



Report to Tower Hamlets London Borough Council

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

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

REPORT ON THE EXAMINATION INTO FISH ISLAND AREA ACTION PLAN

LOCAL PLAN

Document submitted for examination on 18 May 2012

Examination hearings held between 18 and 25 July 2012

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Abbreviations Used in this Report

AA	Appropriate Assessment
AAP	Area Action Plan
CS	Core Strategy
LB	London Borough
LVRPA	Lee Valley Regional Park Authority
LDS	Local Development Scheme
LIL	Local Industrial Location
LLDC	London Legacy Development Corporation
LP	Local Plan
MM	Main Modification
NPPF	National Planning Policy Framework
OPLC	Olympic Park Legacy Company
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SIL	Strategic Industrial Location
SPG	Supplementary Planning Guidance

Non-Technical Summary

This report concludes that the Fish Island Area Action Plan provides an appropriate basis for the planning of this part of the Borough over the next 15 years, including in respect of the London 2012 Olympics Legacy, providing a number of modifications are made to the Plan. The Council has specifically requested that I recommend any modifications necessary to enable them to adopt the Plan. Nearly all the modifications were proposed by the Council and I have recommended their inclusion after full consideration of the representations from other parties on these issues.

The modifications can be summarised as follows:

- Inclusion of a model policy containing a presumption in favour of sustainable development;
- Clarification of the number of new dwellings likely to be delivered in the area over the plan period;
- Safeguarding the full extent of the Bow Midland West Rail Yard for rail related uses;
- Clarifying the boundary of the Local Industrial Location and the policies to apply within;
- Confirming that a new primary school site is required on Opportunity Site 3 [Neptune Wharf]; and
- Extending the boundary of Opportunity Site 4 [Aston Matthews].

Introduction

1. This report contains my assessment of the Fish Island Area Action Plan (AAP) 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, in recognition that there is no scope to remedy any failure in this regard. It also considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (NPPF) makes clear that 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 basis for my examination is the submitted draft plan of May 2102, which is essentially the same as the January 2012 consultation document.
3. My report deals with the main modifications that are needed to make the Plan sound and they are identified in bold in the report (**MM**). In accordance with section 20(7C) of the 2004 Act the Council requested that I should make any modifications needed to rectify matters that make the Plan unsound and thus incapable of being adopted. These are set out in the Appendix.
4. The main modifications that go to soundness have been subject to public consultation and I have taken all the consultation responses into account in writing this report. As most concern effectiveness, and based on the absence of effect on the overall strategy and main elements of the Plan, I am satisfied that a further Sustainability Appraisal (SA) is not necessary.

Assessment of Duty to Co-operate

5. Section s20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on them by section 33A of the 2004 Act in relation to the Plan's preparation. In London, to an extent, the duty to co-operate is achieved through the workings of the Mayor's London Plan. The Mayor has confirmed that the Fish Island AAP is in general conformity with the London Plan.
6. The Council has prepared the AAP on a co-ordinated basis with the LB of Hackney in respect of their contiguous plans, as evidenced by the almost simultaneous submission for examination. The co-operative working undertaken with all the other relevant public bodies having planning and related responsibilities in the area is also demonstrated by the close alignment of the AAP's provisions with those of the Mayor's Olympic Legacy Supplementary Planning Guidance (SPG) and the Legacy Communities Scheme prepared by the Olympic Park Legacy Company (OPLC). The latter has been recently granted outline planning permission and is to be implemented by the successor organisation to the OPLC, the London Legacy Development Corporation (LLDC).
7. The Council is also required by law to incorporate the provisions of the Lee Valley Regional Park Authority's (LVRPA) Plan into the AAP, so far as relevant. The LVRPA has been consulted and provided some suggested modifications for inclusion in the AAP that the Council has accepted, so I conclude that the duty to incorporate the relevant provisions of the LVRPA Plan has been met.
8. Regulation 4 of the Town and Country Planning (Local Plans) (England) Regulations 2012 prescribes those bodies required by Section 33A of the 2004 Act to co-operate in maximising the effectiveness of the preparation of a development plan, so far as relating to a strategic matter. In the Statement of Engagement (April 2012) and elsewhere the Council has provided satisfactory evidence of its engagement with all of

the relevant bodies in London, including adjoining Boroughs, during the plan preparation process.

