

# Isle of Dogs Neighbourhood Plan

## Report of Examination

**Report to London Borough of Tower Hamlets**

by the Independent Examiner:

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14 April 2020

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## Summary

1. From my examination of the submitted Isle of Dogs Neighbourhood Plan and the supporting documents, including all the representations made, I have concluded that, subject to the modifications I **recommend**, the Neighbourhood Plan should proceed to a referendum.
2. I have concluded that the plan does meet the Basic Conditions. In summary, the Basic Conditions are:
  - a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
  - b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
  - c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
  - d. the making of the neighbourhood plan contributes to the achievement of sustainable development.
  - e. the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area.
  - f. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
  - g. prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
3. I have concluded that, subject to certain modifications, the plan would meet the legal requirements in that:
  - It has been prepared and submitted for examination by a qualifying body;
  - It has been prepared for an area properly designated;
  - It does not cover more than one neighbourhood plan area;
  - It does not relate to “excluded development”;
  - It specifies the period to which it has effect – to 2031; and
  - The policies would relate to the development and use of land for a designated neighbourhood area.
4. The Referendum Area should be the same as the designated area.

## **1. Introduction**

- 1.1 I am appointed by the London Borough of Tower Hamlets, with the support of the Isle of Dogs Neighbourhood Planning Forum (the Qualifying Body), to undertake an independent examination of the Isle of Dogs Neighbourhood Plan (known as the Basic Plan), as submitted for examination.
- 1.2 This plan is, in many respects, a revision of an earlier Neighbourhood Plan (known as the Quick Plan), which I examined in 2018. I failed that plan due to fundamental flaws that were not possible to resolve through modifications in order to meet the basic conditions. In particular, the infrastructure evidence was not sufficiently robust or proportionate to support a core aim and key policy in the plan; nor had it been consulted upon. There were also a significant number of non-land use policies that would have to have been removed from the plan.
- 1.3 I am an independent planning and development professional of 40 years standing and a member of NPIERS' Panel of Independent Examiners. I am independent of any local connections and have no conflicts of interests.

### **The Scope of the Examination**

- 1.4 It is the role of the Independent Examiner to consider whether making the plan meets the Basic Conditions. These are:
  - a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
  - b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
  - c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
  - d. the making of the neighbourhood plan contributes to the achievement of sustainable development.
  - e. the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
  - f. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
  - g. prescribed conditions are met in relation to plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

- 1.5 Regulations also require that the Neighbourhood Plan should not be likely to have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.
- 1.6 In examining the Plan I am also required to establish if the plan complies with certain legal requirements; in summary they are whether it:
- Has been prepared and submitted for examination by a qualifying body;
  - Has been prepared for an area that has been properly designated;
  - Meets the requirements that they must not include excluded development;
  - Relates to more than one Neighbourhood Area; and
  - Relates to the development and use of land.
- 1.7 Finally, as independent Examiner, I must make one of the following recommendations in relation to the Plan proceeding to a Referendum:
- a) that it should proceed to Referendum on the basis that it meets all legal requirements; or
  - b) that, once modified to meet all relevant legal requirements, it should proceed to Referendum; or
  - c) that it should not proceed to Referendum on the basis that it does not meet the relevant legal requirements.
- 1.8 Second, if recommending that the Plan should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Designated Area to which the Plan relates.

### **The Examination process**

- 1.9 I was formally appointed to examine the Neighbourhood Plan in February 2020. The default position is that neighbourhood plan examinations are conducted by written representations; in this case I provisionally decided that there were a sufficient number of issues that warranted clarification and/or oral evidence at a public hearing. However, issues around purdah (before the London Elections were postponed), costs and, finally, the impact of Covid-19 meant that a hearing was not possible. I duly completed the examination from the available material.

### **The Examination documents**

- 1.10 In addition to the legal and national policy framework and guidance (principally The Town and Country Planning Acts, Localism Act, Planning and

Compulsory Purchase Act, Neighbourhood Planning Act and Regulations, the National Planning Policy Framework, Written Ministerial Statements and the Planning Practice Guidance) together with the development plan, the relevant documents that were furnished to me - and were identified on the Council's websites as the neighbourhood plan and its supporting documentation for examination - were:

- Draft Isle of Dogs Neighbourhood Plan; this included two appendices:
  - Infrastructure Baseline Analysis; and
  - Evidence Base document (together with a construction map).
- Basic Conditions Statement;
- Consultation Statement, with three appendices:
  - Community Survey;
  - Newspaper articles; and
  - Forum emails.
- Responses received under Regulation 16 (referred to later).

1.11 I was also furnished with the Council's SEA and HRA Screening Determination of 12 July 2019.

### **The Qualifying Body and the Designated Area**

1.12 The Isle of Dogs Neighbourhood Planning Forum is the Qualifying Body for the designated area that is the neighbourhood plan area. The Executive Mayor of the London Borough of Tower Hamlets (LBTH), on behalf of the local authority, designated the Neighbourhood Area in April 2016. This is essentially the southern section of the Isle of Dogs; it is a smaller area than the Forum originally applied for - it excludes Canary Wharf - and is not matched to wards or other boundaries used for data collection. In relation to the drafting of the plan this had implications for evidence that was collected (or only available) on the original boundary or in relation to the Isle of Dogs Opportunity Area Planning Framework, for example. There is no other neighbourhood plan for this area.

### **The Neighbourhood Plan Area**

1.13 The plan area is that part of the Isle of Dogs south of the Canary Wharf business district, which occupies a loop in the River Thames in Tower Hamlets; it largely comprises former docks, new and established communities, as well as areas regenerated by the London Docklands Development Corporation (LLDC); significant areas of open water remain. The Isle of Dogs has had a history of relative isolation and then dereliction following the closure of the docks but in recent times has seen significant levels of development, mainly focused in and around Canary Wharf – which lies just to the north of the plan area – and is now the fastest growing place in the UK. It is also home to some of the tallest residential buildings in Europe.

1.14 The Isle of Dogs is a real island, with the Thames on three sides and water bodies (former docks) at the northern edge. There are very limited surface

crossing points linking the plan area with the rest of London. This, together with the constrained geography of the Isle, limits movement. Public transport in and adjacent to the plan area includes DLR, underground, river bus and surface bus services. However, accessibility is patchy; some areas are very good, with high PTAL ratings; much of the southern parts of the designated area is rated with a PTAL of 2 or 3.

- 1.15 The Isle of Dogs (as a whole) is the fastest growing part of the borough of Tower Hamlets, which in turn is the fastest growing borough in London; indeed probably the country (for its size). Aspirations for the growth of the Isle of Dogs (as a whole) have been repeatedly revised upwards – from 3,500 homes in 2004 to 29,000 homes in 2018; Transport for London’s high-growth modeling assumed a “worst-case” scenario of 59,000 homes; some 19,500 homes already have planning permission.
- 1.16 Thus, the plan area is expected to grow very significantly over the plan period. The GLA Ward Atlas population forecasts estimate that from a 2011 Census base of 40,800 residents the population (of the Isle of Dogs as a whole) could reach 79,900 by 2028, three years short of the plan period. The GLA projections at Ward level (the two closest as an approximation to the northern part of the plan area – Millwall, Blackwall & Cubitt Town) suggest an increase from 2011-2031 of 106% and 163% respectively, compared to the rest of Tower Hamlets (33%) and Inner London (26%).
- 1.17 The Isle of Dogs has some of the highest concentration of tall buildings (over 20 stories) in the country and one of the tallest and most densely developed residential areas in Europe; the plan area has seen mainly residential towers. Many more towers in the wider area are planned, with (as at March 2019), some 84 tall buildings in the pipeline. The northern part of the Isle of Dogs, around Canary Wharf, is part of London’s Central Activities Zone and home to mainly employment uses, including office towers.
- 1.18 The area’s demographic composition in the lower density areas – using Island Gardens Ward as a proxy - indicates an age profile similar to the Borough’s, with a higher proportion of White and Other ethnicities, a higher proportion of owner-occupiers (and a lower percentage of social renters) and a higher proportion in employment (with higher qualification levels) than the Borough as a whole.
- 1.19 The plan area contains a range of social and leisure facilities, much of it delivered by the London Docklands Development Corporation (LDDC, which ceased in 1997). The facilities on the Island include sailing and water sports and youth facilities; schools were built, as well as medical centres, some public spaces and there was investment in transport.
- 1.20 Overall, the plan area is a place undergoing rapid change and increasing densification, processes that are posing a set of challenges to the local communities in relation to matching infrastructure investment, the impact of construction and the ability of the community to have the tools to engage with the decision-making processes on plans and applications.

