



Cabinet
15 November 2016

**Report from the Strategic Director
Regeneration and Environment**

For Information

Wards affected:
ALL except parts of those wards in
Tokyngton, Stonebridge, Harlesden,
Kensal Green that fall within the Old
Oak and Park Royal Development
Corporation boundary

**Brent Development Management Policies Local Plan
Adoption**

1.0 Summary

- 1.1 This report explains that the Council has received an Inspector's report into the Examination of the Development Management Policies Local Plan. The Inspector has found the document 'sound' subject to recommended 'main' modifications being made. Cabinet is being apprised of the modifications and outline of the next stages. Cabinet is recommended to recommend to Full Council that the Development Management Policies Local Plan incorporating modifications is adopted.

2.0 Recommendations

- 2.1 Cabinet accept the main modifications and minor modifications to the Development Management Policies Local Plan that the Council submitted for Examination as set out in Appendix 1 and Appendix 2 to this report
- 2.2 Cabinet recommends to Full Council that the modified Development Management Policies Local Plan is adopted.
- 2.3 That the Strategic Director Regeneration & Environment is authorised to make further editorial changes to the document prior to it being adopted by Full Council.

3.0 Detail

Background

- 3.1 The reasons for producing the Development Management Policies Local Plan (DMP) derive from the need to remove and replace 'saved' policies of the Unitary Development Plan adopted in 2004. It concludes, as identified in accordance with the Council's Local Development Scheme, the folder of Development Plan Documents (DPDs) that will comprise the borough's local plan, also referred to as its development plan. The other documents that comprise Brent's local plan are the Brent Core Strategy adopted in 2010, the Brent Site Specific Allocations Plan adopted in 2011 and the Wembley Area Action Plan adopted in 2015. Other components of the development plan for Brent are the London Plan (as amended in 2016), the West London Waste Local Plan adopted in 2015 and the Sudbury Neighbourhood Plan adopted in September 2015.
- 3.2 The DMP sets out a number of policies that supplement and amplify the strategic policies set out in the Brent Core Strategy and London Plan. These are used for the determination of planning applications where Brent is the local planning authority. However, it will not apply in the areas of Brent that fall within the boundary of the Old Oak and Park Royal Development Corporation (OPDC) as there Brent Council is no longer the local planning authority. The OPDC is taking forward its own local plan for the area, which is anticipated will be adopted in 2017/18.
- 3.3 Cabinet considered the content of the DMP Plan on 21st September 2015. It approved the submission version for publication for representations to be received and recommended to Full Council that it was subsequently submitted for examination. Full Council on 18th January 2016 approved the submission of the DMP, along with proposed modifications to address representations made, to the Planning Inspectorate for examination.
- 3.4 The DMP was subject to examination by an independent Planning Inspector, who held hearing sessions to consider oral evidence on 3rd and 4th May 2016. A number of modifications to the document were proposed before, during and after the hearing sessions (Full Council delegated to officers the ability to propose modifications post submission to allow soundness issues raised by the Inspector to be satisfactorily be addressed). These were made available for representations to be received for the period from the 14th June until the 8th August 2016.
- 3.5 Scrutiny Committee on 12th July 2016 considered the proposed modifications but made no comment that necessitated consideration of a revision of the modifications proposed. All representations were subsequently submitted to the Inspector for consideration, alongside those made prior to submission and the positions set out by representors as part of the hearings process. The Council has now received and published the Inspector's report.

Inspector's Report

- 3.6 The Inspector considers that the DMP subject to a number of recommended 'main' modifications is sound and therefore capable of adoption. Main modifications are essentially those which change policy or materially affect its interpretation in implementation. In addition to these the Council proposed minor modifications; these for the most part deal with factual updates and grammatical errors. These have also been seen by the Inspector and were issued in association with the modifications issued for representations as set out in paragraph 3.4.
- 3.7 The main modifications can be summarised as:
- a) Inclusion of further detail regarding the development planning framework and the geographical coverage of the Plan.
 - b) Changes to reflect the importance of heritage assets, in line with national policy.
 - c) Changes to policies on retail development, transport, employment and housing so that they are justified, effective and consistent with national and local policy.
 - d) Insertion of new policies and text relating to flood risk and surface water management, in line with national and local policy.
 - e) Insertion of reference to 'local carbon off-setting' and the location of open space mapping.
 - f) Additions to the monitoring indicators in chapter 12 of the Plan.
- 3.8 The main modifications proposed by the Council were for the most part accepted by the Inspector following the representations made in the period 14th June until the 8th August 2016. However, minor amendments to policies related to development in the flood plain as proposed by the Environment Agency and protection of heritage assets in conservation areas as proposed by Historic England were accepted by the Inspector (following correspondence with officers).
- 3.9 The Inspector also made some amendments to the supporting text for policy EMP14 which were considered too detailed to be incorporated in the Plan. This related to the assumed land value of employment land in any viability study supporting a reduction of affordable housing. Although ideally officers would have preferred the original modification to be kept, it is accepted that there was an element of 'gold-plating' in what was proposed. The Inspector has essentially still captured the essence of what the Council was trying to achieve in fewer words, i.e. the existing site's value should be pegged at that of a low quality employment site.

