



The Planning Inspectorate

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# **Report to Hammersmith and Fulham Borough Council**

**by Andrew Seaman BA (Hons) MA MRTPI**

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

**Date 19 December 2017**

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Hammersmith and Fulham Local Plan**

The Plan was submitted for examination on 28<sup>th</sup> February 2017

The examination hearings were held between 13<sup>th</sup> and 21<sup>st</sup> June 2017

File Ref: PINS/H5390/429/7

## Abbreviations used in this report

AMR	Annual Monitoring Report
DtC	Duty to Co-operate
Framework	National Planning Policy Framework
GLA	Greater London Authority
HMA	Housing Market Area
HRA	Habitats Regulations Assessment
IDP	Infrastructure Delivery Plan
LDS	Local Development Scheme
MM	Main Modification
Mayor	Mayor of London
OAN	Objectively assessed need
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
the Plan	Local Plan
WMS	Written Ministerial Statement

## **Non-Technical Summary**

This report concludes that the Hammersmith and Fulham Local Plan [the Plan] provides an appropriate basis for the planning of the Borough provided that a number of main modifications [MMs] are made to it. Hammersmith and Fulham Borough Council has specifically requested me to recommend any MMs, contained in Appendix 1, that are necessary to enable the Plan to be adopted. Most of the MMs have been suggested by the Council.

Following the Hearings, the Council prepared a further schedule of proposed changes. Only those affecting Policies HO3 and TLC6 were initially considered by the Council to be MMs.

The majority of Appendix 1 has been proposed by the Council. All the MMs have been subject to sustainability appraisal (SA) review<sup>1</sup> and were subject to public consultation over a 7 week period. I have amended their detailed wording and/or added consequential modifications to the MMs where necessary.

I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- To increase the emphasis on inclusivity and reference adequately Neighbourhood Planning;
- To clarify that housing targets are minimums; to ensure that the approach to affordable housing provision and gypsy and traveller accommodation is consistent with national policy;
- To ensure the approach to heritage assets and development management issues are consistent with national policy and will be effective;
- To ensure a justified and effective approach towards the economy, retail and town centres that is consistent with national policy;
- To ensure adequate reference to air quality issues; and
- To ensure adequate monitoring of the Plan is proposed to ensure its effectiveness.

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<sup>1</sup> EX28

## Introduction

1. This report contains my assessment of the Local Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate (DtC). It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (the Framework, paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Hammersmith and Fulham Local Plan<sup>2</sup> submitted in February 2017 is the basis for my examination. It is the same document as was published for consultation in September 2016.

### Main Modifications (MMs)

3. In accordance with section 20(7C) of the 2004 Act, the Council requested that I should recommend any MMs necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM1, MM2, MM3** etc, and are set out in the Appendix.
4. Following the examination hearings, the Council finalised its schedule of post submission proposed modifications (Key Document (KD) 4 and EX15). The Council considered these not to be main modifications with the exception of proposed changes to Policies HO3 and TLC6. Additional modifications (not MMs) are a matter for the Council and are generally not referred to within this report. Following review, the Council considered that any changes did not create any sustainability appraisal implications.
5. The MM schedule is necessary to secure soundness and is based upon a number of the Council's suggested changes and was subject to public consultation for seven weeks. I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made two amendments to the detailed wording of the main modifications (MMs 7 and 25). The amendments do not significantly alter the content of the modifications as published for consultation or undermine the participatory processes and sustainability appraisal that has been undertaken.

### Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified in

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<sup>2</sup> Key Document 1 (KD1)

Supporting Document (SD) 5 as amended by the details contained in KDs 2, 4 and EX15. These further changes affecting the policies map were published for consultation alongside the MMs.

7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed by the modifications.

## **Assessment of Duty to Co-operate (DtC)**

8. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
9. As indicated within the DtC Statement, the Annual Monitoring Reports (AMR), the statements of common ground and correspondence with the GLA, the Council has worked with the appropriate prescribed bodies on strategic matters affecting the Borough. Procedures appear to be in place to ensure that this will continue during the Plan period. Cooperation on the key issue of housing is referenced further below.
10. Overall I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the DtC has therefore been met.

## **Assessment of Soundness**

### **Main Issues**

11. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified 7 main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness rather than responding to every point raised by representors.
12. A number of the Plan's policies are not referred to in this report. This is because the report focuses on those parts of the Plan where there may be soundness issues.

### **Issue 1 – Is the Plan legally compliant? Does the Plan contain a robust spatial vision and justified strategic objectives consistent with national policy and in general conformity with the London Plan?**

13. As evidenced by documents which include the Council's Legal Compliance checklist, its Soundness Self Assessment, the Local Plan and Consultation Statements and through Examination correspondence with myself, I am satisfied that the Plan has been prepared in accordance with the statutory procedures and associated regulations.
14. The Plan expresses a lengthy Spatial Vision for the Borough which duly sets the context for nine Strategic Objectives. There are clear links between these and the Council's corporate strategies, including that for housing. The SA

indicates how the chosen content of the Plan has been developed with regard to alternatives. Overall, both the Vision and the Strategic Objectives are consistent with national policy and are in general conformity with the London Plan provided the Plan is modified to reference adequately accessibility and inclusivity (**MM1**).