## **2. Neighbourhood Plan preparation and public consultation**

### **The Neighbourhood Development Plan**

- 2.1 The plan is in nine sections, only four of which are formally part of the plan as a development plan document. Section 1, somewhat unusually, is a Glossary; this includes definitions that also set out the Forum's own view on a number of matters, such as the Forum itself, Infrastructure Impact Assessment, PTALs, Public Landowners and Sustainable Development.
- 2.2 Section 2 sets out the community's vision and objectives, developed before the plan was embarked on, around an overall theme of: *"A liveable environment in which our diverse community can work, rest and play."* This section explains a core aim of the plan: *"... the need for large proposed developments only to be permitted after all the infrastructure and services needed to support them and all the other developments nearby have been fully considered and allowed for"* (para 2.7). This statement drew objections from developers as it was read as an effective moratorium on approving any further residential development; and that the expression "allowed for" was misleading. The chapter then outlines the plan's multiple objectives (listed as 2.8.1 - 2.8.20).
- 2.3 Section 3 summarises the neighbourhood plan's ten policies, together with the remaining parts of the plan, which is in two parts: A Summary of the Annex Aspirations and a Summary of the Recommendation on CIL. Section 4 is the heart of the plan, setting out the plan's ten main policies, in seven main groups: Density, Empty Sites, Construction Management and Communication, Sustainable Design, Air Quality, 3D Model and Estate Regeneration Residents Ballots. There are no site allocations or Local Green Space designations proposed in the plan.
- 2.4 Section 5 forms an Annex, set out as two chapters: Estate Regeneration and Helping to Establish New Residents Associations. Each contain Annex Aspirations, which are expressed as non-land use policies. The subsequent sections seem to be structured as part of the plan itself: Section 6 sets out the Forum's priorities for the spend of funds raised under the Community Infrastructure Levy; three other sections, explain (7) the local community's desire to prepare a much more detailed plan – the "long" plan, this being the "Basic Plan" – and (8) the implications of a Parish or Town Council for the Isle of Dogs being pursued; finally, section 9, outlines the next steps.
- 2.5 The plan has no policies map, possibly because they don't lend themselves to being portrayed in this way. Historic England point out that the plan does not specifically address the potential impacts on the historic environment; however, they say this can be picked up in the "long plan".
- 2.6 There are two appendices: 1. Infrastructure Baseline Analysis; and, 2.



Evidence Base document, which is itself in 12 sections, including additional Evidence for each of the policy groups and a Construction Map (showing the extent of current and permitted development across the whole of the Isle of Dogs). It includes (section 11) Counsel's Opinion about the Quick Plan, which I had already seen when examining that plan.

### **Strategic Environmental Assessment and Appropriate Assessment Screening**

- 2.7 Under Article 3(3) and 3(4) of the Strategic Environmental Assessment (SEA) Directive 2001/42/EC an SEA is required of plans and programmes which "determine the use of small areas at a local level". The Borough Council as "responsible authority" determines if the plan is likely to have significant environmental effects. They determined, in a SEA and HRA Determination of 12<sup>th</sup> July 2019, that the plan would not require a Strategic Environmental Assessment nor an Appropriate Assessment.

### **Human Rights and European Obligations**

- 2.8 I have no reason to believe that making the plan would breach or is incompatible with the European Convention on Human Rights or other EU obligations.

### **Plan period**

- 2.9 The neighbourhood plan clearly states - on the cover, at para 4.2 and elsewhere - that it covers the period to 2031, which is co-terminus with the adopted Local Plan.

### **Excluded development**

- 2.10 A neighbourhood plan cannot include policies for excluded development, such as minerals and waste. I have concluded that the plan does not do so.

### **Land Use Policies**

- 2.11 A neighbourhood plan cannot include policies that are not concerned with the use or development of land. This was a particular issue with the Quick Plan; in that case I recommended, in line with Guidance, that such material be moved to an Annex. This has largely been done in that the section is headed as such; however, it is embedded within the structure of the plan itself and the phraseology used within it means that, in many instances, the "aspirations" can too readily be interpreted as requirements or as a form of policy guidance.

### **Public consultation and responses to the submitted plan**

- 2.12 The process of consultation on this, the Basic Plan, is essentially a continuation of that which began when the Forum started the process of formulating a neighbourhood plan, in 2014/15. The main efforts culminated in

the submission of the previous “Quick Plan”, which I examined, and found to have engaged the local community fully.

- 2.13 The Forum started in late 2014 and The Resident’s Group had over 8,000 members by September 2017. From the beginning the Forum used social media extensively: the Facebook page had over 2000 reaches, Twitter 350 followers, the Email newsletter over 700 subscribers; Nextdoor, a local communication website had over 400 members; and the Forum website averaged 235 unique visitors a week. The Forum engaged extensively through public meetings, workshops and with external networks (like New London Architecture). The Consultation Statement continues to list the range of surveys, meetings, stakeholder engagement events and other activities, as well as setting out how the Forum responded to representations and comments at the Regulation 14 stage of the Quick Plan.
- 2.14 The Consultation Statement on this, the “Basic Plan”, remains essentially the same as the previous version, with very limited updates on the steps taken by the Forum to engage the local community in their new plan. The only real points of engagement seem to be in the run up to publishing the Regulation 14 version. But I don’t see this as a failure of consultation given the long period of consultation and the extensive measures taken, leading to a neighbourhood plan that is essentially a revision of the one that was examined. Though it is notable that only one individual made any representations to this plan.
- 2.15 A total of 22 parties made representations to the submitted plan (including TfL twice). The parties raising substantive matters included: One Housing Group, Ashbourne Beech Property Ltd, Ballymore Group, Berkeley, Chalegrove Properties, Robert Ogden Indescon, Rockwell Property, Tide Construction, The Canal & River Trust, Port of London, the Greater London Authority, Thames Water and Tower Hamlets Council (who provided a most detailed critique and set of suggested drafting amendments). Most statutory undertakers, including the Environment Agency, Historic England, Natural England and National Grid had no, or no substantive, comments.

