

**Merton Sites and Policies Plan Examination in Public
Written Statement on Matter 2 – Relationship to Core Strategy**

**London Gypsy and Traveller Unit
12 December 2013**

1. We wish to make a number of comments regarding the relationship between the Core Strategy Policy CS10 and the policy approach to Gypsy and Traveller provision in the Sites and Policies Plan.
2. Paragraph 18.53 in the supporting text for Policy CS10, as well as the Delivery and Monitoring section of the Core Strategy identify the Sites and Policies Plan as one of the mechanisms for setting a pitch target and allocating the necessary land supply for Gypsy and Traveller provision. The other proposed mechanisms are Area Action Plans and the Council's asset management or private windfall sites.
3. Area Action Plans are not currently included in the Local Development Scheme to 2014, as available resources, need and priority for these DPDs were not known at the time of the LDS adoption. Therefore, the Sites and Policies Plan is the only opportunity to deliver Policy CS10 through the Local Plan.
4. As discussed in our previous submissions, we consider that the lack of pitch targets and site allocations from this Plan is not sufficiently justified, therefore the Sites and Policies Plan is not in conformity with the Core Strategy and the Planning Policy for Traveller Sites.
5. We consider that a sound approach to meeting the accommodation needs of Gypsies and Travellers would be through the Local Plan process, as required by the Planning Policy for Traveller Sites in paragraphs 8 and 9. If sites are available through the Council's asset management or windfall sites, these should be assessed for suitability of inclusion in the Sites and Policies Plan. Given the Core Strategy was adopted in July 2011 and there is no evidence of progress through the asset management mechanism, we would question the effectiveness of this approach in securing the necessary provision.
6. In addition, we do not consider that the accommodation needs assessment conducted by Merton is fully in line with paragraph 18.51 of the Core Strategy and the commitment to collaborate with local communities to identify need, given the very limited involvement of the existing site residents in the study.
7. We would also question what consideration has been given throughout the site assessment process to paragraph 18.54 of the Core Strategy regarding the integration into the surrounding community and environment of Gypsy and Traveller sites. We believe that alternative solutions supporting integration, such as the inclusion of pitches in larger residential or mixed use developments have not been sufficiently explored.

8. As argued in our written statement on Matter 3, sites for Gypsy and Traveller provision should be identified at this stage and not later in the plan making process, as the bulk of developable and deliverable sites would already be allocated for other uses.
9. We are not satisfied that the Council has prepared a sound and positive strategy for meeting the needs of the Gypsy and Traveller community in the absence of sites allocated in the Sites and Policies DPD.
10. We wish to give the example of two Examinations of Site Allocations Local Plans where the Inspectors raised concerns about the failure to allocate Gypsy and Traveller sites despite commitments made in the two Boroughs' Core Strategies. In the case of the Camden Site Allocations Plan, the Council has revised the Local Development Scheme to include the possibility of a review to the Plan in light of an updated accommodation needs assessment. The second example is that of Lewisham, where the Council included in the revised LDS a timetable for a Gypsy and Traveller Local Plan negotiated with LGTU at the Examination in public of the Site Allocations Local Plan.
11. We are attaching the Inspector's report on the examination of the Lewisham Site Allocations Local Plan in Appendix 1, as supporting evidence. Paragraphs 33-39 of this report address the issue of Gypsy and Traveller site provision.
12. While our preferred option remains for the Sites and Policies Plan to include the appropriate pitch target and site locations for Gypsy and Traveller provision, if this is not possible we would like to seek a clear commitment that the Council will provide an alternative strategy for meeting the needs of this community through the plan making process.



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 8 March 2013

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

REPORT ON THE EXAMINATION OF THE LEWISHAM SITE ALLOCATIONS LOCAL PLAN

Document submitted for examination on 28 September 2012

Examination hearings held on 17-18 January 2013

File Ref: PINS/C5690/429/5

Abbreviations Used in this Report

AA	Appropriate Assessment
CS	Lewisham Core Strategy
ELS	Employment Land Survey
GLA	Greater London Authority
LBL	London Borough of Lewisham
LDS	Local Development Scheme
LEL	Local Employment Location
LP	London Plan
LTCLP	Lewisham Town Centre Local Plan
MEL	Mixed Use Employment Location
MM	Main Modification
MUH	Mixed Use Housing Area
SA	Sustainability Appraisal
SALP	Site Allocations Local Plan
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SHLAA	Strategic Housing Land Availability Assessment
SIL	Strategic Industrial Location
SINC	Site of Importance for Nature Conservation
the Framework	National Planning Policy Framework

Non-Technical Summary

This report concludes that the Lewisham Site Allocations Local Plan provides an appropriate basis for the planning of the Borough over the next 15 years provided that two 'main modifications' are made.