15. With regard to the delivery of the Vision and Objectives, the Plan acknowledges considerations of development viability in a flexible manner through Policy DEL1 and a Viability Protocol. This approach has been informed by evidence such as the Housing Viability Assessment, the CIL Viability Study and supporting Development Infrastructure Studies. Whilst there is no overarching single viability study of the plan as a whole, the Housing Viability Assessment does include consideration of the potential effects of all the Plan policies upon development viability. I am satisfied that this is a proportionate and appropriate approach. Policy DEL1 would be adequately flexible and effective only if modified in line with the Council's suggestions which I recommend accordingly (**MM2**). When combined with the Protocol provisions, which I am satisfied sets out a reasonable and justified approach towards considerations of development viability, I am satisfied that the Council's approach is adequate and that the Plan is consistent with national policy and in general conformity with the London Plan.
16. To ensure consistency with national policy, I recommend that the Plan must be modified to specifically recognise the potential role of Neighbourhood Planning (**MM3**) as suggested by the Council.

**Issue 2 - Does the Plan contain robust and deliverable regeneration strategies that are consistent with the objectives and policies of the Plan and which are in general conformity with the London Plan?**

17. The Plan identifies four regeneration areas and contains an overarching Strategic Policy which sets out the Council's ambitions for the Plan period. During the course of the Examination, the Council has worked with private and public interests to further clarify the content of the Plan with suggested modifications that affect heritage considerations and the way in which housing and job targets are expressed (indicative/minimums). I agree with the amended approach for reasons of clarity and consistency with national policy and recommend the Plan be modified accordingly to ensure soundness (**MM4**).

*White City Regeneration Area (WCRA)*

18. The London Plan identifies the WCRA as an Opportunity Area. The Plan reflects this clearly and identifies the potential for regeneration across the three distinct sub areas which comprise the whole.
19. Policies WRCA1, 2 and 3 are informed by robust evidence sources which include the existing White City Opportunity Area Supplementary Planning Document (SPD) and the Development Infrastructure Funding Study. The Council proposes modifications to the policies and I recommend that which applies to Shepherd's Bush Market is a necessary main modification that will ensure clarity and the provision of affordable workspace, thus being consistent with the Plan's employment policies and national policy (**MM5**). WRCA3 is sufficiently clear in its approach to support and work with traders in the retention and improvement of the market, including that affordable housing

would be logically considered in relation to Policy HO3. In turn, Policy HO3 recognises the role of market housing in potential development proposals.

20. When considered in their totality I am satisfied that the Council's policies and approach towards the WCRA is justified and will be effective.

#### *Hammersmith Regeneration Area (HRA)*

21. Hammersmith is identified as a major centre in the London Plan and the evidence base that informs Strategic Policy HRA supports the continued focus upon town centre regeneration and the intention to deliver significant volumes of new homes and jobs in this part of the Borough.
22. Site specific Policy HRA1 is justified by the evidence base and is clear on how the identified area will deliver a range of benefits for this part of Hammersmith. It has been considered against reasonable alternatives and I have no reason to consider it will not be effective in delivery.
23. Policy HRA2 is ambitious in its intentions, seeking fundamental alterations to the existing Hammersmith Flyover, the Hammersmith gyratory and other works. The Flyunder Feasibility Study and the A4 Masterplan and Development Value Study in conjunction with ongoing work being investigated with Transport for London into the financial delivery of such infrastructure works indicates that the aims of HRA2 are potentially feasible during the life of the Plan. I recognise the concerns of some local residents with regards to the details and practicalities of any flyunder replacement and its effects on matters such as noise and air quality. However, mitigation of such effects is potentially feasible and there is no substantive evidence to suggest that the chosen strategy of the Council is not justified and, notwithstanding the scale of the scheme, potentially capable of effective realisation. It is sufficiently robust such that the Plan remains sound with its inclusion.

#### *Fulham Regeneration Area (FRA)*

24. Both Strategic Policy FRA and Policy FRA1 are informed by the London Plan and the potential for significant development in the locality, particularly the Earl's Court and West Kensington Opportunity Area (ECWKO). It is clear that the Council has worked with interested parties, such as developer interests, the community, the Greater London Authority (GLA) and the Royal Borough of Kensington and Chelsea in formulating a policy basis for a mixed use residential led development at the ECWKO. The Policy allows for improvement to the West Kensington, Gibbs Green and Registered Provider Estates. The extent to which such improvements may incorporate renewal will be dependent upon the details that emerge as part of the comprehensive approach to the regeneration of the area and I note the clear interest in this subject expressed by local residents. I am satisfied that Policy FRA1 should be flexible in such regards and note the Council's proposed modifications in this context which I recommend for reasons of policy effectiveness as a consequence (**MM6**).
25. The policies affecting this regeneration are informed adequately by a robust evidence base, including matters affecting retail, design, tall buildings and heritage. I have no reason to consider the approach will not be effective in delivery.