9. This includes regular meetings of an external working group involving, amongst others, Greater London Authority (GLA), Transport for London (TfL), London Thames Gateway Development Corporation (LTGDC), English Heritage, Environment Agency and the OPLC. There have also been quarterly meetings of a steering group with LB of Hackney. All of the above factors lead me to conclude that the duty to co-operate in respect of the preparation and progress of the Fish Island AAP has been satisfied.

Assessment of Soundness

Overview

10. The AAP has been prepared in the context of the London Plan, an up to date adopted Core Strategy (September 2010) (CS) and an accompanying draft Managing Development DPD (MD DPD) containing policies covering the whole Borough. Significantly, the area also includes part of the London 2012 Olympic Park (Fish Island East). Overall, this is the single most important regeneration challenge in London and an urban renewal project that will be closely monitored internationally, following the very successful staging of the Games. Accordingly, it has the potential to “inspire a generation” of planners, designers, developers and related professionals, alongside the sporting legacy for the country and the economic, social and environmental benefits for the capital.
11. The Mayor of London has prepared an Olympic Legacy SPG (July 2012) that, amongst other things, establishes the strategic priorities for the area. It also sets out how the areas around the Park, such as Fish Island, can benefit from and be integrated with emerging Legacy proposals, including in relation to the re-use of the extensive sporting and other facilities and infrastructure provided for the 2012 Games. As stated above (para 6), I am satisfied that the AAP is consistent with the Mayor’s Olympic Legacy SPG in all essential respects.
12. Amongst other things, the examination tests the AAP for consistency with national policy, as set out in the NPPF. As submitted, it complies in all respects, except regarding paras 15 and 157. The first supersedes the requirement, formerly in para 4.30 of PPS 12, which advised against repeating or reformulating national policy in Local Plans as it was unnecessary. The NPPF now requires all plans to reflect the presumption in favour of sustainable development, clearly stating how it will be applied locally and a model policy has been prepared for use in Local Plans.
13. This plan has been prepared in full accord with the strategy set by the London Plan and the adopted Tower Hamlets CS, with much of the evidence base in common. Its policies seek to promote appropriate new development in Fish Island and it therefore follows that the AAP has been positively prepared; based on a strategy that seeks to meet objectively assessed development needs and infrastructure requirements.
14. As a result, the AAP complies with that part of para 14 of the NPPF which explains what the presumption in favour of sustainable development means for plan making. To clarify that the Council proposes a modification (MM 31) to add a new para after 7.15 to the AAP text. However, in the light of discussions at the examination hearings, the Council now also proposes a new initial policy (FI 1) (MM 2), based on the model wording of the presumption in favour of sustainable development, to achieve full compliance with the requirements of para 15 of the NPPF. As this represents an essential restatement of national policy to comply with the NPPF, which has itself been the subject of SA and is fully consistent with the aims and objectives of the AAP, I conclude that no further SA is required.
15. Para 157 of the NPPF also requires Local Plans to provide detail of the quantum of development anticipated, where appropriate, as would normally be the case in an AAP. The Council has recognised the deficiencies of the submitted version in this respect.

Modifications (MM 1, MM18 and MM20) therefore provide clarity and consistency regarding the net number of new dwellings in the area over the plan period and are necessary to ensure compliance with national policy in the NPPF and the expectations of an AAP.

Main Issues

16. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings, I have examined the plan in accordance with the four criteria for soundness set out in para 182 of the NPPF (para 1 above). From this examination I have identified eight main issues upon which the soundness of the Plan depends.

Issue 1 – Strategy, Vision, Objectives and Character Areas

Does the spatial strategy, vision and objectives have a sound evidential basis, having regard to the local context and needs, including in relation to the London Plan and the Core Strategy, are they reasonable and realistic; have the Character Areas been suitable and sensibly defined?

