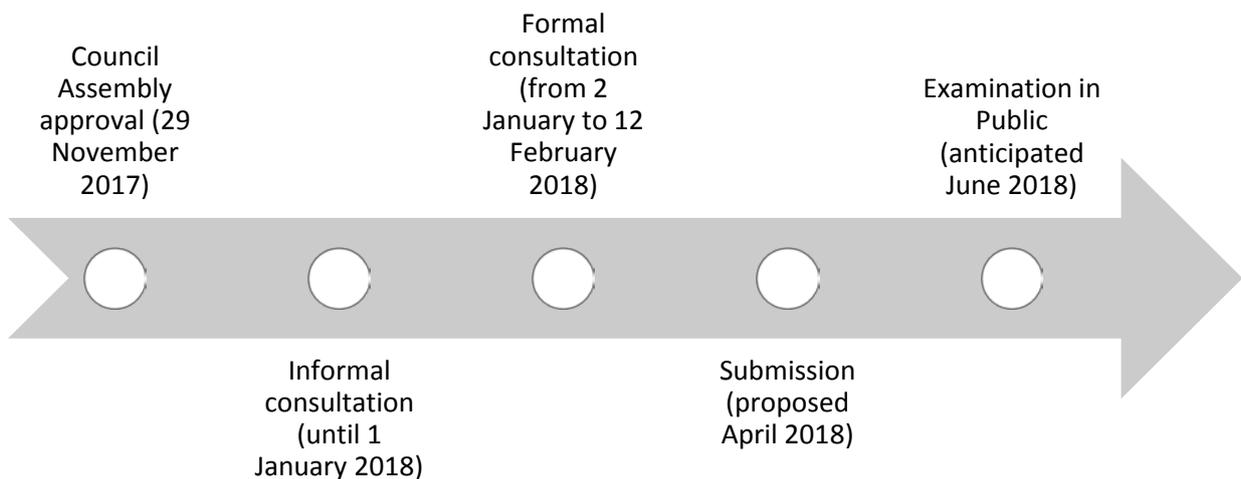


New Southwark Plan: Submission Version, Examination in Public and Soundness

Overview and Timeline

The New Southwark Plan will be the Local Plan for Southwark from the date it is adopted until 2033. All future planning applications will be decided in line with the policies in the New Southwark Plan.

Before Southwark Council can adopt the New Southwark Plan, it must be considered by an independent Planning Inspector from the national agency for planning, the Planning Inspectorate. The Inspector will consider whether the plan is sound and legally compliant. Part of this process includes an Examination in Public, a series of hearings where the council and interested parties can present their views on particular aspects of the New Southwark Plan.



Southwark Council are currently carrying out informal consultation on the Submission Version of the New Southwark Plan. The Submission Version is the final draft of the Plan, in the form it will be sent to the Planning Inspectorate.

Council Assembly approval of the Submission Version was sought and given on 29 November 2017.

This means that the formal, statutory period for consultation will begin on 2 January and run for six weeks until 12 February 2018. Written responses must be received by this deadline.

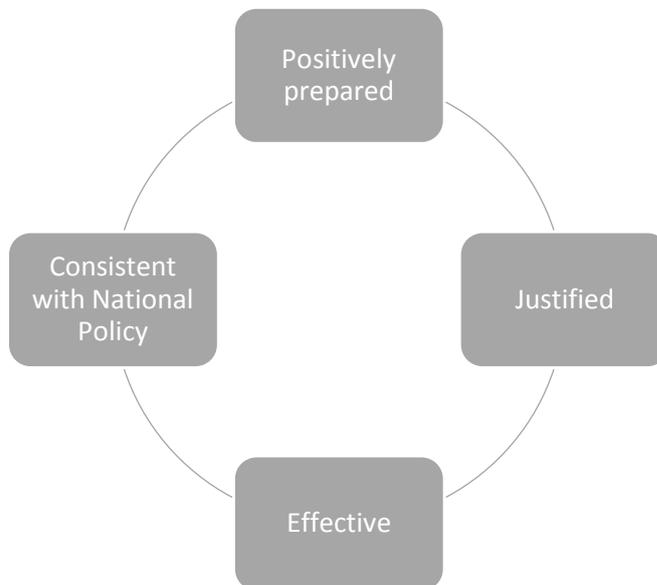
Any written responses to the Submission Version will be collated by Southwark Council and submitted to the Planning Inspectorate along with the Submission Version. It is proposed that this will happen in April 2018.

An independent inspector will then be appointed, who will decide the timetable for the Examination in Public of the Submission Version (anticipated June 2018).