### *South Fulham Regeneration Area (SFRA)*

26. South Fulham is identified as having the potential for a high quality residential area indicatively delivering 4,000 homes and 500 jobs. Strategic Policy SFRA and Policy SFRA1 are informed by a clear evidence base, including the South Fulham Riverside SPD and the Development Infrastructure Funding Study, which is aligned with the London Plan.
27. This riverside area is sensitive in many regards and in particular to design and the height of new buildings. The Plan has been informed by both the extant SPD, the Council's Background Paper on Tall Buildings, an awareness of the heritage assets within the area and an understanding of key views. I am satisfied that the two regeneration area policies, when implemented alongside other relevant Plan policies, will be capable of effective implementation.
28. The Strategic Policy acknowledges adequately the safeguarded wharves in accordance with the aims of the London Plan.
29. Overall, the Plan's approach to the South Fulham Regeneration Area is robust.

**Issue 3 - Is the Local Plan's approach to housing provision sufficiently justified and consistent with national planning policy and in general conformity with the London Plan? With particular regard to deliverability, has the Plan been positively prepared and will it be effective in meeting the varied housing needs applicable to the Borough over the plan period?**

### *Housing Need and Supply*

30. The London Plan sets a minimum annual housing supply target until 2025. For Hammersmith and Fulham the target is 1,031 homes per year consistent with the aim of 10,312 homes by 2025. Thereafter and amongst other matters, the London Plan indicates that Boroughs should roll forward the target until a revised London Plan target is produced. The London Plan encourages the supply of extra housing capacity to close the gap between identified housing need in line with the Framework. Section 6 of the Framework seeks to boost significantly the supply of housing based on a needs assessment and an understanding of potential site supply. The London Plan has been produced within this context and I am ever mindful, as a point of legal compliance, that the submitted Plan needs to be in general conformity with the London Plan.
31. I am aware of the available evidence base informing the London Plan, such as the 2013 Strategic Housing Market Assessment (SHMA) in addition to the Mayor's Housing SPG. Against this background, the Council completed its own SHMA (2016). I have no reason to consider the latter SHMA is flawed in terms of its assessment of the sub-housing market area operating within the Borough and its decision to use the GLA trend based demographic data with appropriate regard to that from DCLG. Whilst the 2016 SHMA itself has some limitations in the way in which it seeks to respond, for example, to market signals, it nevertheless provides useful context and a finer level of detail for the level of housing need affecting the Borough and understanding the target of the London Plan.



32. The 2016 SHMA states, at the simplest level, a need for 844 homes per annum to meet the needs across the sub-housing market area albeit, and notwithstanding, I am mindful that general conformity with the London Plan is required. The submitted Plan makes provision for 1,031 new dwellings per annum over the plan period to meet the London Plan target; the Council has confirmed this is a minimum figure which clearly exceeds that identified in the 2016 SHMA. Mindful of this data yet being particularly conscious of the targets set by the London Plan, I am satisfied that the Council's approach towards housing provision is in general conformity with the spatial development strategy albeit it will likely bear review as and when any new London Plan targets are established. I am satisfied that this is consistent with national policy.
33. The Council's Housing Trajectory has been updated and I am satisfied it is adequately informed by a combination of data including the Strategic Housing Land Availability Assessment (SHLAA) and extant planning permissions. As a consequence, the Council can demonstrate a Framework compliant supply of housing sites including, based on its consistent past housing delivery performance, a justified 5% additional buffer. In light of the housing land supply position, there is no current justification for a non-implementation allowance.
34. I am mindful that at present the housing market area of London informs the overall London housing need which is disaggregated across the Boroughs to ensure an the delivery of the identified requirement; the Council has sought to engage with neighbouring councils and the GLA, who do not raise any conformity concern, with regard to this strategic issue. I have noted concerns that the London-wide housing needs, in addition to the wider south east of England, and the overall requirement contained in the London Plan may not be met. However, a shortfall of the latter is not certain and the Plan satisfies the London Plan target (whilst exceeding the forecast needs of the Borough). Whilst the provision of necessary housing across and beyond London remains an area upon which multi agency cooperation is required, this is a matter to be addressed as part of any new London Plan. I am satisfied that for the purposes of the submitted Plan the Council has, through its collation of evidence and liaison with key partners, adequately discharged its duty to cooperate at this time.
35. The Council has suggested changes to Policy HO1 to recognise self and custom build proposals which, in conjunction with the reference to a minimum housing target and alterations to the Indicative Housing Targets table, I recommend to ensure consistency with national policy and general conformity with the London Plan. Changes to the supporting text to Policy HO1 which reference appropriately the Build to Rent sector are necessary and I recommend these for clarity in implementation (**MM7**).

#### *Affordable Housing*

36. Policy HO3 seeks to increase the supply and mix of affordable housing within the Borough. This is a rational response to the available evidence which indicates the high level and varied type of affordable housing need. The Policy aims for 50% affordable housing on developments across the Borough which is adequately supported by the available viability evidence and does not run

counter to the aspirations of the London Plan. Whilst the evidence does indicate variability in values across parts of the Borough, it does not lead me to find that the Local Plan should seek to create different thresholds in different areas. The Policy contains suitable criteria for the consideration of site specific circumstances that may result in a justified reduction of affordable housing below the Policy figure. I am satisfied this will aid the effective implementation of the Policy and, overall, will enable the strategic objective of the Plan, to secure the provision of affordable housing, to be effectively realised.

37. As recognised by the Council, the policy requires modification to be consistent with the Written Ministerial Statement<sup>3</sup> on site thresholds for when affordable housing may be required and to provide clarity on the circumstances when the principles of its Viability Protocol are to be taken into account. I agree with the need for such changes to ensure consistency with national policy, flexibility and effectiveness in operation and I recommend accordingly (**MM 8**).
38. The Council has suggested introducing text to the Plan to reflect Vacant Building Credits which I consider is a necessary modification to be consistent with national policy and to assist in the effective delivery of the Policy objectives (MM8).