17. As referred to above (para 10), the strategy, vision and objectives set out in the AAP derive directly from the London Plan and the adopted CS. They also dovetail with the equivalent plan for Hackney Wick adjoining to the north and the Managing Development DPD. Moreover, there is a strong overall measure of agreement from stakeholders and representors that the plan is soundly based and should help to deliver part of the Olympic Legacy.
18. Taking into account the existing, mainly industrial, character of the locality, the need for regeneration to be achieved without losing or harming the best elements of that character, including individual buildings and significant features, is properly identified as an important objective. To that end, the definition of four character areas and five specific, strategic scale, opportunity sites, where redevelopment is most likely to occur, should encourage mixed use regeneration projects to come forward in accord with the overall strategy.
19. Moreover, in the local context, the AAP suitably requires that new developments take into account the area's role as part of the Olympic Legacy, the need for improved connections and the provision of appropriate infrastructure to support new communities, amongst other things. Accordingly, the strategy, vision and objectives are soundly based on local needs and opportunities, whilst also acknowledging constraints, and supported by an extensive evidence base, including in relation to the London Plan and the CS, that has not been seriously questioned.
20. In relation to new building heights and particularly whether the AAP should be more specific on the maximums likely to be permitted for taller buildings in the area, it contains sufficient and suitable detail to provide clear guidance to prospective developers and local communities, including in relation to the opportunity sites. Also taking into account the criteria set out in policy DM 26 of the accompanying Managing Development DPD and the references to the use of English Heritage/CABE "Guidance on tall buildings" (2007), the policies and proposals are consistent with the relevant national guidance in Section 12 of the NPPF on conservation and heritage assets.
21. Although not part of my remit to decide on, there is no evidential justification for the claim that the whole of Fish Island should be designated as one large Conservation Area (CA), including all the waterways, towpaths and associated features. Notwithstanding, there are clearly some existing structures, such as chimneys, locks and bridges, of local, if not national, heritage value and/or townscape merit that should be retained if at all possible if and when redevelopment takes place across the area. The AAP's policies and proposals throughout are designed to achieve this outcome and are therefore consistent with national guidance on these matters. Nevertheless, producing a

revised/updated Local Listed Building document, as in point 8 of policy FI 6.1, as soon as possible, could only assist in this respect.

22. The Council's definition of four Character Areas in the AAP, including the retention of the Strategic Industrial Location (SIL) in FI South, accurately reflects not only existing built form and physical relationships but also potential redevelopment opportunities. It also properly takes into account the proposals to create a new retail, service and employment "hub", or neighbourhood centre, around a redeveloped Hackney Wick Station in the northern part of the area, in accord with related proposals in the co-ordinated AAP produced by the LB of Hackney.
23. Any alternative definition based on existing or proposed uses would be less satisfactory for these reasons alone, including in terms of promoting mixed use redevelopment projects. The AAP definition of the four Character Areas is therefore appropriate. I conclude on this first issue that not only do the strategy, vision and objectives have a robust evidential justification, they are also suitable and appropriate for the locality and consistent with national and strategic guidance.

Issue 2 – Connections

Are the transport polices and proposals appropriate for the locality, consistent with national guidance in the NPPF, the London Plan and the Core Strategy, will they achieve their objectives and are they reasonably and realistically deliverable by 2025?

24. It is common ground that, at present, Fish Island is not well connected with adjoining communities, by road, on foot, or by cycle. In London terms at least it is also relatively poorly served by public transport links. This is largely due to the physical barriers of the main A12 road to the west and the various waterways, with limited crossing points, to the east. Fortunately, the opportunities provided by the development of the Olympic Park site, together with other projects already underway or committed and development of the opportunity sites, should be sufficient to, largely at least, overcome this "isolation", on a phased basis over the plan period.
25. In addition, the new and improved crossing points have the potential to provide some key activity nodes within the area, as well as much better connectivity, although there is no necessity or intention to create new through routes for vehicular traffic (except buses). To do so would detract from the particular character of the area, which is partly defined by historic industrial buildings and streetscapes, albeit some is of relatively poor quality at present.
26. Consequently, it is entirely appropriate that the focus for the AAP in this respect should be on improving connectivity by walking, cycling and/or using public transport ("bridges, bikes and buses", as one participant at the hearings succinctly put it), rather than pursuing any major new highway schemes, which would not be appropriate for the locality and are not necessary for its regeneration over the plan period.
27. Following representations from the Canal and River Trust (formerly British Waterways), the Council acknowledges that part 5 of policy FI 3.3 is not technically feasible. Other changes to the text in para 3.16 and 3.17 are also necessary to clarify both the existing situation and realistic future proposals regarding the towpath and bridges across the Hertford Union canal in this locality. Modifications [MMs 9 and 10] are proposed accordingly, together with consequential amendments to Figures 3.1 [MM 11] and 6.3 [MM 29]. The Council also proposes an updated/corrected and consolidated version of Figures 3.2 and 3.3 in the final adopted version of the AAP [MM 8].
28. In terms of delivery, although not every scheme identified has funding allocated as yet, a number of important ones, such as the Monier Road bridge improvements, are to be implemented as part of the Olympic Legacy Scheme. Others, including new and improved waterway crossings, are likely to be delivered as an integral element of redevelopment schemes on sites with river and canal frontages. I therefore conclude

on this issue that the transport polices and proposals are appropriate, consistent with the national and strategic guidance, achievable and likely to be deliverable over time.