### **3. The Neighbourhood Plan in its planning context**

#### **National policies and advice**

- 3.1 The neighbourhood plan must have regard to national policies and advice, contained in Ministerial Statements and guidance issued by the Secretary of State, and contribute to the achievement of sustainable development. Paragraph 16 of the National Planning Policy Framework (the Framework) sets the scene:

*“Plans should:*

- a) be prepared with the objective of contributing to the achievement of sustainable development;*
- b) be prepared positively, in a way that is aspirational but deliverable;*
- c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;*
- d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;*
- e) be accessible through the use of digital tools to assist public involvement and policy presentation; and*
- f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”*

3.2 The Framework then explains, at para 29, in relation to neighbourhood planning that:

*“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in strategic policies for the area, or undermine those strategic policies.”*

3.3 In relation to achieving appropriate densities, the Framework includes the following, at para 122:

*“Planning policies and decisions should support development that makes efficient use of land, taking into account:*

- c) the availability and capacity of infrastructure and services—both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;”*

3.4 Planning Policy Guidance includes a range of guidance relevant to this plan; for example:

*“Plans should be prepared positively, in a way that is aspirational but deliverable. Strategic policies in the local plan or spatial development strategy should set out the contributions expected from development. This should include the levels and types of affordable housing required, along with other infrastructure. Neighbourhood plans may also contain policies on the contributions expected from development, but these and any other requirements placed on development should accord with relevant strategic policies and not undermine the deliverability of the neighbourhood plan, local plan or spatial development strategy. Further guidance on viability is available.”* (Paragraph: 005 Reference ID: 41-005-20190509. Revision date: 09 05 2019)

3.5 The plan must give sufficient clarity to enable a policy to do the development

management job it is intended to do; or to have due regard to Guidance. For example, the Guidance explains that:

*“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”* (ref 41-041-20140306).

- 3.6 There has to be appropriate evidence to support particular policies, notwithstanding it may express a strong and well-intentioned aspiration or concern of the local community. The Guidance at ref 41-040-20160211 states:

*“While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.*

*A local planning authority should share relevant evidence, including that gathered to support its own plan making, with a qualifying body .....*

*Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.*

*In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making”.*

- 3.7 The Guidance further explains what a neighbourhood plan should address:

*“A neighbourhood plan should support the delivery of strategic policies set out in the local plan or spatial development strategy and should shape and direct development that is outside of those strategic policies (as outlined in paragraph 13 of the revised National Planning Policy Framework). Within this broad context, the specific planning topics that a neighbourhood plan covers is for the local community to determine.*

*A neighbourhood plan should, however, contain policies for the development and use of land. This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see section 38(6) of the Planning and Compulsory Purchase Act 2004).*

*Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan. (Paragraph: 004 Reference ID: 41-004-20190509. Revision date: 09 05 2019).*

3.8 Also, in relation to Infrastructure considerations:

*“A qualifying body may wish to consider what infrastructure needs to be provided in their neighbourhood area from the earliest stages of plan-making (as set out in paragraph 102 of the National Planning Policy Framework) alongside development such as homes, shops or offices. Infrastructure is needed to support development and ensure that a neighbourhood can grow in a sustainable way.*

*The following may be important considerations for a qualifying body to consider when addressing infrastructure in a neighbourhood plan:*

- what additional infrastructure may be needed to enable development proposed in a neighbourhood plan to be delivered in a sustainable way*
- how any additional infrastructure requirements might be delivered*
- what impact the infrastructure requirements may have on the viability of a proposal in a draft neighbourhood plan and therefore its delivery*
- what are the likely impacts of proposed site allocation options or policies on physical infrastructure and on the capacity of existing services, which could help shape decisions on the best site choices*

*Qualifying bodies should engage infrastructure providers (eg utility companies, transport infrastructure providers and local health commissioners) in this process, advised by the local planning authority. (Paragraph: 045 Reference ID: 41-045-2019050. Revision date: 09 05 2019)*

And: *“What should a qualifying body do if it identifies a need for new or enhanced infrastructure?”*

*A qualifying body should set out and explain in their draft neighbourhood plan the prioritised infrastructure required to address the demands of the development identified in the plan”. (Paragraph: 046 Reference ID: 41-046-20140306)*

3.9 The Basic Conditions Statement (BCS) sets out how the policies in the Neighbourhood Plan comply with the Basic Conditions and legal requirements. It sets out, in tabular form, how the plan has regard to national policies and how it contributes to sustainable development, and contributes to economic and social sustainability and how the plan contributes to the environment.

3.10 The neighbourhood plan must be in general conformity with the strategic policies of the development plan for the area. The development plan comprises: The London Plan and the Tower Hamlets Local Plan 2031.

## **i. London Plan context**

- 3.11 The London Plan (LP) is part of the development plan. In one sense all LP policies are strategic; but not all are directly relevant to the plan. The Basic Conditions Statement notes that in the adopted London Plan the plan area is within the Isle of Dogs Opportunity Area (OA); and that the LP plans for a minimum of 10,000 new homes and 11,000 extra jobs in the OA. The Housing SPG is noted and referenced.
- 3.12 The draft London Plan has moved on since the preparation of the neighbourhood plan. The *Intend to Publish London Plan 2019* is at a very advanced stage having been examined and with the Panel Report published. It is currently with the Secretary of State. It thus carries significant weight, a point the Council and a number of representations make. The GLA have also confirmed that they consider the neighbourhood plan to be in general conformity with it. It is therefore pertinent to highlight a number of key policies that are relevant to the neighbourhood plan, not least in highlighting the importance of the Isle of Dogs to securing a very significant contribution to London's housing supply and achieving the raised housing targets for the Isle of Dogs. The draft London Plan housing targets for the whole OA - larger than the plan area - is now 29,000 homes, with a target of 110,000 new jobs.
- 3.13 The draft LP contains a very relevant policy in relation to density and the delivery of infrastructure, a core concern of the neighbourhood plan:

### **Policy D2 Infrastructure requirements for sustainable densities**

A The density of development proposals should:

- 1) consider, and be linked to, the provision of future planned levels of infrastructure rather than existing levels
- 2) be proportionate to the site's connectivity and accessibility by walking, cycling, and public transport to jobs and services (including both PTAL and access to local services)

B. Where there is currently insufficient capacity of existing infrastructure to support proposed densities (including the impact of cumulative development), boroughs should work with applicants and infrastructure providers to ensure that sufficient capacity will exist at the appropriate time. This may mean that if the development is contingent on the provision of new infrastructure, including public transport services, it will be appropriate that the development is phased accordingly.

C. When a proposed development is acceptable in terms of use, scale and massing, given the surrounding built form, uses and character, but it exceeds the capacity identified in a site allocation or the site is not allocated, and the borough considers the planned infrastructure capacity will be exceeded, additional infrastructure proportionate to the development should be delivered

through the development. This will be identified through an infrastructure assessment during the planning application process, which will have regard to the local infrastructure delivery plan or programme, and the CIL contribution that the development will make. Where additional required infrastructure cannot be delivered, the scale of the development should be reconsidered to reflect the capacity of current or future planned supporting infrastructure.

3.14 The draft London Plan no longer contains the density matrix at Table 3.2 of the adopted plan; rather, the new policies promote a less mechanistic approach, through Policy D3: Optimising site capacity through a design-led approach. The supporting text explains that: “*A design-led approach to optimising site capacity should be based on an evaluation of the site’s attributes, its surrounding context and its capacity for growth to determine the appropriate form of development for that site.*” (para 3.3.2)

3.15 Other relevant policies include:

- **Policy D4 Delivering good design** [which includes a section on 3D modeling]:

B Where appropriate, visual, environmental and movement modelling/assessments should be undertaken to analyse potential design options for an area, site or development proposal. These models, particularly 3D virtual reality and other interactive digital models, should, where possible, be used to inform plan-making and decision-taking, and to engage Londoners in the planning process.

- **Policy H3 Meanwhile use as housing** [including:]

A Boroughs are encouraged to identify opportunities for the meanwhile use of sites for housing to make efficient use of land while it is awaiting longer-term development.