Informal and Formal consultation (Until 12 February 2018)

- This is your opportunity to comment on the “soundness” and legality of the plan
- The right to make oral comments at a hearing during the Examination in Public is limited to those who have made formal written comments *seeking a change* to the New Southwark Plan
- In your response you must also request to attend the Examination in Public
- During formal consultation there should be an official form on the Council website for making comments, which you should complete

Content of representations – the four tests of soundness



Positively prepared:

- **The Plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where reasonable to do so and consistent with achieving sustainable development¹**
- Consider vision and objectives of the Plan. Is it clear what the Plan is seeking to achieve? Is there a direct relationship between the identified issues, visions and objectives? Is it clear how policies will meet the objectives and are there any obvious gaps in the policies? Are the policies internally consistent?

Justified:

- **The Plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence**
- Is the Plan founded on robust and credible evidence bases? Is there evidence of participation of the local community? What consultation has taken place, has it

¹ Bold text for each of the four tests is taken from the National Planning Policy Framework, paragraph 182.

allowed for effective engagement of all interested parties? What are the sources of evidence and how convincing are they?

- Is the evidence up to date? Not more than 3 years old for documents relating to retail, employment and housing and not more than 1 year old for key documents such as the Strategic Housing Land Availability Assessment, Strategic Housing Market Assessment and Economic Needs Assessment
- Is there a clear audit trail showing how and why the preferred approach was arrived at? The main alternative options should be discussed in the Sustainability Appraisal.

Effective:

- **The Plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence**
- Plan must be deliverable, flexible and capable of being monitored.
- Deliverability: have delivery partners signed up to Plan, is strategy coherent with that of neighbouring authorities, are timescales for delivery realistic, does Plan explain how, when and by whom its key policy objectives and proposals will be achieved?
- Flexibility: does the Plan include the remedial actions that will be taken if the policies need adjustment (e.g. for major/minor changes).
- Monitoring: does Plan contain targets and milestones which relate to the deliverability of policies (including housing trajectories?) Is it clear how targets are to be measured (by when, how and by whom) and are these lined to the production of the Annual Monitoring Report?

Consistent with national policy:

- **The Plan should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework**
- Where the Plan departs from national policy clear and convincing reasoning must be given to justify the departure.
- The Local Plan must also comply with the London Plan (see new draft London Plan published on 29 November 2017).

Content of representations – legal compliance

- Did the consultation process comply with the Statement of Community Involvement (SCI)? Is the SCI up to date with current legal requirements? Has community involvement followed the principles of the Sustainable Community Strategy? Was consultation proportionate to the scale of the issues in the Plan?²
- Does the Plan properly take account of equality issues in compliance with the Public Sector Equality Duty?
- Has baseline information being collected and evidence been gathered to keep the matters which affect the development of the area under review and inform the Sustainability Appraisal?³

² Planning and Compulsory Purchase Act 2004, s 19(3); Town and Country Planning (Local Planning) Regulations 2012, reg 18; National Planning Policy Framework paras 155, 159-173.

³ Planning and Compulsory Purchase Act 2004, ss 13, 19(5); National Planning Policy Framework paras 158-177.

Tips for commenting on the Submission Version

- Relate your comments to one of the **tests of soundness**.
- Clearly **identify** the policy or site proposal you are objecting to or supporting, using the reference number given in the plan.
- **Say why** you are objecting or supporting and, if you want to see a policy or site proposal changed, say how and put forward your own **alternative wording** and the reasons for it.
- Keep your comments as **simple** as possible and organise them in a **logical** order.
- Concentrate on the planning issues involved. These are known as **material considerations** (see attached document).
- If you are only objecting to **certain aspects** of a site proposal it is important to **define these clearly**. Try to show that you have understood, yet still disagree with the local authority's position.
- **Back up your comments** with statements or analysis from documents such as the Sustainability Appraisal, national policy, guidance, local technical studies or evidence you have gathered yourself.
- **Complete the formal representation form** made available by the Council. Comments must be submitted in writing (either electronically or on paper).
- You may also wish to comment on whether you agree with the **balance** that has been struck and if there are any different approaches (for example different sites or strategies to locating development) that you feel would be more beneficial in planning terms.
- It is particularly important to consider whether the Plan **complies with the London Plan** (either the one currently in force or the new draft London Plan).

Example: "The NSP is not sound because it is not effective. It has not included the participation of the local community and stakeholders in the area" – and then give examples and develop the objections further (e.g. inadequacy of consultation events, failure to take community responses into account, as evidenced in the consultation report)

Submission (proposed April 2018)

- Council will collect written responses to formal consultation and submit these to the Planning Inspectorate along with the Submission Version of the New Southwark Plan
- Note that if the Council wishes to make any changes to the Plan prior to Submission it will probably have to consult again
- Council will appoint a Programme Officer for the Plan who will be responsible for liaising with the Planning Inspector and those who have made written submissions

Once the New Southwark Plan has been submitted (from April 2018)

- Inspector carries out initial appraisal of plan and looks for any fundamental flaws
- Makes a plan for the examination including timetable for hearings and will allocate participants to hearing sessions
- Inspector circulates an initial Guidance Note which will outline the procedures that will be followed in the examination at the hearing sessions