Issue 3 – Homes and Jobs

Are the polices and proposals for housing and jobs consistent with the NPPF, the London Plan and the Core Strategy and/or supported by clear and robust evidence; are the overall numbers, mix and locations reasonably and realistically deliverable and appropriate to local needs, including in relation to affordable housing?

29. In terms of jobs, the AAP estimates that around 175k sq m of new or refurbished employment space, equivalent to about 3,500 jobs based on average London densities, is deliverable across Fish Island over the plan period. Based on the strategy of “managed release” of some former industrial land and buildings for mixed use redevelopment in particular parts of the area, whilst somewhat aspirational, this figure appears to be realistic when the various strategic opportunity and other potential sites are taken into account.
30. Given the insistence on the replacement of existing employment floorspace in such schemes, as in policy 4.3, the available evidence indicates that this level of jobs should be deliverable, in accord with the overall strategy. It is also endorsed by the vast majority of representors and policies 4.3, 4.4 and Appendix 3 (as well as policy DM15 of the MD DPD) provide the necessary details for clarity on appropriate employment types outside the Strategic Industrial Location (SIL) and Local Industrial Location (LIL).
31. Matters are less clear cut regarding housing. The Council now acknowledges the need to modify the plan by clarifying the total number of new homes expected to be provided, in circumstances where various different numbers, varying from 2,400 to 2,800, and inappropriate limitations, such as “up to”, were used in the submitted version of the AAP. For consistency with the NPPF (para 157 in particular) and thus soundness, it is essential that the AAP is clear on this point.
32. The delivery of new housing, and especially its timing, is likely to be directly affected by prevailing market conditions in this part of London. Nevertheless, it remains possible to reach a reasoned general conclusion on total net new housing over the plan period by considering the realistic potential of the opportunity and other sites in comparison with prevailing policy, infrastructure and other constraints. Accordingly, and making an allowance for some new housing to come forward in the LIL, where the policy criteria allow, it is reasonable to conclude that the most likely outcome would be at the highest end of the Council’s former range of 2,400 to 2,800 rather than the lower. This is despite the reduced level of new dwellings, of about 650 compared to the previous estimate of around 950, in the Olympic Legacy Scheme for FI East, due to the inclusion of more family housing to help meet local needs. It is reinforced by London Plan policy 3.3 on new housing delivery and the necessity of making best use of suitable sites.
33. For the same reasons, the new housing figure should not be expressed as or taken to be an upper limit or ceiling on provision, particularly as there is scope across the area for new smaller scale opportunities to come forward as part of redevelopment schemes beyond the identified opportunity sites. In addition, larger new housing projects in London have a recent history of delivering a final total of units that exceeds initial, understandably cautious, estimates. The potential scale of schemes on the opportunity sites allows scope for this to happen here particularly where, subject to design, context and heritage considerations, some built elements might reasonably be permitted to exceed the six storey height limit otherwise generally applicable. Moreover, no allowance has previously been made by the Council for any new housing in the LIL area.
34. Accordingly, it is reasonable to conclude that about 3,000 new homes are likely to be deliverable in the area over the plan period and that realistically, this higher total could reasonably be accommodated once all relevant factors and the full details of all potential opportunities are taken into account. Given the importance for delivery

partners and service providers of planning for the most realistic scenario to assist in the provision of the necessary supporting infrastructure, including new schools, all references to net new housing numbers in the AAP should be modified to “about 3,000” net new dwellings over the plan period for clarity, consistency and soundness, with Figure 4.4 also amended accordingly [MM 20]. The increase relates specifically to FI Mid and the LIL.

35. This would not conflict with the equally important strategic objective of retaining/replacing employment floorspace to secure jobs, nor would it rely on any new dwellings coming forward in the SIL where the designation remains applicable and there is therefore no scope for any measurable net new housing provision over the plan period. Overall, affordable housing considerations should not be directly affected and should continue to be provided in accord with the relevant CS policies, as envisaged in policy 4.5. Subject to these modifications, the policies for housing and jobs would accord with national guidance and strategic policies and are justified by the available evidence. Similarly the proposals are deliverable, in general terms at least, and appropriate to help meet local needs over time.