- **Policy H8 Loss of existing housing and estate redevelopment** [this policy includes:]

D Demolition of affordable housing, including where it is part of an estate redevelopment programme, should not be permitted unless it is replaced by an equivalent amount of affordable housing floorspace. Affordable housing that is replacing social rent housing must be provided as social rent housing where it is facilitating a right of return for existing tenants. Where affordable housing that is replacing social rent housing is not facilitating a right of return, it may be provided as either social rent or London Affordable Rent housing. Replacement affordable housing should be integrated into the development to ensure mixed and inclusive communities.



- **Policy S1 Developing London's social infrastructure**
- **Policy S3 Education and childcare facilities**
- **Policy SI 1 Improving air quality**
- **Policy DF1 Delivery of the Plan and Planning Obligations**

- 3.16 The strategic planning of the Opportunity Area is intended to be taken forward by the Isle of Dogs & South Poplar Opportunity Area Planning Framework (OAPF), which has recently been adopted. The OAPF is divided into five main zones, two of which – Canary Wharf and South Poplar - are outside of the neighbourhood plan area. The remaining three are expected to take most of the anticipated housing growth – as set out in the DIFS (see para below): South Quay (under the low and high growth scenario, this zone could deliver the largest proportion of tested housing growth - 32% or 33%); Crossharbour (under the maximum growth scenario, this zone could deliver the largest proportion of residential development - 30%); while Island Gardens – the most southern and lowest density sector - only accounts for less than 2% of the growth tested).
- 3.17 The OAPF does not comprise formal policies but a series of recommendations to promote delivery of the scale of growth and the necessary supporting infrastructure outlined in the document. The OAPF is supported by a Development Infrastructure Funding Study (DIFS) 2017, prepared by consultants. At the time of the last examination the OAPF and DIFS were only made publicly available the evening before the hearing, which contributed to the fatal flaws in the Quick plan. The study provides a very detailed set of costed projections of infrastructure needs and outlines the actions needed to maximize the funding available; though a significant shortfall has been identified. The consultants conclude that: *“Development at Isle of Dogs and South Poplar is of such a scale that planning authorities will need to cover a huge range of very detailed issues and make good decisions in little time.”* (Para 8.1). A series of steering groups is recommended to help achieve this, however, in practice no such series of bodies or processes are in place as envisaged. Their absence presents a set of considerable challenge to the local community - in relation to matching infrastructure investment to the scale and densification of development, the impact of construction and the ability of the community to have the tools to engage with the decision-making processes on plans and applications.

## ii. Local Plan

- 3.18 The Borough has a new Local Plan - **Tower Hamlets Local Plan 2031: Managing Growth and Sharing the Benefits**, adopted in January 2020. This plan is supported by an Infrastructure Delivery Plan (IDP). The Basic Conditions Statement explains that the Forum was able to take account of the draft stage as well as with conformity with the Core Strategy and Managing Development DPD. The implications of the growth planned for in the Local Plan are set by text in para 3.1 of the Local Plan:



3.1 ..... Population growth will demand more homes and jobs and will significantly impact on existing social and physical infrastructure, including schools, healthcare, open spaces and leisure facilities as well as less visible but very important infrastructure, such as utilities and telecommunications. New delivery models and locations will be required.

3.19 The Local Plan explains, at para 32.2, that most policies are strategic (only five are stated as not). Particularly relevant policies that I have picked out are:

- S.SG2: delivering sustainable growth in Tower Hamlets
- D.SC4: Planning and construction of new development
- S.DH1: Delivering high quality design
- D.DH7: Density
- S.CF1: Supporting community facilities
- D.ES2: Air quality
- D.ES7: A zero carbon borough
- D.TR4: Sustainable delivery and servicing; and
- The site allocations in the plan and the Delivery Guidance for each.

3.20 I have set this all out fairly fully as the neighbourhood plan says very little about the area's strategic importance to the delivery of new homes in London and quotes very little of the strategic planning context for its own policies; it is, after all, intended as a development plan document in its own right (and see Framework 16 (d)). Whereas, there is actually significant strategic planning policy support for what the plan seeks to do.

3.21 Therefore, I have concluded that while the neighbourhood plan can be seen to be in general conformity with the strategic policies of the development plan for the area, it needs to a) be modified where some policies are potentially undermining of the strategic objectives; and b) recognise the strategic planning context much more overtly, in order to meet the basic conditions. To do this I will be recommending some drafting modifications and suggesting how the omission of this important contextual piece could be remedied.

## **4. Overview**

4.1 There was a fundamental difficulty with the "Quick Plan" in relation to the lack of infrastructure evidence to support a central thrust and policy of the plan. This has now been overcome by the progress made on strategic planning policy and the supporting infrastructure assessments and plans – the new London Plan, the adoption of the OAPF (and its supporting DIFS) and the Local Plan (with its own IDP). There remain issues around drafting and the use of the Forum's own infrastructure assessment, as I outline later.

4.2 The other main difficulty with the "Quick Plan" was the extent of policies that were not concerned with the use or development of land and which, if they had been removed, left little of substance in the plan. Overall, this problem has not gone away, notwithstanding that the transfer of much of the material into an Annex, given the way they are expressed and within the main body of

the plan. I deal with this as the relevant policies and plan sections arise.

- 4.3 Overall, there is nothing approaching a fatal flaw in this (the Basic Plan); though a new and unexpected issue has appeared: its usability as a development plan document. The highly complex paragraph numbering system makes it difficult to keep track of some sections and future referencing will be very cumbersome; for example, each policy and its components are numbered and in some places the paragraph numbering of supporting text rises to 6 digits. This issue has been picked up by quite a few representations; though it was a problem of my own making, in suggesting (as part of an annex to my earlier report), that all paragraphs needed numbering! Unusually, I **recommend** all the current numbering be replaced by a much simplified system, including its removal from all policies, to achieve the clarity required of a development plan document.
- 4.4 Some other general issues also need rectifying: First, the introduction of a Glossary which includes definitions that are effectively advocacy – that seek to set out the Forum’s own view on a number of matters, such as the Forum itself, Infrastructure Impact Assessment, PTALs, Public Landowners and Sustainable Development. These variations are unsupported by any evidence; however, deletion of a section leaves the glossary incomplete. The inclusion of a glossary is, in any event, unnecessary as the range of development plan documents already cover them.
- 4.5 Second, there is an absence of any contextual section that sets the scene for what follows in the plan; this would be very helpful, to provide a the strategic planning policy context that also makes sense of the plan’s policies. However, its absence does not fail to meet the basic conditions. Section 1 of Appendix 2 of the Evidence Base – Context: Why we need a Plan – could be most usefully deployed in the plan itself, for example, to act as an introduction to the reasons for having a plan and for the strategic planning context – a point made by the GLA. But this is only a suggestion.
- 4.6 Third, the Appendices are not necessary for the functioning of the plan as a development plan document – indeed App 1 is potentially confusing and undermining of the strategic infrastructure evidence and context – and see my paras 5.5/6; and App 2 will get out of date rapidly; they should be removed. They are supportive and can be safely detached and retained separately as part of the website archive of supporting material. I deal with Appendix 1 – Infrastructure Baseline Analysis – which is introduced in para 4.4.4 of the plan, when I come to Policy D1.
- 4.7 I therefore **recommend** that section 1 – Glossary – be deleted. It could be replaced by a new section 1 – Context - comprising section 1 of the Evidence Base, as suggested above, followed by some new text (see suggestions in my edited version) covering the strategic planning policy context. Further, I **recommend** that both Appendices be removed from the plan. These can be available for reference on the Forum website, much as the evidence base for the Local Plan is on the Council’s website.