#### *Housing mix and meeting needs*

39. The Council's SHMA and associated housing background papers provide adequate evidence of the varied housing requirements within the Borough which are reflected in the suite of housing Policies contained within the Plan. I have no reason to consider these unfounded as a consequence.

#### *Gypsy and Traveller Accommodation*

40. The Council has addressed the accommodation needs of gypsy, travellers and travelling showpeople in partnership with the Royal Borough of Kensington and Chelsea. The Councils have produced a Joint Gypsy and Traveller Accommodation Needs Assessment (GTANA) which has been supplemented by evidence clarifying the approach towards travelling showpeople. This approach appears robust. The Councils rely primarily on one existing site (Stable Way) to meet the identified needs of the gypsy and traveller communities. The GTANA indicates that 3 additional pitches are required over the first 5 years of the Plan and 9 in total. At present Hammersmith and Fulham Borough Council has not been able to identify how this need will be met, so as far as it affects its interests, which is not in accordance with national policy. However, the Council has identified a clear strategy<sup>4</sup> to address the issue which will involve a site appraisal study and the production of an options paper with the intention of having a suitable land supply identified during 2018 to meet the needs. I consider this pragmatic approach is acceptable.
41. The Council recognises the need to amend Policy HO10 to reflect the findings of its GTANA and subsequent work. I recommend this modification, including

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<sup>3</sup> WMS 28.11.2014

<sup>4</sup> EX24

the revisions to the supporting text to the policy which I consider must include a time frame for delivery, to ensure its effectiveness and to secure alignment with the objectives of national policy (**MM9**). On this basis I consider the Plan to be justified adequately.

**Issue 4 - Is the approach of the Plan to community facilities, leisure and recreation activities, the provision of green and public open space, the River Thames, transport and accessibility justified by the evidence base, consistent with national policy and will it be effective in operation?**

*Community Facilities and Services*

42. Policy CF1 is an overarching policy which sets out the Council's partnership approach to the provision of community facilities and services within the Borough. As set out in its Hearing Statement, the Council considers that its approach towards community facilities and services is supported by a range of evidence with which I have no reason to disagree. I am conscious that the Infrastructure Delivery Plan (IDP) usefully identifies some of the future needs of the Borough arising from the proposed levels of development which includes its regeneration areas.
43. The Council works in partnership on key issues such as the provision of education and health care as indicated by the Joint Strategic Needs Assessments and the content of the IDP. The overall approach is robust. The Council proposes to alter its references to the Charing Cross Hospital which, whilst useful for clarity, do not affect soundness.
44. The Plan addresses issues of sport and recreation activities, including the arts and cultural facilities. I am mindful of the comments of Sports England who has raised concerns at the robustness of the evidence base upon which the Council relies. Nevertheless, I have noted that the Council has submitted a range of evidence sources<sup>5</sup> which has supported its policy approach, including the Sport and Physical Activity Strategies and IDP. It is also pursuing a Playing Pitch Strategy (in conjunction with Sport England) and updates to its Parks and Open Space Strategy. Whilst I note that the Leisure Needs Assessment is some 8 years old, the supplementary evidence sources have since been produced which have collectively informed the approach of the Plan. When taken as a whole, including the IDP, I am satisfied that these represent a proportionate and sufficiently robust evidence base which will enable the Council to take effective action, for example within its regeneration areas, to ensure the current and future needs of its residents are met.
45. The Plan also takes a positive and inclusive approach towards the enhancement and retention of community uses (Policy CF2) and towards arts, culture, entertainment, leisure, recreation and sport (Policy CF3). As such both policies flow from Policy CF1 and are justifiably based on the proportionate evidence. I have no reason to consider they will not be effective in practice. I am satisfied that Policy CF2 does cover the capacity and requirements of emergency services adequately without requiring a specific reference to each respective service (notwithstanding the content of CF1). With regards to Policy CF4, the Council's position towards professional football grounds has

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<sup>5</sup> SD24-37 et al

been clarified through a suggested additional change and the Statement of Common Ground which will ensure consistency with Policy WRCA2; this clarification is helpful although it requires no main modification to ensure soundness of the Plan.

46. The Council's comprehensive Open Space Audit dates from 2006. Notwithstanding its age, the Council considers that it still provides a sufficiently robust picture of the supply of open space within the Borough. The Council has sought to capture subsequent changes to open space provision within a series of open space background papers, most recently in 2016, whilst also operating its Parks and Open Spaces Strategy which runs until 2018. Whilst I am of the view that this area of interest will benefit from ensuring a continuous and comprehensive monitoring and planning approach for the Plan period, I am satisfied that when considered as a whole, the evidence ensures that Policies OS1 and OS2 are sufficiently robust and consistent with the Framework. The Council has suggested modifying Policy OS2 to reference clearly the need to protect and enhance the quality of, and access to, open space which I recommend to ensure consistency with national policy (**MM10**).
47. Natural England has confirmed that it is content with the approach of the Plan towards nature conservation, particularly as expressed by Policy OS4 which is supported by a range of evidence sources including the London Plan and the Mayor's SPG on Green Infrastructure and Open Environments. There is a deficiency in access to nature conservation areas within the Borough and Policy OS4 takes a clear approach towards identified areas/green corridors designed to maintain and enhance their value.
48. Policy OS5 seeks to enhance biodiversity and green infrastructure throughout the Borough and is justified by the evidence base, consistent with national policy and in line with the London Plan. The Council's suggested alterations to the supporting text will helpfully reference the role of food growing albeit they are not necessary to ensure soundness.
49. I am satisfied that the Council's submitted approach towards community facilities, leisure and recreation activities plus the provision of green and public open space is justified, consistent with national policy and in general conformity with the London Plan.