Issue 4 – Fish Island North, including Hackney Wick Hub

Are the policies and proposals for growth and change in this area appropriate and justified, including in relation to the NPPF, the London Plan and the Core Strategy and in terms of environmental, economic and social impact; are they clear and deliverable by 2025?

36. The future of the area between the Overground railway, A12, Hertford Union canal and Lea Navigation has been planned in collaboration with the LB of Hackney and their equivalent AAP. This includes the creation of a new neighbourhood centre, or “hub”, based around a redeveloped Hackney Wick station, providing improved public transport services by rail and bus. Just as elsewhere in Fish Island, better connectivity, on foot, by cycle and for buses, is essential to realising the regeneration of this locality and the AAP appropriately seeks this outcome.
37. For example, policy FI 5.1, relating specifically to the Hackney Wick Hub, sets out suitable and sensible expectations for a mix of uses, including retail and employment space, in redevelopment schemes and the importance of the retention/re-use of local buildings of historic/townscape value, as part of a heritage led renewal of the locality. Moreover, Opp. Site 1, North of White Post Lane, is in public ownership and available for redevelopment in the short term, albeit the McGrath site (Opp. Site 2) is not likely to be available until later in the plan period.
38. The overall joint approach of the two boroughs for this area appears to enjoy considerable local support from interested parties and there is nothing to suggest that any alternative strategy would be more realistic or reasonable. Accordingly, the policies and proposals for Fish Island North are appropriate and justified by the available evidence, as well as clear and likely to prove deliverable.
39. Nevertheless, modifications to include suitable references to the Lee Valley Regional Park [MM 24], clarify how any proposals for buildings above six storeys high would be considered [MM 25] and to the text relating to Opp. Sites 1 and 2, in relation to mixed use development [MM 34] and also co-ordination with Opp. Site 3 in the latter case [MM 35], are needed for clarity and soundness. In the light of the above, the plan contents relating to this area are suitable and supported by the evidence, as well as being sound and achievable.

Issue 5 – Fish Island East

Are the policies and proposals for growth and change in this area appropriate and justified, including in relation to the NPPF, the London Plan and the Core Strategy and in terms of environmental, economic and social impact; are they clear and deliverable by 2025 ?

40. This area lies between the River Lea and Lea Navigation, forms part of the Olympic Park and is owned by the LLDC. It now has outline planning permission (subject to the completion of legal agreements) for about 650 new homes, with a preponderance of family housing to help meet local needs, together with a new school, open space and community facilities. In such circumstances it is obviously deliverable, as part of the Olympic Legacy.
41. Everything available also indicates that the full requirements of policy FI 6.4 would be met through a high quality sustainable scheme, with much improved connectivity and a mix of size and type of new housing, including a policy compliant percentage of affordable homes. However, the exact number, type and tenure of affordable units is for detailed resolution through the planning application process, taking into account local needs, viability and all other relevant factors, rather than specific definition in an AAP policy.
42. Similarly, the outstanding matter of whether the new school should be a secondary, or just a primary, or both, is not one that can be resolved in the AAP. Nevertheless, it will have to be addressed in the context of the needs arising from the scheme itself, over time, and the capacity (or lack of it) in existing nearby schools, bearing in mind the Mayor's SPG and the borough's very significant increase in total population (the highest percentage rise in the country) between the 2001 and 2011 Censuses. Notwithstanding and in the absence of any other representations to the contrary, the policies and proposals relating to this area are sound, clear and deliverable.

Issue 6 – Fish Island Mid

Are the policies and proposals for growth and change in this area appropriate and justified, including in relation to the NPPF, the London Plan and the Core Strategy and in terms of environmental, economic and social impact; are they clear and deliverable by 2025?