- 3.10 In addition the Inspector noted that one of the minor modifications proposed by the Council in relation to minimum residential operational parking standards was in their opinion a main modification. However, they felt incapable of recommending it as a main modification in their report as they did not consider it accorded with London Plan Policy 6.13E and supporting text, which refers to maximum standards, whilst 'operational parking' is associated with commercial development. This will be removed as a minor modification and not included in the adopted version of the Plan. It is not considered that this will have an adverse impact as it was only seeking to clarify a point on what has essentially been the Council's approach to the application of parking standards set out in the UDP.
- 3.11 The recommended main modifications included in the Inspector's report are more fully set out and attached as Appendix 1. In addition in Appendix 2 a list of minor modifications to the DMP are shown.
- 3.12 The Inspector's report is not binding on the Council, in the sense that the Council is not obliged to proceed to adoption. It could choose to not adopt the plan. It however cannot decide to adopt the plan through only selecting some of the main modifications and not others. If circumstances warranted it, it does have the potential to legally challenge the content of the Inspector's report to seek reconsideration or removal of parts it might feel particularly aggrieved about and then decide whether to proceed to adoption or not.
- 3.13 As identified, the proposed modifications for the most part were drafted by the Council taking account of representations received, the Inspector's changes to these have been relatively minor. It is considered that the Inspector's amendments will not prejudice to such an extent the operation of the policies initially proposed by the Council and therefore a decision to not proceed to adopt the Plan, or to legally challenge the Inspector's report would not be warranted.
- 3.14 Not adopting the DMP would mean the Council would have to continue to rely on very old policies in the UDP 2004 in the determination of applications. It also potentially puts at risk initiatives such as the housing zones, or finding acceptable sites for secondary schools which are in part reliant on DMP Policy 14 being adopted; adoption of this policy will put in place a more permissive approach to using Strategic Industrial Land for housing and other uses. Other priorities which would be put at risk are those supporting the Council's public health agenda related to limiting takeaways, betting shops, pay day loan shops/pawnbrokers, adult gaming centres and shisha cafes in Brent's town centres, neighbourhood parades and near secondary schools.
- 3.15 When adopted the Plan will replace existing 'saved' policies within the UDP 2004. This will bring planning policies more up to date and therefore improve the efficiency of the planning service in terms of decision making, this will be related to time and clarity of position, which should reduce the potential for appeals and make the Council's position more robust.

- 3.16 Where a Local Plan is not up to date, Government has indicated its intention to intervene and potentially appoint a responsible party to write a Local Plan for the Local Planning Authority and to claim back the associated expenses. Brent is not considered to be at significant risk currently due to its ability to show it can meet a five year housing target. However, it does need to take forward a review of the Local Plan soon to continue to limit this risk.
- 3.17 The adoption of a Development Plan Document is in statute required to be a decision of Full Council. On this basis, it is recommended the Cabinet recommend to Full Council that the DMP Plan submitted for examination incorporating proposed modifications as set out in Appendices 1 and 2 is adopted. The adopted plan will be accompanied by an adoption statement and final sustainability appraisal.

4.0 Financial Implications

- 4.1 The Planning Inspectorate has confirmed the cost of Examination as approximately £32k. The examination is the main expense associated with this stage of the Plan and its adoption, but there will also be minor costs associated with printing, although most people now download or access the documents via the website. The expenditure associated with the Examination and related costs will be met from existing Planning budgets.

5.0 Legal Implications

- 5.1 Planning applications are to be determined in accordance with Development Plan unless there are significant material considerations that indicate otherwise. The provisions of the Development Plan are likely to hold the most weight where the Local Plan is up to date and consistent with National and London Plan policy. The DMP has passed these tests. The Housing and Planning Act 2016 and associated regulations will be setting out what the Government considers to be an up to date Local Plan and mechanisms that will allow it to intervene to ensure that an up to date Local Plan is in place where required.

6.0 Diversity Implications

- 6.1 The Equality Act 2010 introduced a new public sector equality duty under section 149. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council must, in exercising its functions, have “due regard” to the need to:
1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 2. Advance equality of opportunity between people who share a protected characteristic and those who do not.

3. Foster good relations between people who share a protected characteristic and those who do not.
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- 6.2 Full statutory public consultation has been carried out in the process of preparing and adopting the Local Plan. An Equalities Analysis Assessment has been undertaken at each stage of the Plan adoption process. The impacts have been assessed as being positive in relation to younger people, ethnic minority groups and those with a disability, specifically related to policies around limiting takeaways and shisha premises in the vicinity of schools, limiting betting shops and pay day loans and also in seeking to provide suitable affordable housing to meet needs.
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- 7.0 **Staffing/Accommodation Implications (if appropriate)**
 - 7.1 None arising specifically from the adoption of the DMP Plan.

Background Papers

[Brent Core Strategy 2010](#)

[Brent Site Specific Allocations DPD 2011](#)

[Wembley Area Action Plan 2015](#)

[Brent Development Management Policies Plan Publication Version 2015](#)

[Brent Development Management Policies Proposed Modifications June 2016](#)

[Report On The Examination Of The Brent Development Management Policies Local Plan September 2016](#)

[Cabinet 21st September 2015 Development Management Policies Plan Publication](#)

[Full Council 18th January 2016 Development Management Policies Plan Submission](#)

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