#### *River Thames*

50. Policies RTC1 – 4 address the River Thames and its immediate environs. I am satisfied, with due regard to the evidence base, that the approach is consistent and in general conformity with the London Plan. The Council proposes to add two criteria to Policy RTC1 to promote the transport use of the Thames and to reference the Thames River Basin Management Plan and the Thames Estuary 2100 Plan both of which I recommend for reasons of policy clarity and effectiveness and which are therefore necessary to secure soundness (**MM 11**).
51. Policy RTC1 will apply in conjunction with other policies where appropriate. Thus RTC2, which I find to be sufficiently clear, justified and flexible in its content and not requiring of further detail, does not need to be referenced within RTC1.

52. The Plan as a whole provides adequate further reference and influence upon matters of the built and historic environment without the need for main modifications to the RTC policies. It is clear to me that the Council recognises the historic character of the river context and I note the dialogue between the Council and Historic England in this regard. Similarly other parts of the Plan cover issues affecting flood risk and biodiversity such that main modifications to the RTC policies are not necessary.
53. I am satisfied that the Council's submitted approach towards the River Thames is justified, consistent with national policy and in general conformity with the London Plan.

#### *Transport*

54. Hammersmith and Fulham is an inner London Borough. The issues that the Borough faces in terms of accessibility and transportation are referenced within the evidence base and collated within Policy T1. This identifies a number of major schemes and Borough-wide targets.
55. As discussed above, the aspiration to replace the Hammersmith Flyover is challenging but there is sufficient evidence to warrant its inclusion in the Plan at this moment in time. Of greater uncertainty are the Council's objectives in relation to Crossrail 2 and associated interchanges in South Fulham. However, whilst I note the comments provided by the Royal Borough of Kensington and Chelsea and the GLA/TfL that their preferences lie elsewhere, I recognise that the Council is committed to working with partners to deliver a new Crossrail station and that the final route for Crossrail 2 is not yet determined. This is a project to be developed over a lengthy timeframe extending over the Plan period. This will be an area for the Council to monitor carefully, particularly with regard to the future iterations of the IDP, but the inclusion within Policy T1 of its major scheme target for a new station in the Borough is a considered aspiration and is not currently unjustified as a consequence.
56. Policy T2 relates to Transport Assessments and Travel Plans and is proportionate and flexible so as to be effective in operation. Policy T3 promotes cycling/walking and is similarly justified. The vehicle parking standards of Policy T4 along with Blue Badge Holders' parking in Policy T5 are justified in the context of the Borough. There is no evidence to dispute the inclusion of Policies T6 and T7 which will aid the clarity of the Council's approach to development within the Borough.
57. I am satisfied that the Council's submitted approach towards transport issues in the Borough is justified, consistent with national policy and in general conformity with the London Plan.

**Issue 5 - Does the local plan provide the most appropriate and robust strategy towards the economy with due regard to cross border issues? Is the approach evidenced adequately and consistent with national policy and in general conformity with the London Plan? Will the approach be effective?**

#### *Economy and Employment*

58. As indicated by evidence such as the Employment Land Study of 2016, the Council is suitably aware of the Borough's economic and employment characteristics within its wider London context, particularly in noting the pressure that has diminished its available B1 floor space over recent years. The Plan is robustly informed by the evidence base which includes liaison with neighbouring Boroughs as well as the GLA. I am satisfied that the chosen strategy does recognise cross border issues adequately. As a consequence, Policies E1 and E2 establish a positive approach towards proposals for new employment uses, supports the retention and intensification of existing uses and provides a criteria based approach towards land and premises for employment uses overall.
59. The Council has clarified that the approach to the economy does plan clearly for sui generis uses and recognises the value of supporting the provision of affordable workspace by suggesting further clarification on the point in the supporting text. The net effect of Policies E1 and E2 is to provide a positive yet flexible policy basis for facilitating the provision of land and premises for employment uses over the Plan period. This is consistent with the objectives of the Framework.
60. Policy E4 seeks to provide appropriate employment and training initiatives for local people in the construction of certain developments. I heard from the Council the way in which partnerships have historically been formed to deliver such aspirations and, subsequent to the Examination Hearings, the Council has clarified further the justification for the preferred approach. Such subsequent details are useful and establish a clear link between the policy, the potential developments affected and the economic objectives for the Borough such that I am satisfied that, with their necessary inclusion which I recommend, the approach of the Plan is justified and is capable of being effective in operation (**MM12**).