- 4.8 Section 3 - Summary - is problematic. It is stated as “for information only” but contains a number of confusing statements. Some are effectively advocacy regarding CIL spend. Others seek to upgrade the aspirations to almost material considerations; for example: “*They should therefore be taken into account by developers in putting forward relevant proposals ....*” (para 3.3). Elsewhere the status is not clear, for example, what “*constitutes the community’s formal recommendations to the Council*” on the spend of CIL (para 3.4). Further it explains (para 3.4.2) that: “*LBTH should take note of this and weigh it accordingly when determining planning applications of CIL generated in the area ...*” Placed within the body of the plan and ahead of the main policy sections these statements are very confusing; indeed, they are inappropriate as they go beyond the use and development of land and do not comply with the basic conditions. I therefore **recommend** that paragraphs 3.1 to 3.4.2 be deleted.
- 4.9 The remainder of section 3 is a set of summaries, in three parts: The plan’s Polices; the Annex Aspirations; and the Recommendation. These will need some editing in order to match the modifications recommended in this report; and may better be placed at the end of the Vision and Objectives section. I **recommend** the consequential changes, as set out in my edited version.
- 4.10 Finally, I have found that the sheer number of minor drafting changes - necessary to bring the whole of the plan into a consistent and clear whole, including supporting text, to meet the basic conditions, particularly Framework 16 (d) – that plans must: *contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals* - has meant that I have taken the unprecedented step (for me) of editing the whole plan, including making the recommended modifications that this report explains. This has been a complex exercise. My remit is strictly limited and I have strived to not stray beyond those limits; the only exceptions are my suggestions for a context chapter, which are not recommendations, and the formatting of the final chapters as part of the Annex.
- 4.11 An edited version of the neighbourhood plan, in tracked changes, containing my recommendations is attached, as a PDF; a Word version will be made available to the Council, as they take my report forward. I **recommend** that this is the version of the plan that is taken forward.

## **5. Density and impacts on infrastructure**

- 5.1 The first pair of policies in the plan concerns the impact of high density development on the area’s infrastructure provision and, in particular, to secure the core of the local community’s original visions statement: “... *the need for large proposed developments only to be permitted after all the infrastructure and services needed to support them and all the other developments nearby have been fully considered and allowed for*” (para 2.7). It does this in two ways: by requiring an up front assessment for large developments; and

ensuring particular factors (from the GLA Housing SPG) are fully considered so that the impacts can be either mitigated or the application would be considered unacceptable.

### **Policy D1 Infrastructure Impact Assessments**

- 5.2 This policy is in five parts. It requires an assessment to be submitted with all Major and Strategic applications; this has to include cumulative impacts. Where the assessment indicates that there is sufficient capacity to support the proposed densities it will be supported; where capacity is insufficient then potential improvements need to be assessed and proposed; where development is contingent on the provision of new infrastructure the development should be phased accordingly; but where the impacts cannot be mitigated the development would be considered unacceptable.
- 5.3 This policy was the focus of objections from those parties who are actively developing housing in the Isle of Dogs. They felt it was too onerous and there were considerable concerns about the appropriateness of such a policy in principle – not least due to the policy frameworks in place and given the need for a whole range of studies to support large-scale applications - as well as with its operation in practice, particularly the potential for “double-dipping” given the operation of CIL in the plan area. They point out that the policy makes the delivery unreasonably reliant on other bodies. The GLA considered that the policy could compromise the delivery of the London Plan in relation to the Opportunity Area. An objector felt it could render development unviable and significantly reduce affordable housing delivery; and introduces a complicated and time-consuming analysis of other consented/undeveloped schemes.
- 5.4 There is considerable national and strategic policy support for the plan’s general approach, however. For example NPPF para 122 (c), new London Plan Policy D2 and Local Plan Policy D.DH7, not that this comes though very well in the plan – hence my earlier recommendation that this omission be rectified. But the policy, as worded, goes further and can be, as a number of representations express, be seen as undermining strategic policy; even as a moratorium on development where the capacity can only be provided by agencies outside the developer’s control. Indeed, the whole point of CIL funding is that it provides a build up of funding and over time on what are often complex and high-cost pieces of infrastructure. For example, draft new London Plan Policy D2 avoids an embargo, by including:

... if the development is contingent on the provision of new infrastructure, including public transport services, it will be appropriate that the development is phased accordingly. [D2 B (extract)]

And:

*Where additional required infrastructure cannot be delivered, the scale of the development should be reconsidered to reflect the capacity of current or future planned supporting infrastructure. [Policy D2 C (extract)]*

- 5.5 The neighbourhood plan introduces the Forum's own infrastructure evidence at para 4.4.4.1 in the form of an Infrastructure Baseline Analysis (IBA) dated April 2019, as the plan's Appendix 1. This is a set of tables, not all complete, with little or no narrative in the Appendix itself (the supporting material is in the Evidence base, Appendix 2), covering a wide range of topics. The plan envisages it being regularly updated, possibly by the Council. While it is not specifically referenced in the operation of the policy, the purpose is explained in the supporting text (4.4.4.3): The submitted Infrastructure Impact Assessment must explain and justify "... *the impact of their proposal against the then current Infrastructure analysis ...*".
- 5.6 The difficulty is that the IBA evidence is incomplete, has not been verified or corroborated by GLA or LBTH officials, albeit much comes from those sources; nor can it be matched with the extensive studies that underpin the OAPF and Local Plan and so is not capable being part of an effective development management tool. Its inclusion in the effective operation of the policy I regard as being unjustified and confusing. Accordingly, I **recommend** that Appendix 1 be removed from the plan and that any references to it in the supporting text make clear that it is for information only. It can be moved to the Forum website as a reference for its own evidence base.
- 5.7 The drafting of the policy needs to avoid creating an embargo. It also needs to apply to the appropriate level of development, as it currently applies to all Major and Strategic developments, irrespective of the land-use. The Forum explains that it is intended to apply to mainly housing and hotel developments. Representations focused on the threshold. I am persuaded that the plan's approach is too broad and too all encompassing without the robust and proportionate evidence to justify it. The Council and the Forum have been in recent discussion on how the drafting of the policy might be modified and their suggestions to me have been posted on their websites; this focused on housing schemes with a density threshold.
- 5.8 The draft London Plan (Policy D3 for example) does not have any thresholds, while the newly adopted Local Plan (at D.DH7) uses the density matrix from the adopted London Plan. It seems to me, and the Council agree, that in this case it is reasonable to use the top end of the adopted London Plan density range – 1,100 hr/ha – as the appropriate threshold; and to apply the policy to only housing schemes. This also links it to the next policy; and a number of representations suggested that there was merit in simplifying the effect of the two policies by combining them. So I now turn to Policy D2 before considering appropriate modifications.

### **Policy D2 – High Density Developments**

- 5.9 The policy requires residential developments exceeding the threshold (1,100 hr/ha, in locations with a PTAL of 5 or less) to comply with the GLA's Housing SPG and to be of high design quality. Objectors have raised concerns about the definition of PTAL in the Glossary, which I agree with and have dealt with earlier. A number of representations were critical that it was linked to the adopted London Plan's density matrix; the general suggestion

was to use the more flexible approach in the new Plan (as in D3). The GLA “... strongly suggest that the threshold is too low and would place an unnecessary burden on development coming forward. We suggest a higher threshold such as developments referable to the Mayor ...”.

- 5.10 On balance, I consider that it does provide an appropriate threshold, as it is for a particular purpose and is linked to two adopted development plan policies. It is therefore perfectly legitimate, in my view, for the plan – given the particular local circumstances – to adopt the approach it has, which I consider complies with the Basic Conditions.
- 5.11 It has also been pointed out that the GLA SPG covers a far wider range of issues than the ones identified in the supporting text; and that the two paragraphs identified in Footnote 17 is actually the focus of the policy. It should therefore simply reference paras 1.3.51/52. Some objectors raised the point that a neighbourhood plan cannot raise SPG to development plan policy; and that the SPG may be superseded soon anyway. I don't agree that it cannot be referenced within the policy, given local conditions, and as what is being done is to use an appropriate reference to relevant factors.