The Council had previously requested me to recommend any necessary modifications to the plan. Having fully considered all the representations made to the submitted plan and the main modifications (which were suggested by the authority), I recommend that the modifications be included in the plan.

The modifications are as follows:

- New text to reflect the presumption in favour of sustainable development in the National Planning Policy Framework;
- New text to indicate the extent of the plan's total contribution to the Borough's strategic housing requirement.

Introduction

1. This report contains my assessment of Lewisham Site Allocations Local Plan (SALP) 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 the SALP complies with other legal requirements and is 'sound'. The National Planning Policy Framework (the Framework) makes clear 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 local authority has submitted what it considers to be a sound plan. The basis for my examination is the draft SALP submitted in September 2012 which is the same as that consulted upon earlier in the year.
3. Under S20(7C) of the Act the Council has specifically asked me to recommend any main modifications (MM) which may be necessary to resolve matters of unsoundness/ lack of legal compliance which, if not resolved, would make the plan incapable of adoption. This report identifies two such necessary MMs indicated thus (**MM**). Both were suggested by the Council, have been subject to consultation and are set out in full in the Appendix. Immediately after submission the Council advertised a greater number of suggested 'main modifications'. However, as I indicated, many of those changes were not strictly required to achieve soundness. I am therefore content for them to be made by the Council as 'additional modifications'.

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 in respect of the plan's preparation.
5. In response to my request the Council set out its view of compliance with the S33A duty in a paper dated 16 November 2012. This provides 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. These are providing new homes, growing the local economy, environmental management, and building a sustainable community. An appendix to the paper sets out the activities, processes and outcomes relating to each of those matters.
6. The paper also indicates the interaction and co-operation 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 (a) the representations made to the plan and the advertised 'main modifications', (b) the questions I raised with the Council and others about soundness-related matters and the participants' written statements made in response, and (c) the discussions at the hearings, the soundness of the plan can be considered in the context of the following 4 issues.

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

9. Paragraph 182 of the Framework 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 with (a) neighbouring authorities both individually and as part of various local and London-wide groupings, (b) other Government organisations, and (c) 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 SALP succeeded the adoption of both the London Plan (LP) and the Lewisham Core Strategy (CS). Neither of these plans places any requirement on the SALP to meet unmet needs from beyond the Borough. On the other hand, the SALP has its part to play in meeting the identified Borough needs. Although its allocations make an appropriate contribution, the plan as submitted does not clearly quantify the extent to which it contributes towards meeting the strategic requirements of the CS for residential development. **MM2** rectifies this by clarifying the total provision made by the SALP and the way in which this is distributed amongst the various spatial sub-areas established by the CS. This enables an understanding of the plan's contribution to the total provision in the Borough, alongside the strategic allocations made in the CS and other allocations being made in the Lewisham and Catford Town Centre Plans.

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

12. **MM1** replaces para 1.11 with new text which appropriately reflects the national presumption in favour of sustainable development set out in the Framework. This additional text makes the plan sound in that respect.

Issue 3 – Do the plan's allocations appropriately reflect and advance the vision and objectives of the Core Strategy?

13. The SALP undertakes 4 tasks. First, it allocates 51 development sites for a range of different purposes – housing, education, mixed uses of miscellaneous kinds, 'mixed use housing sites', 'mixed use employment locations', and 'local employment locations'. Secondly, it makes proposals affecting 18 Sites of Importance for Nature Conservation. Two have upgraded classifications, 12 are the subject of the boundary alterations, and four are new designations.

Thirdly, the plan formally safeguards three waste management sites named in CS policy 13. Finally, it designates primary and secondary frontages at major and district centres identified in the CS, except in the case of Lewisham for which these frontages are to be defined in the Town Centre Local Plan.

Site allocations

Mixed Use Housing Areas (MUH)

14. The SALP soundly identifies 26 such sites, often located in or around existing shopping areas. Development at these sites is planned to provide for mixed-uses comprising housing, commercial, business, retail and community uses.

