defining a smaller 'town centre' boundary. Inside the latter an extended 'primary shopping area' is appropriately drawn to include both the existing primary frontages and the proposed development sites at the Lewisham Centre and Lewisham Gateway. Both of these are intended to provide units capable of attracting the kind of multiples currently absent from the town centre. Finally, proposed additional 'secondary frontages' are defined at the edge-of-centre location comprising sites S3 & S4 at Loampit Vale. In combination these modifications secure consistency with the NPPF and provide necessary certainty about the intended roles of the various areas.

The retail role of the Loampit Vale Town Centre Area

16. Although policy LAAP4 (para 4.8) identifies this as an edge-of-centre site, where 'bulky goods retailers have tended to cluster', the occupiers of the existing large format units at site S3 (Lewisham Retail Park) do not primarily trade in 'bulky goods'. In my initial questions to the Council I asked whether the submitted version of part 4.2 of the plan contained an adequately clear expression of the future aims for sites S3 and S4 at Loampit Vale. A number of principles are to be found in LAAP4: - that development should seek to 'complement the Lewisham Gateway Town Centre Area', 'complement rather than compete with existing town centre uses in the Central Town Centre Area' and 'improve the comparison retail offer within the town centre'. It also identifies that 'convenience retail provision will not be considered acceptable'.
17. On the latter point (the exclusion of convenience retail provision), the Retail Capacity Study (RCS) identifies substantial potential longer-term need for additional convenience retail floor-space focused on Lewisham. Part of this growth is expected to take place within the PSA through an extension of the existing Sainsbury's store, although the timing of this is uncertain. No other major potential development sites for convenience goods retailing have been identified within the PSA. Rather, the plan directs such development mainly to the edge-of-centre sites at Conington Road and the current Ladywell Leisure Centre.
18. It is unclear why (compared with the above two sites) the submitted plan regards the Loampit Vale edge-of-centre site as unsuitable to accommodate future convenience goods development. There appear to be no inherent reasons to favour those two sites over Loampit Vale and the latter also has the advantage of being able to serve a substantial quantity of recently-completed residential units on its doorstep. In addition, the current scheme at S4 will provide a further 406 flats above the planned 6,771 sqm of non-food retail

space and it is very understandable in the present retail climate that the developers have concerns about the marketability of this large-format floor-space, preferring to have the option of accommodating a convenience store of up to 1,500 sqm (net). Unlike other sites Loampit Vale has greater potential for early delivery of the greater customer choice and diversity of retail offer sought by the NPPF. It could therefore be counter-productive to the future regeneration prospects of Lewisham to insist on growth being directed to other sites with less certainty of delivery, especially if this were to result in less marketable completed floorspace at Loampit Vale.

19. **MMs 9-10, 12-13 and 19** therefore place Loampit Vale, Conington Road and Ladywell on a more even policy footing so that operators will have greater freedom to bring forward new convenience retail floor-space at any of these sites in response to changing market conditions and opportunities. However, since the factors underlying the conclusions of the RCS (2009) are likely to change in unknown ways and at unpredictable rates over the life of the plan, the MMs also introduce the caveat that applications for new retail convenience floor-space at all of these areas shall be subject to impact studies demonstrating no adverse impact on the PSA.
20. Alongside these changes, the MMs clarify the 'complementary' role of non-food developments at Loampit Vale (in relation to the PSA in general and Lewisham Gateway in particular, where smaller fashion-orientated units are sought) by indicating that non-food retail proposals here should be of larger formats and again demonstrate no demonstrable adverse impact on the PSA.
21. Also within the Loampit Vale area, **MM14** changes policy S5, appropriately indicating the site's preferred employment-generating use, most likely B1.

The retail role of Conington Road Town Centre Area

22. This area (site S6) is defined in para 4.14 of the plan as an edge-of-centre site. After submission the Council proposed its reclassification as 'out-of-centre', but later reverted to favouring its submitted 'edge-of-centre' status.
23. The retail frontages at the other 3 'edge-of-centre' sites identified in the plan directly adjoin main streets into/out of the PSA whereas the Tesco store on site S6 is much less generally visible. Although the site lies directly across the railway and river from the rail/light rail stations and the future Lewisham Gateway section of the PSA, the current shortest route across these physical barriers follows a loop via Silk Mills Path. However, policy LAAP5 and the River Ravensbourne Corridor Improvement Plan require proposals at Conington Road and Lewisham Gateway to contribute to the delivery of more accessible and inviting pedestrian/cycling links between the two sites, as indicated at LTCLP Figure 4.3. In view of these factors the plan's definition of Conington Road is in tune with the NPPF's description of an edge-of-centre site and is reasonable and justified.
24. However, as discussed above in relation to Loampit Vale, there are no convincing reasons for treating the edge-of-centre sites at Conington Road and Loampit Vale differently in terms of their suitability in principle for convenience retailing or a requirement for any future retail proposals to meet the impact test in relation to the PSA. **MM16 and MM17** remedy that defect.