43. This area lies between the Hertford Union canal to the north, the A12 to the west, the Hackney Cut to the east and the Greenway to the south. The plan envisages a mix of uses, including residential, particularly along the waterway frontages, as part of a conservation/heritage led regeneration in and around the CA. This includes the conversion of older industrial buildings to continue to provide space for innovation and small businesses forming the cluster of creative industries that has already become established in the locality.
44. Although part 4 of policy FI 6.2 and the OL SPG both refer to 4 – 6 storeys as the appropriate height for new buildings in FI Mid, particularly in relation to the CA, neither precludes the possibility of taller structures. However, any such proposals would be subject to detailed assessment in their particular context, including against the policies in the DM DPD and the criteria referred to in the relevant EH/CABE guidance. This is entirely appropriate in an AAP for part of London, clarifying that most redevelopment should be on a similar scale to the existing built form of the locality, whilst allowing scope for individual schemes to meet the necessary tests, if suitably located and designed, and without imposing unnecessary/unjustified overall restrictions.
45. Suggestions that additional opportunity sites, at Swan Wharf and Roach Road and/or others, should be specifically identified in the AAP do not account for the need for such allocations to be strategic in nature, including in respect of the associated infrastructure provision, and of a reasonable size/scale; the delivery of which is critical to achieving the overall vision for the area's future. Importantly, the absence of a particular reference in the plan would not prevent their coming forward when available for appropriate redevelopment in accordance with the relevant plan policies for the locality and the strategic need to maximise new housing delivery across London.
46. The Council has now agreed to extend the boundary of Opp. Site 4, Aston Matthews, to Dace Road to include the whole ownership (MM 33), as well as amending the wording to more clearly explain the mixed use nature, including residential, of the form of

redevelopment anticipated to assist the delivery of a comprehensive scheme (MM 37). This also now includes the legitimate expectation that any such scheme should provide a high quality frontage to Dace Road and preserve and/or enhance the CA (MM 37).

47. For Opp. Site 3, Neptune Wharf, evidence from the Council's consultants and others confirms that, under current market conditions, the likely cumulative impact of all relevant national, strategic and local standards, including for affordable housing and on site infrastructure, would mean that the scheme envisaged in the AAP is not deliverable. In particular, the provision of around 0.5 ha for a new primary school site plus public open space to serve the wider area within the land available for redevelopment would render any project that also meets all other requirements, such as for new connections across the waterways, economically unviable at present.
48. A rise in values may reasonably be anticipated over the plan period, particularly as local regeneration takes place in other parts of Fish Island and under the Olympic Legacy Scheme. Nevertheless, guidance in paras 173/174 of the NPPF, augmented by advice in Viability Testing Local Plans (June 2012), makes it clear that this should not be relied on to bring forward a project that is otherwise unviable now, if only to avoid the inherent uncertainty involved for all concerned.
49. Accordingly, and also taking into account para 154 of the NPPF in particular, regarding clarity of expectation in relation to development proposals, the Council proposes a number of modifications to the submitted plan relating to this site. First, the reference to the need for co-ordination with the anticipated redevelopment of the McGrath site, Opp. Site 2, immediately to the north of the canal, is simplified, bearing in mind that, subject to viability, Neptune Wharf is potentially available now, whereas Opp. Site 2 is not (MMs 35/36).
50. Second, an added reference to "mixed use development" confirms the need for flexibility regarding the detailed scale, type and nature of the individual elements of any redevelopment project, to assist viability and delivery (MM 36). Third, the clearly referenced potential of the larger McGrath site on the other side of the canal to provide public open space to help serve the wider area, as well as its own needs, means there is no overriding requirement for similar provision on Neptune Wharf, particularly in comparison to other local infrastructure priorities, such as the new primary school. Accordingly, this plan reference needs to be amended for Opp. Site 3 (MM 36).
51. Nevertheless, all the available evidence indicates that, even with these changes, the scheme as anticipated in the AAP would still not be financially viable as things stand. However, taking into account the needs likely to be generated by new housing across Fish Island, the lack of capacity in existing schools (including in adjoining boroughs) and the population growth revealed in the 2011 Census results (the highest percentage in the country), there can be no doubt of the need for a new primary school site in the locality. This is confirmed by the GLA and referenced in the Mayor's OL SPG, as well as in specific compliance with policy SP07 b) of the adopted CS.
52. Given that a significant percentage of the new housing, in the short to medium term at least, is expected to come forward on this site, on Opp. Site 2 and in the rest of FI Mid, North and East (rather than South), relatively close by, this is likely to prove a very sustainable location for a new primary school to serve the area. Although numerous other options have been put forward for consideration, the evidence is not convincing in relation to all relevant factors, such as size, location, availability and/or delivery, that any presents a superior alternative to positively meet this essential local need. In contrast, the Council remains confident that the necessary funds to build the new school on this site would be raised from various sources, including government grants, as referred to the Implementation Plan, Appendix 2, once the land is available.
53. As modified, the plan places no timing, phasing or numerical restrictions on the redevelopment of Opp. Site 3. Consequently, in accord with the guidance in para 72 of the NPPF regarding education, it is essential that the provision of a new primary school site is confirmed as the first, non transport, infrastructure priority for the