### **Recommended modifications**

- 5.12 I have taken the suggestions from the Council and Forum into account and, in the light of my conclusions above, I **recommend** that Policies D1 and D2 be modified as follows:

#### **Policy D1 – Infrastructure Impact Assessment**

- 4.4.2.1 To support Sustainable Development and in view of the strain on Infrastructure in the Area and the shortage of publicly owned land, applicants for ~~Major and Strategic developments within the Area~~ residential developments exceeding 1,100 habitable rooms per hectare in locations with a PTAL of 5 or less are required to complete and submit an Infrastructure Impact Assessment as part of the planning application.
- 4.4.2.2 Where the Infrastructure Impact Assessment indicates that there is sufficient planned and delivered Infrastructure capacity to support proposed densities ~~(including the impact of cumulative development)~~, the proposal ~~it~~ will be supported.
- 4.4.2.3 Where the Infrastructure Impact Assessment indicates that there is insufficient planned and delivered infrastructure capacity to support proposed densities ~~(including the impact of cumulative development)~~, then potential improvements to Infrastructure capacity should be assessed and proposed, having regard to the CIL contribution that the development will make, and the requirement for planning obligations to be necessary, directly relevant, and reasonably related in scale and kind to the development as benefits offered to LBTH as part of the proposed development and/or as contributions towards local Infrastructure, proportionate to the scale of the development.

- 4.4.2.4 If the proposed development is contingent on the provision of new or enhanced Infrastructure (including, without limitation, public transport services), the development should be phased accordingly.
- 4.4.2.5 Infrastructure impacts will be considered unacceptable where they result in negative impacts that cannot be adequately mitigated through CIL contributions and/or planning obligations.

## **Policy D2 – High Density Developments**

4.4.5.1 Planning applications for residential developments exceeding 1,100 habitable rooms per hectare in locations with a PTAL of 5 or less shall specify how they conform to paragraphs 1.3.51 and 1.3.52 of the GLA’s Housing SPG, and not only that they are of a high design quality. Applications that do not adequately demonstrate this will be considered unacceptable.

5.13 The supporting text will require some consequential modification, which I deal with in tracked changes, see the edited version.

## **6. Empty Sites**

- 6.1 **Policy ES1 – Use of Empty Sites** - seeks to encourage “meanwhile” uses on empty or under-utilised sites, a significant issue in this area with so many development sites – see construction map in section 12 of the Evidence Base. The plan gives a number of examples, in an area subject to considerable development pressures. It does not, however, provide any strategic policy context for the policy, even though new London Plan Policy H3 encourages meanwhile uses for housing, for example.
- 6.2 However, the policy, which is long and complex in its drafting, is not clearly written and does not provide an effective incentive to developers; as drafted it could do quite the opposite. The issues raised by a number of representations included the potentially onerous and prescriptive nature of this policy and its sheer practicability. Nevertheless, the principle of the policy was generally supported with many representations seeking improvements and clarification in the drafting – for example, allowing a longer period of six months (12 or 18 months were suggested as more realistic timeframes); and ensuring that a meanwhile use didn’t trigger commencement of the primary development and thus any obligations, including S106 and CIL payments.
- 6.3 The latter point could be overcome by ensuring the mechanism for operating the policy is not linked to the main development’s Construction Management Plan; and so ensuring the two schemes were permitted separately. The Council was supportive of extending a planning permission to five years where reasonable endeavours have been made to secure a meanwhile use.
- 6.4 The list of seven meanwhile uses is listed in order of priority. However, the

plan does not provide sufficient evidence to justify expressing it in that way; in any event different sites will lend themselves to different potential uses. As with the Quick Plan this should be a list of suggested potential meanwhile uses. The Council objected to the inclusion of affordable housing; but new London Plan policy specifically encourages meanwhile housing.

- 6.5 To overcome these points and to achieve the purposes of the policy with sufficient clarity of expression the policy will require extensive re-drafting. I have had regard to various changes suggested in the representations but have found the Council's comments the fullest and the most considered in the round – see Table 4 of LB Tower Hamlets' representations. I therefore **recommend** that the policy be modified as set out in Table 4, with the exception of the deletion of housing as a listed use. The supporting text will consequently require some re-writing – see my edited version.

## **7 Construction management and communication**

- 7.1 Construction impacts are a very significant issue in the plan area; the effects of construction disruption – largely due to the large number of developments occurring in such close proximity - are well set out in the Evidence Base. The Local Plan, the OAPF and its supporting DIFS all highlight the significance of the impacts of construction on local communities and the need for local co-ordination. However, as I noted in my examination report into the Quick Plan, at present there is no effective co-ordination process or body (unlike during the Olympics construction period), which leaves the local community vulnerable to the cumulative effects of un-coordinated movements. On the other hand, many objectors considered these policies were inappropriate given the procedures already in place and should be deleted as they represented unnecessary duplication.
- 7.2 **Policy CC1 - Construction Co-ordination** - requires construction companies to consult with the local community on material changes to a construction management plan; and in advance. The community's concern is that the standard approach wasn't felt to be working. The Council only suggested clarification in the supporting text on how this policy would operate in practice, in line with the Council's Statement of Community Involvement. The supporting text suggested that the application of the policy required minuted discussions with local councilors, which I regarded (as did the Council) as unwarranted and unjustified. I therefore **recommend** that the supporting text at para 4.6.4.1.1 be modified in accordance with Table 5 in the Council's representations.
- 7.3 **Policy CC2 - Construction Communication** - extends the scope of CC1 to include notification affected local residents of working hours or other conditions. The Council supports the policy. As for CC1, I **recommend** that supporting paragraph 4.6.7.2 also needs clarifying in terms of how the policy would operate in the context of the Council's Statement of Community Involvement, as per my edited version.



- 7.4 **Policy CC3 - Control of Dust and Emissions During Construction and Demolition** - seeks compliance with the GLA's Dust and Emissions SPD in that its requirements should be specified in submitted construction management plans.

## **8 Sustainable design**

- 8.1 **Policy SD1 - Sustainable Design** - applies to all Major and Strategic developments and seeks to ensure that BREEAM Excellent ratings are achieved through a publicised pre-assessment; the policy also requires application of the Home Quality Mark. The introduction quotes NPPF para 124 and the particular local circumstances – home to some of the country's tallest and densest buildings; but it seems that the main reason for its inclusion is that the policy was in the (then) Draft Local Plan; also the Council was encouraging schemes to use the Home Quality Mark. The policy is the same as in the Quick Plan.
- 8.2 The strategic planning policy framework has moved on since the Quick Plan; for example, new London Plan Policies D4, D5, D6 and Local Plan Policy D.ES7, already cover the essential planning requirements of this policy. National policy is to avoid unnecessary duplication in policy. Further, the WMS of 25<sup>th</sup> March 2015 prevents requirements of standards other than the Building Regulations and the optional technical standards, which suggests that the application of the Home Quality Mark and to “non self-contained residential accommodation” is inappropriate. Thus, it does not comply with the Basic Conditions as currently drafted. A number of representations made much the same points.
- 8.3 The Council noted that, given the density of development on the Isle of Dogs, the application of the Home Quality Mark - and the inclusion of non self-contained residential accommodation - could be appropriate if the Forum provided appropriate evidence to justify it. I'm not convinced they make a sufficiently robust case as to why the whole of the plan area is sufficiently distinct for the inclusion of these elements to be included in a land use planning policy, given the huge variations in density and spread of tall buildings (mostly concentrated around South Quay, in the northern part). Nevertheless the area's circumstances are unusual and I can see a case for encouraging the application of higher standards.
- 8.4 Therefore, to avoid the extent of duplication with higher-level policy, but to recognise the merits of the Home Quality Mark in the plan area, an approach the Council supports, I **recommend** that the policy be modified to read as follows:

### Policy SD1 – Sustainable Design

To support sustainable development in the plan area all Major and Strategic Developments are strongly encouraged to meet the highest levels of design and

environmental standards; including:

- For non-residential buildings: the BREEAM Excellent standard; and
- For residential buildings: the Home Quality Mark.