Mixed Use Employment Locations (MEL)

15. The MEL allocations have their origin in CS policy 4, in turn based on evidence in the Employment Land Study (ELS). MELs comprise lower density, older and poorer quality employment land no longer needing to be safeguarded for traditional industrial use but which now presents regeneration opportunities for a mix of uses including residential and other social, cultural and leisure uses provided that at least 20% of the built floorspace is for employment use.
16. Sun & Kent Wharves, Creekside, are specifically identified as an MEL in CS policy 4, the detailed boundary of which is to be detailed in the SALP. This requirement is followed through in SALP policy SA10, which retains the boundaries indicated in CS figure 6.2.
17. Site SA10 consists of vacant land together with a range of existing buildings (many comparatively modern) in active commercial use and the Cockpit Arts Centre, which provides small studio spaces for designers. There is no evidence to provide support for a different policy approach to this site compared with that clearly 'inherited' from the CS. For example, there is no reason to conclude that this area has the characteristics of an MUH.
18. Different site owners may possibly hold widely divergent aspirations for their land, especially whether and when they may, or may not, wish to develop it. Difficulty could therefore potentially occur in applying the policy requirement for a comprehensive master-planned approach to development of the site, particularly the identification of the appropriate form and location of the 20% share of the built floorspace to be devoted to business use. However, this does not mean that the principle of the plan's continued identification of site SA10 as MEL is unjustified or ineffective.

Local Employment Locations (LEL)

19. The LEL designation derives from CS policy 3. CS (para 7.27) describes LEL sites as the most significant centres of employment space outside the defined Strategic Industrial Locations. LELs consist mainly of better-quality purpose-built industrial/workshop units for which the ELS identified continuing demand. They therefore offer valuable space for businesses providing local goods and services.
20. Lower Creekside is identified as an LEL in CS para 7.30 and is there described as a significant cluster of creative businesses, albeit in premises that require

renovation and renewal. Policy for the LEL is developed in the SALP under allocation SA13.

21. Site SA13 lies on both sides of the road and includes quite a dense group of 19th and 20th century buildings, including some open yards. The area has recently been designated as a Conservation Area. Most of the major buildings provide space occupied by small businesses, mainly in the arts and creative industries, while SA13 also includes Creekside Discovery Centre, an important environmental resource for schoolchildren and others, centred on the study of Deptford Creek.
22. The buildings at the Faircharm Estate, within site SA13, are said to date from the 1950s and evidence shows that their age and condition are such that some costly works of reconfiguration and refurbishment will be required to sustain their long-term attraction as workspaces. A number of regeneration options have been developed and viability-tested as part of pre-planning application discussions about the feasibility of either retaining the site wholly in employment use or, alternatively, carrying out a mixed use redevelopment incorporating other uses including residential. An application for mixed use development has now been submitted and is under consideration.
23. Quite apart from questions of the adequacy/completeness of the evidence base, it would not be possible either to (a) remove Faircharm Estate from the LEL designation already established in the CS and designate it as an MEL, or (b) broaden the scope of acceptable uses within the Estate or the wider LEL to that of an MEL or other similar range without first having transparent testing of these or other reasonable alternative strategies, and compliance with sustainability appraisal and consultation requirements.
24. At this stage the best available means of resolving the future of the estate would be for the planning application process to weigh the aims of LEL policy in the CS/SALP against any relevant competing material considerations including the national Framework's presumption in favour of sustainable development.

Omission sites

25. Development Plans inevitably take a certain time to prepare and complete the statutory processes. About 40% of the SALP allocations are therefore now either complete/under construction or the subject of commitments in the form of planning permissions in whole or part. Since the development process is dynamic, landowners will continue to identify other potential future sites. However, it is impracticable to achieve late inclusion of such sites in a plan if necessary evaluations of alternative uses, sustainability appraisal (SA) and consultation have not taken place.
26. The SALP allocations generally exceed the size threshold of 0.25ha adopted in the London Strategic Housing Land Availability Assessment (SHLAA), although a few exceptions are included for particular reasons. The Metropolitan Police Stations at Brockley (0.1ha) and Sydenham (0.18ha) are well below the SHLAA threshold and although the Mayor of London's emerging estate strategy shows these sites as likely to be affected by proposed closures of public enquiry counters, it is unclear whether or when the buildings may be

declared surplus to all operational needs. The Mayor has promoted the sites' inclusion in the plan for residential-led mixed use development at various stages of the SALP's evolution, but that option has not been subject to SA or consultation. Given the limited size and only very local significance of the sites it is immaterial to the plan's soundness that it makes no specific proposals for them. If the sites become available the Development Plan as a whole will provide an adequate policy framework for judging any applications.