### *Town Centres*

61. The Framework aims to ensure the vitality of town centres and requires Local Plans to pursue policies which should meet a variety of requirements. In this regard, Policy TLC1 establishes a clear hierarchy of three town centres, five local centres and associated retail provision.
62. This approach is informed adequately by the Council's Retail Needs Study and Retail background paper which assess robustly the qualitative and quantitative retail needs of the Borough. The former study recommends a local threshold for retail impact assessments where out-of-centre retail proposals are in excess of 300m<sup>2</sup> (gross). I have no clear evidence or reason to take a contrary view and conclude that this is an approach consistent with the Framework. The policy requires an appropriate mix of town centre uses, recognises the night time economy and provides for a reasonably flexible approach towards proposals in such locations.
63. The Plan clearly identifies robust prime and non-prime retail frontages which reasonably equate to the primary and secondary frontages envisaged by the Framework. The Council has based the Plan on a proportionate range of evidence sources that includes sufficiently up-to-date survey analysis combined with a practical working knowledge of the Borough and its retail

areas. The Council proposes to illustrate the frontages on its Policies Map which is appropriate. Furthermore, the Council recognises the role of markets in the Borough. Overall, this is consistent with the London Plan and is aligned adequately with the content of the Framework.

64. Policies TLC2-4 set out the Council's approach to managing uses within town centres, local centres and other parades etc. In so doing, the Council has been mindful of the Framework and drawn on its experience of operating its Core Strategy and Development Management Local Plan in conjunction with the retail evidence cited above. As a consequence, the Policies identify proportions of non-A1 uses deemed to be acceptable in the respective areas, including prime retail frontages. Whilst this is calculated in terms of frontage length, rather than retail units, this is an approach that I heard has worked adequately in recent years and I have no reason to recommend a different stance. The proportions are based on the Council's experience, the health of the existing centres, the retail evidence and an intention to ensure a balanced retail provision throughout the Borough. I fully accept that the Council can legitimately seek to manage the uses within its town centres as advised by the Framework and the policy requirements are a reasonable and proportionate approach to this issue which have been informed by the evidence.
65. There is some flexibility in how Policies TLC2-4 could be applied; for example in the proportion and types of use allowed in non-prime town centre frontages which would include uses such as betting shops thus ensuring scope for some new provision and it is clear that the Council wishes to maintain the vitality and viability of its centres in line with the Framework. Whilst I recommend that criterion 'c' of Policy TLC4 should be modified to remove a reference to betting shops and amusement centres (**MM13**) which is unjustified by any comparison with other uses, I am otherwise satisfied that the Plan's approach is suitably justified and appropriate. I note that the Policies require calculations of the proportions of uses to have regard to extant but unimplemented permissions but there is little to suggest that this would be an unduly onerous and unacceptable policy requirement.
66. Policy TLC5 is prescriptive in its requirements to limit the general opening hours of premises but I am satisfied that there is sufficient flexibility in how it may be applied where specific circumstances justify an alternative approach.
67. Amongst other things, the Framework requires competitive town centres which provide customer choice and a diverse retail offer. Whilst Policies TLC1-5 provide a justified approach to retail and town centre activities that is consistent with the Framework, Policy TLC6 effectively restricts the location of betting shops, pawnbrokers, payday loan shops and potentially limits the siting of hot food takeaways. The Council's Background Paper describes the growth of particular non A1 uses, albeit not just those cited in the policy, within both London and the Borough and states that the aim of the Council is to prevent clusters of betting shops, payday loan stores and pawnbrokers from forming to protect the vitality and viability of the Borough's centres. Such an objective is consistent with the Framework, particularly para 23.
68. However, whilst the Background Paper provides some data on the number of such uses within the Borough, of itself it does not indicate a clear causal link between concentrations of uses and any evidenced detrimental effect upon the

vitality/viability of the centres affected such as to warrant the 400m threshold between an existing and a proposed use. The Background Paper also introduces a commentary on a link between shop usage and social deprivation but once again the causal link between such uses and consequent adverse effects on health and well-being is very limited.

69. Policy TLC2 would provide the means to manage the composition of prime and secondary retail frontages of town centres to ensure the vitality and viability of such centres was optimised in accordance with the Framework. Elsewhere, Policies TLC3 and 4 would enable the Council to similarly manage shops and local service availability. The consequent need for Policy TLC6 in the format submitted is therefore unclear. The first part of the policy seeks to limit certain uses in areas of high concentration but where such areas are poorly defined. The Background Paper refers to volumes of uses but does not identify what may constitute an overconcentration where a harmful effect on vitality and viability of the relevant centre would potentially occur.
70. The second part of the policy states that planning permission for new betting shops, pawnbrokers and payday loan shops will not be permitted in the prime retail frontages of town centres but this is already secured by Policy TLC2 and is therefore unnecessary. The policy continues to limit such uses within 400m of any existing shop in the same use and, as illustrated within the Background paper, would have the effect of fundamentally limiting the further provision of such uses within the commercial parts of the Borough. Whilst I note the rationale of the 400m distance as representing a 5 minute walk which the Council sees as a means to avoid clustering of similar uses, such an approach is particularly inflexible when the specific effect of a proposal for such a use upon the vitality and viability of a centre or parade falls to be considered. It seems a blunt tool. As a consequence, the extensive and rather 'blanket' approach of limitation currently proposed in the operation of Policy TLC6 in relation to betting shops, payday loan shops and pawnbrokers would not constitute a positive form of policy planning that is consistent with paragraph 23 of the Framework. As a consequence, I recommend that the Policy be altered to be more positive and less prescriptive in its approach to such uses (**MM14**).
71. The final part of Policy TLC6 states that when considering proposals for hot food takeaways, the Council will take into account proximity to areas where children and young people are likely to congregate such as schools, parks and youth facilities. The purpose of such a policy statement reflects the Council's concern about the potential health impacts of hot food takeaways (A5 use) which has previously been reflected in its development plan. However, as demonstrated in the evidence presented to the Examination, the direct links between the location of A5 uses and individual health is less than clear. As recent guidance from Public Health England<sup>6</sup> notes, "Obesity is a complex problem with many drivers..." and that whilst planning policies can be used to assist in tackling obesity, this needs to be secured in line with an Authority's strategy on obesity and needs to be supported by sound evidence. Whilst noting the Council's stance, alternative evidence has been submitted which