## 9 Air Quality

- 9.1 **Policy AQ1** is concerned with protecting air quality by avoiding the harmful impacts of air pollutants. It is in four parts, with a base requirement to meet World Health Organisation (WHO) guidelines. The supporting text explains that air quality is a major concern locally and that the area has a number of significant nearby sources, such as London City Airport and major roads (Aspen Way, to the north) and the Blackwall Tunnel. These are shown on Local Plan Fig 14; this also shows that the main circular road route is also a source (albeit less intense). The supporting text also quotes NPPF para 170 as the national policy context. The policy follows an approach taken by the Knightsbridge Neighbourhood Plan.
- 9.2 The strategic planning policy context has, as with other topics, also moved on since the preparation of the plan. For example, new London Plan Policy SI 1 (Improving air quality) requires all development proposals to be air quality neutral; Policy SI 2 (Minimising greenhouse gas emissions) requires all Major developments to be net zero-carbon; while Local Plan Policy D.ES2 (Air Quality) has an extensive list of requirements that apply to all major - and some other types of - development. A number of representations have understandably argued that the policy represents unnecessary duplication.
- 9.3 The evidence does not provide robust support, in my view, for the application of the Knightsbridge approach, as the geographic circumstances of the two plan areas are very different, with Knightsbridge being a uniformly densely developed inner urban area with very high traffic volumes across much of its area on an extensive road network.
- 9.4 The drafting of the policy is, in any event, problematic. For example, WHO guidelines are not recognised in UK law; nor is there a definition of what a “significant” increase might be considered to be. The reference to all flues terminating above roof height is not applicable to all types of development. The Council also points out that the policy confuses two distinct issues: air quality and climate change. They say that if references to climate change are removed then they would like to express their intention to work closely with the Forum to prepare a more effective climate change policy for inclusion in their intended “long plan”.
- 9.5 Overall, I conclude that the policy represents unnecessary duplication and I **recommend** that it should be deleted; it follows that the supporting text needs to be deleted too. However, to retain the structure of the plan, as Air Quality will no longer contain a policy, I suggest that this whole section be transferred

to the Annex, including a statement regarding the Council's commitment on the "long plan". The deleted policy could be re-expressed as an aspiration.

## 10. 3D Model

10.1 **Policy 3D1 – 3D model for applications** – requires all applications for Strategic Developments to be supported by a 3D model. The model is to also enable the Council's own model to be updated and to show the layout of buildings (where it assists emergency services or interested parties); and for such information to be updated as part of any revisions to the scheme.

10.2 The plan references the GLA's "City in the East" document and approaches taken by other boroughs. The Council supports the policy and explains it relates to requirements that already in operation. Many representations argue that the policy is too onerous; and that the requirement for internal layouts is excessive. They also point out that there can be issues with copyright and to access to 3D products and services

10.3 The strategic policy context is supportive of the plan's approach; for example, new London Plan Policy D4 (delivering good design) includes the following:

B Where appropriate, visual, environmental and movement modelling/assessments should be undertaken to analyse potential design options for an area, site or development proposal. These models, particularly 3D virtual reality and other interactive digital models, should, where possible, be used to inform plan-making and decision-taking, and to engage Londoners in the planning process.

10.4 The Council explains the plan's requirements are in line with their validation practice. The evidence in favour of making mandatory the use of 3D models in the application process for the larger developments, in the circumstances of the Isle of Dogs, is persuasive. While the benefits of showing the interiors of tall building for other purposes is recognised, making it a requirement to display internal layouts I regard as excessive, given the prime purpose of 3D modeling and the nature of the area-wide modeling into which individual models will fit. I therefore **recommend** that the policy be modified as follows:

Policy 3D1 3D Model for applications

All applications for Strategic Developments must be accompanied by a 3D model and in a form that is compatible with the model used for assessment as part of the development management process.

10.5 The supporting text will require some consequential changes; see my edited changes.

## **11. Estate regeneration resident ballots**

- 11.1 **Policy RB1 – Resident ballot requirement** - seeks to secure for the current occupiers of local estates a greater degree of control and protection over their homes – primarily through a voting mechanism - than would otherwise be possible under conventional development plan policy. Estate regeneration is a controversial issue locally and the plan gives some examples. It also explains why the Forum believes that resident ballots are necessary.
- 11.2 There was a similar policy in the Quick Plan – though it was accompanied by a suite of other policies (material now found in the Annex) that were much more extensive; and it remains controversial. In my earlier examination report I concluded that, whatever their merits in terms of good practice for estate regeneration, they were not policies concerned with the use and development of land; nor did they meet the Basic Conditions or the legal requirements, and I saw no place for them in the body of the plan. I suggested they could form an extended Annex, as advocacy. In effect this is what the Forum has done – and see my conclusions on that section, later - while taking up a suggestion of the Council as to how to retain the ballot element as land use policy.
- 11.3 The approach being taken is that, in order to capture what would otherwise be a non-land-use policy requirement, the policy requires applications for estate regeneration schemes to apply for GLA funding, which in turn requires a resident ballot to be held. The practical outworking of the ballot process is set out in considerable detail as part of the Annex – aspirations that are not a formal part of the plan, as they are not land use policies. Given that the GLA model is referenced it is very confusing, and contradictory, to have another set of prescriptive requirements set out as “aspirations”, though read as requirements.
- 11.4 The focus of objections to the policy is on the four estates in the plan area owned and managed by One Housing - though the same issues could apply to the other three main estates in the area. They felt that all the aspirations should be moved out of the main body of the plan – see section on the Annex, later.
- 11.5 The Council supported the approach in principle - indeed suggested a policy of this kind at the Regulation 14 stage – but had very extensive comments about the drafting of the policy and its relationship to the provisions in the Annex.
- 11.6 The draft London Plan Policy H8 (Loss of existing housing and estate redevelopment), which I quoted earlier (at 3.15) provides the strategic planning context and does not take quite the same approach. The supporting text explains:

*“4.8.4 Regardless of whether an estate regeneration project includes the demolition and replacement of affordable homes, it is important that all such schemes are delivered with existing and new residents and communities in mind. All proposals for such schemes should take account of the*

*requirements of the Mayor's Good Practice Guide to Estate Regeneration (2018) and the requirement for a ballot of residents when accessing Mayoral funding for schemes that involve demolition.” [my emphasis]*

- 11.7 I consider that to comply with the Basic Conditions the policy cannot *require* a ballot but only encourage one. The suggested way of dealing with this, in the Council's proposed amendments – see Table 7 of their representations – commends itself to me. Taking all these points into account I **recommend** that that the policy and supporting text be modified as per Table 7 of the Council's representations.
- 11.8 The Council suggests that much of the related Aspirations in the Annex be deleted – see later. They explain that if that suggestion is taken forward – and on the basis that the Forum would still wish to see encouragement for estate regeneration in the way they do – then much of the supporting text could be moved to support this policy. I have not taken up this suggestion but edited the text in the Annex.