27. Similarly, the lack of an allocation for residentially-led mixed use development in respect of the Royal Mail site at Blackheath Grove is not fatal to the plan's soundness. Part of this site is operational and part leased to a third party. Again, the proposed allocation has not been tested against alternatives, or subjected to SA or consultation and any future definite proposals could be judged against the Development Plan policies then extant.

Sites of Importance for Nature Conservation (SINCs)

28. SINC designation identifies areas of significance to the Borough's biodiversity. Any planning proposal affecting a SINC should trigger careful assessment of the impact of the proposed development on the site's biodiversity, based on survey evidence of its wildlife features at the time of the application, with the objective of achieving the Framework's goal (para 109) of '*minimising impacts on biodiversity and providing net gains where possible*'. The SALP's proposed changes to the SINCs are based on evidence compiled by the Greater London Authority (GLA) survey of 2006 and a selection/confirmation process set out by the London Wildlife Sites Board with the object of achieving consistency with national policy and across London.
29. As I saw, Hither Green Sidings (SINC12) consists of former railway sidings, a riding school, and a large area of now mainly disused allotments. Overall it contains a range of habitats including a number of buildings, paddocks, car parks, unmanaged areas which are variously overgrown, scattered trees, and wetter areas with ditches and a small pond.
30. At any point in time the wildlife interest of a SINC will vary according to the type and degree of its management, or the lack of it. It will also be affected by the extent of its connectivity with other undeveloped areas. In this case the site forms part of a chain of rail-side SINCs extending more or less continuously (although at various depths) through much of the Borough.
31. The site is classified in the third of four tiers of importance among London SINCs (Borough Grade II). The submitted survey evidence (from Greenspace Information for Greater London, and the JCA survey of 2012) does not indicate that the site is of major importance for notably rare habitats and/or species. Nonetheless, the existing range of habitats, much relatively undisturbed, provides an extensive shelter for wildlife in an urban setting and the continued classification of the site as a SINC (on its proposed slightly altered boundary) is appropriate. While some isolated areas may not warrant SINC status on their own account, their inclusion within the defined wider tract is justified.
32. Turning to proposed new SINC13 (New Cross/New Cross Gate Railsides), tree removal has taken place as part of works associated with construction of

London Overground since the GLA survey in 2006. However, these railway cuttings offer connectivity with other SINC's in a densely developed area and there is planned to be another survey of SINC's by 2016. That review would offer the opportunity to re-assess the value of any regeneration that has taken place by then, together with the appropriateness or otherwise of including any nearby land at Bridgehouse Meadows.

Issue 4 – Is it essential to soundness for the SALP to include site-specific provision for the accommodation needs of travellers?

33. National 'Planning Policy for Traveller Sites' (March 2012) expects Local Plans to set pitch targets addressing the accommodation needs of gypsies, travellers and travelling showpeople in their area (para 8). It also (para 9) expects such plans to identify specific deliverable sites sufficient to provide a 5-year supply of sites against those targets, and a supply of specific developable sites or broad locations for years 6-10 and, where possible years 11-15.
34. The CS states (policy 2) that a suitable site will be identified through the SALP to meet the immediate need arising from the redevelopment of the site at Thurston Road. It also states (para 7.18) that the replacement site should be able to accommodate such additional pitches as may be required by the LP.
35. A site for 5 pitches at Church Grove, Ladywell, was identified in the SALP Further Options report as a replacement for Thurston Road. However, after consultation on the report the site was not taken forward in the submitted SALP. Nor was capacity identified to meet any additional requirements, either derived from the now-discontinued LP targets or from locally-based needs assessments.
36. The SALP therefore does not make the provision required of the Development Plan by national policy (and devolved to it by the CS). Moreover the Local Development Scheme (LDS) has not, until now, included any other component of the Development Plan which would make good the current absence of policy on the provision of sites. The Council now recognises that this deficiency would render the SALP unsound unless it is demonstrated that appropriate steps are being taken to show how the Development Plan, taken as a whole, will meet its responsibility to address this issue. Consequently a revised LDS was adopted at a Full Council meeting on 27 February 2013. This includes a specific single-purpose 'Gypsy and Travellers' Site(s) Local Plan'.
37. At the time of the hearing the Council expected to receive a consultant's report on public and private sector site options for gypsy and traveller sites by the end of January 2013. Thereafter, the timescale for progressing the plan to adoption (as shown in version 6 of the revised LDS as first submitted to the Mayor) was disappointingly long, considering the single purpose nature of the plan. However, the Council has accepted that a shorter timescale is achievable and the LDS now indicates submission of the plan in May 2014 and adoption in January 2015.
38. In my view the Council's preferred solution of a specific local plan identifying pitches for gypsies and travellers is the best way of resolving a situation which would otherwise be left in an unsatisfactory and unsound state. This route is very much to be preferred to a lengthy suspension of the SALP examination