The retail role of the (former) Ladywell Leisure Centre site (S8)

25. The set of MMs already discussed remove the 'Ladywell Town Centre Policy Area' from the defined 'town centre'. This is appropriate, since much of the excluded area is a non-retail conservation area well away from the heart of Lewisham Town Centre. However, the Lewisham High Street frontage to the south of the railway bridge is treated as 'edge-of-centre'.
26. The consultant's Briefing Note on 'Retail Capacity follow-up', treated the latter as 'out-of-centre'. However, the Council's rationale for treating it as edge-of-centre is not unsound. The PSA reaches as far south as Molesworth Street and secondary shopping frontages then extend to the railway bridge on both sides of the High Street. South of the bridge active secondary frontages (including a recent new-build Tesco Express) continue on the western side to Ladywell Road, opposite the former Leisure Centre. There are no shops on the eastern side of High Street between the Leisure Centre and the railway bridge, but there is considerable pedestrian traffic alongside this busy radial route (A21) passing between the town centre and nearby destinations such churches, a school, a major hospital, Ladywell Station and extensive residential areas.
27. Policy LAA7 allocates the Ladywell Leisure Centre for comprehensive mixed use development including housing and up to 1,400 sqm of retail floorspace. As already indicated, the RCS projects considerable quantitative need for new convenience goods floorspace in Lewisham over the life of the plan and there are no other potential locations for accommodating part of this growth to the south of the town centre. As noted above, there are no sufficient grounds for treating the edge-of-centre sites differently from each other in terms of a generally permissive stance towards convenience goods space subject to any future retail proposals showing no adverse impact on the PSA. **MM21** appropriately adds this caveat.
28. If an application for a food store were to be made here it would be open to the Council to impose a condition preventing or limiting non-food sales if deemed necessary in the circumstances then prevailing. However, it is not the function of the planning system to prevent competition between individual shops and in any case many of the units opposite the site appear to be of a somewhat specialist nature unlikely to be in direct competition with a new food store.

Lewisham Gateway

29. The Lewisham Gateway scheme underpins the ambition to transform the centre's retail image and status. The scheme is already part of the adopted Development Plan (CS 'Strategic Site Allocation 6') and outline planning permission has been granted. Reserved matters approval has been given for the first stage. It is thus unnecessary for the plan to include specific policy for the site and its planning status is not open to be revisited in this context.

Assessment of Legal Compliance

30. My examination of the plan's compliance with the legal requirements is summarised in the table below. I conclude that it meets them all, except that the submitted plan did not fulfil the requirement of Regulation 8(5) that a plan should identify any policies in the Development Plan (in this case the Unitary Development Plan) which it is to supersede. **MM1&20** correct that deficiency.

| LEGAL REQUIREMENTS | |
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| Local Development Scheme (LDS) | The approved LDS (September 2010) expected adoption of the LTCLP in August 2013. The various stages of the examination have slightly extended this, but the plan's content and timing are generally consistent with the LDS. |
| Statement of Community Involvement (SCI) and relevant regulations | Consultation on the LTCLP has complied with the requirements of the SCI (adopted in July 2006), including the consultation on the post-submission proposed 'main modifications' (MMs) |
| Sustainability Appraisal (SA) | SA has been carried out and is adequate. |
| Habitats Regulations Assessment (HRA) | An adequate stage 1 screening report revealed no need for further stages of HRA assessment. English Nature supports this conclusion. |
| National Policy | The plan complies with national policy except where stated otherwise. Modifications are recommended in such cases. |
| The London Plan | The LTCLP generally conforms with the London Plan. |
| Sustainable Community Strategy (SCS) | The LTCLP has satisfactory regard to the Council's SCS (Shaping our Future 2008-20). |
| 2004 Act (as amended) and 2012 Regulations. | MM1&20 correct the deficiency identified at paragraph 30. Otherwise, the LTCLP complies with the Act and the Regulations. |

Overall Conclusion and Recommendation

- 31. As identified above, the plan has some deficiencies in relation to soundness and legal compliance. In accordance with Section 20(7A) of the Act I therefore recommend its non-adoption as submitted.**
- 32. However, the Council has requested me to recommend main modifications to make the plan sound and/or legally compliant and capable of adoption. I conclude that with the main modifications set out in Appendix 1, attached as a separate document, the Lewisham Town Centre Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.**

Roy Foster

Inspector