## **12 The Annex**

- 12.1 The plan flows directly from planning policies into section 5, which the text explains are Aspirations, and which do not form part of the plan (para 5.1). Paragraph 5.2 quotes the Guidance (para 41) regarding the place of community aspirations. Having said that the text also explains that: “*They should therefore be taken into account by developers in putting forward relevant proposals ...*”. Elsewhere, statements like “*For the avoidance of doubt, the Annex Aspirations are intended to be additional to Policy RB1 ...*” (5.3.1.2.1) give a message that the Annex is to be applied as part of the policy.
- 12.2 Objectors considered that as written the aspirations present as material considerations to guide future development, quoting para 5.3.4.1 as an example; and that the Annex presents a step beyond advocacy into guidance. One Housing felt that all the aspirations should be moved to an annex/appendix rather than retaining the text in the main body of the plan, as it does, and by simply renaming the section. They provided some detailed suggested amendments to section 5 of the plan.
- 12.3 The approach taken in the plan gives, in my view, a confusing message to users of the plan; as does the framing of aspirations that follow, many of which are described as “provisions” – even “requirements” - and the framing of each aspiration in the same way graphically as policies (in a box). A number of representations consider that the drafting needs to make it clear that these are not quasi-policies. While such an Annex, not forming part of the plan, would normally be outside the scope of the examination, in this case the way it is framed - and much of the content - does require my intervention to ensure the plan as whole meets the basic conditions.

12.4 Therefore, in order to meet the Basic Conditions and to achieve the clarity required by Guidance, I **recommend** that the Annex be moved to the end of the plan document and that the text be modified, in all cases, to replace “provisions” or “requirements” with “aspirations” and to clarify elsewhere that the aspirations are not to be taken into account as part of the development management process. I have done this, for example by deleting some text and adding words like “The Forum advocates ...”, in my edited version of the plan. The Annex needs to be quite distinct from the rest of the plan, to meet requirements of the Guidance.

### **Estate Regeneration**

12.5 What is described as Annex chapter 1 deals with Estate Regeneration. Picking up the point I made earlier in 11.8, there is a need to resolve the relationship between these aspirations and Policy RB1 given the way the Annex is framed. It is essential that the latter be detached, to avoid any confusion in application; and indeed where there are conflicts. An example of this is the differences in procedure that are set out in the policy – reference to the Mayoral Guidance – and the very detailed provisions in **Aspirations ER1-3**. These aspirations are not likely to be adopted voluntarily and, as drafted, are unduly onerous (even if they were considered land use policies); and they already contain drafting that is confusing or unclear.

12.6 One Housing, with interests in four local housing estates comprising 2,100 homes, objected to the approach taken as I have already highlighted (at 11.4). The Council has given detailed consideration to resolving the issues that I have identified and I believe they do this in a way that I consider would meet the Basic Conditions. In summary, they suggest that Annex Aspirations ER1, 2 and 3 be deleted in their entirety and in their place be added a second clause to Policy RB1 - see their para 63. In doing so, a considerable amount of supporting text will need to go.

12.7 **Annex Aspirations ER4, 5 and 6** deal with Right of Return, Tenants Rights and Costs and Leaseholder and Freeholder Rights. I agree with the Council’s detailed comments on these – paras 65-68; in summary, they suggest that these aspirations should be deleted, with **Aspiration ER7** (dealing with the George Clarke Review) used to frame a set of general principles for estate regeneration. I **recommend** that Aspirations ER1-7 are modified in accordance with Table 8 of the Council’s suggested amendments, with two exceptions: 1. Their first suggestion – in relation to paras 5.3.1 to 5.3.1.21, that they be moved to section 7: I have retained them and made appropriate edits within the Annex itself; and 2, in relation to their fifth suggestion – concerning the George Clarke Review – which I have deleted as these are unduly prescriptive.

12.8 **Annex Aspiration 8** deals with commercial premises affected by estate regeneration. Some representations point out that the rights of such leaseholders are covered by the Landlord & Tenant Act, which this policy seems to cut across, by requiring below-market rents. The Council is generally supportive. For clarity I **recommend** that the Aspiration be modified

to be framed as advocacy and to qualify tenant rights.

12.9 **Annex Aspiration 9** deals with Public Profit Reinvestment. It seeks to recoup profits from public bodies for reinvestment locally. While this sits within the group of Estate Regeneration Aspirations, the Canal & River Trust are specifically mentioned in the supporting text; as is the Council in relation to stock transfer. The Trust, a charity, strongly object to the way they are depicted – for which no evidence is presented - and point out that their local investment has been significant in relation to the repair and maintenance of the water bodies in the plan area. The Council suggested that the Aspiration be deleted unless it is significantly re-worded. I believe it can be retained and I **recommend** that the offending references be deleted and that Aspiration 9 is framed as advocacy.

### **Helping to Establish New Residents Associations**

12.10 Annex chapter 2 seeks to spread the benefits of having a Residents Association across a much wider sector. Again, this needs to be drafted as advocacy rather than a set of requirements (eg. “developers must”) and I **recommend** that the text be modified to be expressed as such, as per the modifications in the edited version.

### **Community Infrastructure Levy (CIL) Spending Priorities**

12.11 The plan helpfully sets out, in section 6, the plan’s priorities for spending CIL locally. Again, it will be helpful for the text to be slightly modified to make it clear that what is being proposed is advocacy. I **recommend** the very minor modifications, as per my edited version. This chapter could remain as part of the main body of the plan but, given it is a set of recommendations, it may be better located as part of the Annex.

### **Long Neighbourhood Plan**

12.12 Section 7 sets out the Forum’s aspirations for preparing a fuller plan. This is essentially a further aspiration which could, in terms of the plan’s structure, be most appropriately part of the Annex.

### **Parish/Town Council**

12.13 Section 8 of the plan explains the implications of the process of establishing a Parish Council for their area. It neither commits nor sets out any intent to the establishment of a Parish Council. Again, in terms of the plan’s structure, this section would be better located within the Annex.

### **Next Steps**

12.14 Finally, section 9 sets out the next steps from the Regulation 14 stage. Once the plan is made sections 9.1-9.5 will no longer be relevant and I **recommend** they be deleted.

### 13 Referendum Area

13.1 The Forum have argued for a wider given the boundary of the plan area does not match ward boundaries or the area of their original consultation. They now suggest the referendum area be tweaked to reflect polling areas. Planning Practice Guidance on the Independent Examination explains:

*“It may be appropriate to extend the referendum area beyond the neighbourhood area, for example where the scale or nature of the proposals in the draft neighbourhood plan or Order are such that they will have a substantial, direct and demonstrable impact beyond the neighbourhood area.”*

Reference: 41-059-20140306

13.2 There are no formal development site allocations in this plan and in my view the nature and scale of what it proposes would not *have a substantial, direct and demonstrable impact beyond the neighbourhood area*. I recall from the hearing as part of the Quick Pan that the Council was able to accommodate the boundaries of the plan area. I therefore **recommend** that the Referendum Area be the same as the designated neighbourhood area, if the plan goes forward to referendum.

### 14. Conclusions and recommendations

14.1 Overall, from my examination of the submitted Neighbourhood Plan, together with the supporting documents, including having regard to all the representations made, I have concluded that, subject to the modifications that I am recommending, the plan will meet the Basic Conditions and the legal requirements. I have set out my findings, in the Summary, on page 3.

14.2 In conclusion, I **recommend** that the Isle of Dogs Neighbourhood Plan should proceed to referendum. I further **recommend** that if the plan does proceed to referendum then the Referendum Area should be the same as the designated neighbourhood area

14.3 Finally, my thanks to both the Council and Forum for their support in undertaking the examination.

John Parmiter FRICS FRSA MRTPI

14 April 2020

Independent Examiner

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