for a not-dissimilar period until completion of the same work and most of the same processes. Such suspension would have the undesirable consequence of leaving the status of all the SALP's other important allocations unresolved for the same period.

39. It would not be a sound option for me to make a modification inserting the Church Grove site into the SALP since all the necessary pre-conditions of alternative site appraisal, SA, and consultation have not taken place. Apart from these process issues, there would be other concerns with that outcome because there is no evidence to show that this small site would satisfy the full extent of local needs, which have not yet been (re)assessed and may require consideration on a wider basis involving a number of Boroughs. Moreover, the Council as landowner is not a willing party so it could not be assumed that any such allocation would be effective.

Assessment of Legal Compliance

40. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that it meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The previous LDS (2010) expected adoption of the SALP by February 2013. There will be only a little delay in achieving that date, but as described in the main report the content of the plan will not cover the accommodation needs of gypsies and travellers. This will now be covered by the single-purpose local plan contained in the revised LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in July 2006 and consultation on the SALP has complied with its requirements, including the consultation on the 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. Natural England supports this conclusion.
National Policy	The SALP complies with national policy except where this report states otherwise. Modifications are recommended in such cases.
London Plan	The SALP generally conforms with the London Plan.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
2004 Act (as amended) and 2012 Regulations.	The SALP complies with the Act and the Regulations.

Overall Conclusion and Recommendation

- 41. As identified above, the plan has two deficiencies in relation to soundness. In accordance with Section 20(7A) of the Act I therefore recommend non-adoption in its submitted form.**

- 42. However, the Council has requested me to recommend main modifications where required to make the plan sound and/or legally compliant and capable of adoption. I conclude that with the main modifications set out in the Appendix the Lewisham Site Allocations 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

The appendix follows on the next page

Appendix – Main Modifications

The page numbers and paragraph numbering below refer to the submission local plan (September 2012). The new text to be inserted in the plan is underlined.

Ref	Pg	Para	Main Modification
MM1	3	1.11	<p>Replace paragraph 1.11 as follows: <u>The NPPF also states that Local Plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally (NPPF paragraphs 14 and 15).</u></p> <p>Insert new text box below paragraph 1.11 containing the following text: <u>When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to find solutions which mean that proposals secure development that improves the economic, social and environmental conditions in the borough.</u></p> <p><u>Planning applications that accord with the policies in the Lewisham Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.</u></p> <p><u>Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:</u></p> <ul style="list-style-type: none"> • <u>Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or</u> • <u>Specific policies in that Framework indicate that development should be restricted.</u>
MM2 advertised as proposed MM4	10	2.7&8	<p>Insert new paragraph between submitted paragraphs 2.7 and 2.8 as follows: <u>Sites identified within the Site Allocations Local Plan are expected to deliver between 3,670 and 3,710 additional dwellings by 2026. This provision is</u></p>

Ref	Pg	Para	Main Modification
			<p><u>broken down into four spatial areas, as follows:</u></p> <ul style="list-style-type: none"> • <u>2,440 additional dwellings in the Regeneration and Growth Area</u> • <u>340-380 additional dwellings in the District Hubs</u> • <u>510 additional dwellings in the Local Hubs</u> • <u>380 additional dwellings in the Areas of Stability and Managed Change</u>