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<sup>6</sup> Health matters: obesity and the food environment (2017)



indicates only limited causal links between health/obesity and the presence of hot food takeaways.

72. When taken as a whole, I am satisfied that there is sufficient evidence, as indicated by Public Health England, to support health considerations as being potentially material to planning decisions in addition to considerations of town centre vitality and viability. However, as submitted, Policy TLC6 does not address the potential implications of such uses on the health of the community as a whole nor the need to take a flexible approach to proposals that are based on evidence of the time. As a consequence, I consider a modification to the policy to be necessary which will enable the Council to take into account the relevance of health impacts relating to hot food takeaways as part of any further developed Council strategy that seeks to tackle obesity and health issues as necessary. The site specific circumstances of any proposal will be particularly relevant, for example in relation to other nearby uses, which may include schools, and the proximity to areas where young people may congregate. This will ensure consistency with the Framework and an overall positive and flexible approach to activities affecting hot food takeaways and is contained within MM 14.
73. Overall, the Plan does provide the most appropriate and robust strategy towards the economy which is evidenced adequately, will be effective, is consistent with national policy and in general conformity with the London Plan.

**Issue 6 - Does the Plan take a justified and suitably evidenced based approach towards design, conservation and environmental sustainability? Is the Plan consistent with national policy in such regards and will it be effective in implementation?**

*Design and Heritage Matters*

74. Policy DC1 sets out the Council's position upon design related matters: "*all development within the Borough should create a high quality urban environment ...*". This is consistent with the Framework and the London Plan and is supported by a range of evidence papers including the Tall Buildings background paper, townscape analysis for the regeneration areas and Streetsmart.
75. The Plan subsequently contains a number of detailed criteria based policies to assist in the delivery of the stated objective. I understand that the Council has successfully operated its previous development plan with a requirement for development to 'respect' a number of matters, as reiterated in Policy DC2, and whilst I perceive some potential ambiguity in the interpretation of this requirement, I have no direct evidence to suggest it is not ultimately capable of effective implementation.
76. The Council's approach towards tall buildings is provided by Policy DC3 and is supported by a proportionate and robust range of background evidence. A number of modifications have been proposed by the Council to ensure consistency with national policy which I recommend accordingly, for example in relation to heritage matters (**MM15**). Overall I am satisfied that the policy provides sufficient flexible clarity on the circumstances where tall buildings may be permitted. The supporting text to the policy makes adequate reference to the London View Framework and I am further mindful that Policy

DC7 expressly protects the strategic view of St Paul's Cathedral. The Council's approach towards applications affecting local views within the Thames Policy Area and affecting important local landmarks is set by Policy DC7 and I am satisfied that the Plan is positive and flexible in how potential proposals will be resolved.

77. The Plan contains a prescriptive level of detail in Policies DC4, 5 and 6. That pertaining to alterations and extensions is justified whilst that relating to shopfronts requires modification to ensure it will be effective in operation. I recommend deletion of the reference to the Planning Guidance SPD in Policy DC5 accordingly (**MM16**) to ensure the effective and justified implementation of the policy. The Council has clarified its approach towards replacement windows which I consider represents a necessary main modification to ensure effective implementation (**MM17**).
78. Policy DC8 relates to Heritage and Conservation. The submitted policy is not wholly consistent with national policy but the Council has proposed modifications to make it so, taking into account the input of Historic England, with which I agree (**MM 18**). The necessity for all of the detail within the policy is a reflection of the importance that the Council place on this issue and I have no reason to consider the approach is not justified as a consequence.
79. The Council's approach to Advertisements is set within Policy DC9 which is both long and detailed. I am satisfied that the policy could be successfully shortened with a variation on the remaining text being included, as the Council sees necessary, into the supporting justification for the policy. Such a change would avoid an overly prescriptive and inflexible policy and I therefore recommend accordingly to ensure its effectiveness (**MM19**).
80. The issue of basements and lightwells is addressed by Policy DC11 which when taken as a whole is warranted by the Council's experience of dealing with such proposals and the advice provided by the GLA within its SPG on Sustainable Design and Construction. Clarity is required on criteria 'e' and 'l' to ensure the policy is capable of effective implementation and I recommend accordingly (**MM20**).