redevelopment of Neptune Wharf, despite the economic viability implications arising (MMs 5/36). However, this clearly means that other such requirements that might otherwise be sought or expected by the Council will have to be scaled back, or even omitted entirely, for viability reasons.

54. Additionally, a larger number of new dwellings than originally envisaged, at a higher density and perhaps in taller than average buildings along the water frontages, may well have to be permitted to achieve a deliverable scheme. The only other realistic option to comply with the relevant national guidance in the NPPF would be to omit the allocation of Neptune Wharf as a new development opportunity from the plan entirely.
55. In the light of the above, for clarity, certainty and soundness the following needs to be added to point 3 of the relevant text, relating to the new primary school site; "This takes first priority over all other non transport infrastructure requirements apart from the CIL but including affordable housing, in relation to the redevelopment of this site, to ensure that it is economically viable and that a new primary school is provided in a sustainable location to help meet education needs arising across Fish Island." (MM 36).
56. With these modifications it should be possible for the Council, the LLDC, the landowners and prospective developers to devise a deliverable mixed use redevelopment scheme for Neptune Wharf that is sustainable, economically viable and provides the essential new primary school site, even under current market conditions. However, it is very likely to have to have a greater number and/or percentage of new market housing, compared to affordable, amongst other changes from the scheme originally envisaged by the Council. This conclusion reinforces that regarding the overall number of new dwellings that could reasonably be delivered in FI Mid, including the LIL, and thus the total in Fish Island over the plan period.
57. In all the relevant local circumstances at present, this outcome is clearly preferable to withdrawing the identification of Neptune Wharf from the plan as a non deliverable opportunity for viability reasons and/or failing to positively identify a new primary school site, given the significant local need. Overall, taking into account the modifications, it may now be concluded that the content of the AAP is sound and clear in respect of the future of this part of the area and likely to prove achievable over time.

Issue 7 – Fish Island South

Are the policies and proposals for growth and change in this area, including for the SIL/LIL, appropriate and justified, including in relation to the NPPF, the London Plan and the Core Strategy and in terms of environmental, economic and social impact; are they clear and deliverable by 2025?

58. Bounded by the Greenway to the north, the A12 to the west and the River Lea to the east, this area is to remain a focus for industrial and employment development. In particular, a consolidated SIL is to be retained to help maintain a suitable and sufficient supply of strategic industrial land in the borough. Within this zone, the Council now recognises the need to safeguard the whole (not just part) of the Bow Midland West Rail Yard in the southernmost part of Fish Island for rail, distribution and directly associated uses, in a new part 2b) of policy FI 4.1 (MM 3). A number of consequential modifications (MM 14, 27 and 28) are also therefore proposed to policies 3.3 and 4.6, as well as to various Figures throughout the document, in the interests of clarity and consistency (MM 3).
59. To the north of Wick Lane, between the retained SIL and the Greenway, a new LIL designation, incorporating existing live/work schemes, would apply to act as a transitional or "buffer" zone between principally industrial uses and mainly housing. Here, redevelopment schemes for a mix of uses, including residential, would be acceptable, in principle, providing that there is no net loss of industrial (B1 b and c, B2 and B8 use classes) floorspace. This degree of control is necessary to ensure that space for SMEs in particular, including those that have already colonised FI forming a cluster of creative and cultural industries, remains available locally and thereby

enhances the area's economy and social/community cohesion, in accord with the CS and the London Plan.