- If you have made a written representation requesting a change to the Submission Version of the New Southwark Plan, the Inspector will invite you to attend one of the hearings – you must confirm you will be attending
- Start date for hearing sessions will be notified to those who have responded at least six weeks in advance
- Inspector may also ask LPA or participants for additional information in the form of further written statements. Outside of such a request, new evidence may not be submitted. However, this should not dissuade you from bringing to the inspector's attention an issue you feel is important and which has not already been raised in the course of the examination process. Late submissions may be considered at the Inspector's discretion
- It is worth noting that written representations carry the same weight as oral representations

Process for the Examination in Public (anticipated June 2018)

- Typically for a Local Plan hearings will take 20-25 days (probably with days off in between to allow Council and participants to prepare).
- Inspector starts from a strictly neutral point of view and does not apply any presumption in favour of the Council.
- Examination will focus on the main issues that the inspector considers are fundamental to the soundness of the plan. This will be influenced by Council's summary of key issues and those raised in written representations by the local community.
- The Inspector may require participants to clarify their evidence and may refuse to hear matters which are thought to be irrelevant or repetitious. The approach will be co-operative rather than confrontational.
- If the Inspector does have fundamental concerns at any point, the process can be paused to give the Council a chance to amend plan/do further work

After the hearings (late summer/early autumn 2018)

- Inspector will draft report (will not make reference to specific representations or answer objections). Council have a chance to fact check report. Then the report will be published by the Council.
- Inspector can recommend adoption, adoption with modifications or no adoption. If modifications are suggested, further consultation may be necessary. If the Plan is found to be sound and recommended for adoption, the full Council must decide whether and when to adopt the Plan.

Esther Drabkin-Reiter
Southwark Law Centre
5 December 2017

Any questions: esther.drabkin-reiter@southwarklawcentre.org.uk or 020 732 2008.

Material Planning Considerations

When a decision is made on a planning application, only certain issues are taken into account; these are often referred to as 'material planning considerations'.

MATERIAL PLANNING CONSIDERATIONS:

Issues that may be relevant to the decision

(There may exist further material planning considerations not included here)

- Local, strategic, national **planning policies** and policies in the Development Plan
- Emerging new plans which have already been through at least one stage of public consultation
- **Pre-application planning consultation** carried out by, or on behalf of, the applicant
- **Government and Planning Inspectorate requirements** - circulars, orders, statutory instruments, guidance and advice
- **Previous appeal decisions** and planning Inquiry reports
- Principles of **Case Law** held through the Courts
- **Loss of sunlight** (based on Building Research Establishment guidance)
- **Overshadowing/loss of outlook** to the detriment of residential amenity (though not loss of view as such)
- Overlooking and **loss of privacy**
- **Highway issues:** traffic generation, vehicular access, highway safety
- **Noise or disturbance** resulting from use, including proposed hours of operation
- **Smells and fumes**
- Capacity of **physical infrastructure**, e.g. in the public drainage or water systems
- Deficiencies in **social facilities**, e.g. spaces in schools
- Storage & handling of **hazardous materials** and development of **contaminated land**
- Loss or effect on **trees**
- Adverse impact on **nature conservation** interests & biodiversity opportunities
- Effect on listed buildings and conservation areas
- **Incompatible or unacceptable uses**
- Local **financial considerations** offered as a contribution or grant
- **Layout and density of building** design, visual appearance and finishing materials
- Inadequate or inappropriate **landscaping** or means of enclosure

The weight attached to material considerations in reaching a decision is a matter of judgement for the decision-taker however the decision-taker is required to demonstrate that in reaching that decision that they have considered all relevant matters.

Generally greater weight is attached to issues raised which are supported by evidence rather than solely by assertion.

If an identified problem can be dealt with by means of a suitable condition then the Local Planning Authority is required to consider this rather than by issuing a refusal.

NON-MATERIAL PLANNING CONSIDERATIONS:

Issues that are not relevant to the decision:

(There exist further non-material planning considerations not included in this list)

- **Matters controlled under building regulations** or other non-planning legislation e.g. structural stability, drainage details, fire precautions, matters covered by licences etc.
- **Private issues between neighbours** e.g. land/boundary disputes, damage to property, private rights of access, covenants, ancient and other rights to light etc.
- **Problems arising from the construction period** of any works, e.g. noise, dust, construction vehicles, hours of working (covered by Control of Pollution Acts).
- Opposition to the **principle of development** when this has been settled by an outline planning permission or appeal
- **Applicant's personal circumstances** (unless exceptionally and clearly relevant, e.g. provision of facilities for someone with a physical disability)
- **Previously made objections/representations** regarding another site or application
- **Factual misrepresentation of the proposal**
- Opposition to **business competition**
- **Loss of property value**
- **Loss of view**

Planning Aid England provides free, confidential and independent planning advice.
Call: 0330 123 9244 or Email: advice@planningaid.rtpi.org.uk