#### *Environmental Sustainability*

81. The Plan contains a 2035 Vision to deliver an environmentally sustainable Borough. Both this and the accompanying suite of policies are informed adequately by the wider London context and national policy. Policy CC1 requires major development to implement energy conservation measures by, for example, implementing the London Plan sustainable energy policies. The policy contains sufficient flexibility to cater for circumstances where meeting the required CO<sup>2</sup> reductions on or near to site cannot be made and I am satisfied that its requirements are justified by the evidence available to me provided that the Council's modifications addressing air quality are included. I recommend accordingly to ensure an effective policy (**MM21**). This approach is followed within Policy CC2 which requires the implementation of sustainable design and construction measures in certain circumstances.
82. Policy CC3 sets out a detailed approach towards minimising flood risk and water use. The Environment Agency is satisfied with the approach in this specific London context where large parts of the Borough fall outside Flood

Zone 1 and, with due regard to the available Strategic Flood Risk Assessment (SFRA) and Surface Water Management Plan (SWMP), I have no reason to take a different view.

83. Policies CC4 and CC5 aim to address surface water run-off, sustainable drainage systems and water quality. The SWMP provides a convincing basis for the necessity of CC4 and I am satisfied that the approach is robust. Policy CC5 provides useful completeness for where private supply systems may be operational.
84. The submitted Plan contains a number of waste related policies. I have noted the submitted evidence and the work of the Western Riverside Waste Authority, of which the Council is part, in addition to correspondence from Thurrock Borough Council<sup>7</sup>. The Plan, via Policies CC6-8 provides a robust approach towards issues of waste that reflect the London Plan Waste Apportionment targets adequately. The Council has suggested clarifications to the text of the relevant policies which I recommend to ensure clarity and effectiveness (**MM22**).
85. Policy CC10 sets out the Council's approach towards air quality which is justified by the available evidence and is consistent with national policy provided the suggested changes of the Council are embodied in any adopted Plan. These provide more effective details as to how air quality assessments should operate and introduce further criteria designed to mitigate potential adverse impacts arising from development and I recommend their inclusion as main modifications accordingly (**MM23**).
86. The Plan contains a number of policies that will help ensure that the development and use of land will contribute to the mitigation of, and adaptation to, climate change. These include the policies cited above and the strategic objectives. Accordingly, the Plan taken as a whole, achieves the statutory objective set out within Section 19(1A) of the Planning and Compulsory Purchase Act 2004.

**Issue 7 - Does the Plan address adequately the provision of necessary infrastructure to support the delivery of the strategic objectives and the vision? Are the Plan's monitoring targets justified adequately and of a level of detail that is appropriate to a Local Plan? How will the effectiveness of the Plan be managed?**

87. The Council's IDP is an iterative document which contains a schedule of key infrastructure requirements linked to the content of the Plan. I note the variables which exist within the IDP and I heard how the Council intends to continue to monitor the schedule, with due regard to the Annual Monitoring Report (AMR), and its delivery to ensure the appropriate infrastructure is in the right place at the right time. I have no reason to consider that this will not be effective.
88. Policy INFRA1 relates to planning contributions and infrastructure and will operate alongside the established Community Infrastructure Levy. The Council has proposed modifications in relation to how monitoring expenses

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<sup>7</sup> EX21

may be charged which I recommend to ensure clarity in the successful delivery of the Plan as a whole (**MM24**) and to be legally robust.

89. The Council is alert to the risks posed to the success of the Plan and has sought to embed flexibility within the Plan as a whole to enable appropriate reaction to change as required. The AMR and monitoring of items such as the Housing trajectory, will enable the Council to implement the 'plan, monitor, manage' approach which will maximise the likelihood of the successful delivery of the Plan objectives.
90. The Council has updated its monitoring indicators to be contained in Appendix 6 of the Plan. I recommend these as main modifications to ensure the effective delivery of the Plan as a whole (**MM 25**).

## Public Sector Equality Duty

91. I am mindful of the Council's Equalities Impact Assessment and, in particular, the way in which the Council intends to proceed in relation to the provision of Gypsy and Traveller pitches to meet the identified needs. I have had due regard to the provisions of Equality Act 2010 in reaching my conclusions.

## Assessment of Legal Compliance

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

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The Local Plan has been prepared in accordance with the Council's LDS which was updated in June 2017.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in November 2015. Consultation on the Local Plan and the MMs has complied with its requirements.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Assessment (HRA)	The SA contains confirmation that, following the earlier assessments undertaken for the Core Strategy and the Development Management Local Plan, AA is not necessary. Natural England supports this.
National Policy	The Local Plan complies with national policy except where indicated and MMs are recommended.
London Plan	The Local Plan is in general conformity with the spatial development strategy, The London Plan.
2004 Act (as amended) and 2012 Regulations.	The Local Plan complies with the Act and the Regulations.

## Overall Conclusion and Recommendation

93. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. Without the MMs the Plan has a number of deficiencies in respect of soundness which means I would recommend non-adoption of the submitted document in accordance with Section 20(7A) of the 2004 Act.

94. However, these deficiencies have been explored in my main issues identified above. I conclude that with the recommended main modifications set out in the Appendix, the Hammersmith and Fulham Local Plan satisfies the requirements of Section 20(5) of the 2004 Act, is in general conformity with the London Plan and meets the criteria for soundness in the National Planning Policy Framework.

*Andrew Seaman*

Inspector

This report is accompanied by an Appendix containing the Main Modifications.