60. Acknowledging the scope for some new housing to be provided within the LIL, the Council proposes a new para after 4.34 to clarify how such proposals would be assessed (MM 19). The Council also proposes to amend the boundary of the LIL so that it does not include the Greenway itself (MMs 4/13). In the light of these changes there is no need for any further policy clarification in relation to the type and nature of uses likely to prove acceptable in the LIL. Albeit limited, this potential new housing contribution also needs to be taken into account in the overall net provision in the AAP over the plan period (MM 20).
61. For example, at 415 Wick Lane, Opp. Site 5, within the LIL and bordering the Greenway to the north, an employment led, mixed use, redevelopment that could include an element of residential, is anticipated, as now clarified (MM 38). As a result, the policy position on Opp. Site 5 regarding the appropriate response to redevelopment proposals is clear, including for the link across the site between Wick Lane and the Greenway.
62. The boundary between the SIL and the LIL along the northern part of Wick Lane, the area's main road route, is logical and largely reflects current circumstances, including the desirability of a managed release of industrial land and buildings for redevelopment. It is also consistent with that indicated in the Mayor's Olympic Legacy SPG. However, to the east of Wick Lane, the choice of boundary is somewhat less obvious.
63. However, removal of the SIL designation from any further part of this area would mean insufficient land and buildings being retained in the locality and borough for the future needs of industry, notably those employment uses that are not appropriate in or adjacent to housing, essentially for environmental reasons. In particular, the plan's general conformity with the London Plan (paras 2.17 and 2.83) and the adopted Core Strategy would be put at risk, when there is clear and robust evidence that the selected boundary accurately reflects the amount of land and buildings likely to be required over the plan period. This is endorsed by the GLA and also consistent with the boundary included in the Mayor's Olympic Legacy SPG (Figure 3.5.2).
64. Given that the present boundary is clearly defined on the ground and the SIL designation does not preclude redevelopment, there is no need or overriding justification for any further reduction in its extent in FI South. Consequently, it is concluded that, with the modifications, the policies and proposals for this area are robust, reasonable and realistic, including in terms of implementation.

Issue 8 – Infrastructure, Delivery, Implementation, Flexibility and Monitoring

Is the overall strategy, policies and proposals realistically deliverable in the timescales envisaged and in the forms proposed, including in respect of the necessary supporting infrastructure; is it reasonably flexible to assist implementation and does it enable adequate monitoring of its effectiveness ?

65. Appendix 2 of the AAP provides an Implementation Plan listing those essential, desirable and optional elements of both physical and social infrastructure associated with the levels of new development anticipated over the short, medium and long terms. It also identifies funding sources and delivery agencies, albeit only a few projects have even estimated costs attached as yet. Whilst less than ideal, the absence of fuller costs details in this instance is not, in itself, a fundamental flaw in the plan, bearing in mind that advance costs calculations often need to be revised, for various reasons.
66. At this stage it is more important that the list is comprehensive, prioritised and categorised, including defining the responsible delivery agencies. This is particularly so for those as yet unfunded so that prospective developers, local communities and all other interested parties are aware of those schemes to which new developments will normally be expected to contribute or deliver directly. Overall, the AAP establishes the scale and extent of new infrastructure necessary to support the development proposed

and the strategy, policies and proposals are suitably designed to facilitate implementation, as required.

67. In the light of all of the above, it is appropriate to conclude that the overall strategy, policies and proposals have realistic prospects of proving deliverable over the plan period. This conclusion is reinforced by the Council's recent track record of co-operative working with delivery partners and the resources already committed to certain significant elements of the Implementation Plan. Moreover, as part of the Olympic Legacy, it is also reasonable to assume that the national importance of achieving an outcome of which future generations can be proud is likely to continue to drive delivery.
68. Both the policies to be applied in the different character areas and the more detailed proposals for the individual opportunity sites retain a degree of flexibility, not least regarding the types and mix of uses likely to be acceptable, in principle, but also by avoiding over prescription via specific floorspace limits or exact numerical targets, as such. Particularly in view of the viability issues likely to arise, in some cases at least, this should allow site specific factors to be taken into account, where relevant, to assist detailed implementation and delivery.
69. The Council also now proposes a new para after 7.15 [MM 31] to clarify/confirm that they will continue to take "a proactive approach toward development" and balance the need for redevelopment with requirements for contributions to infrastructure. The Council has also referred to recent examples of flexibility being exercised in respect of planning obligations arising from CS policies, including in respect of affordable housing. This has enabled some otherwise acceptable schemes to progress, where genuine risks to financial viability would otherwise have arisen. In such circumstances, it is apparent that the AAP should have sufficient flexibility to help achieve delivery, as necessary.
70. Monitoring of the effectiveness of the AAP's policies and the implementation of its proposals over the plan period will essentially take place through the framework set out in Section 8 and Appendix 3 of the adopted CS and the Council's Annual Monitoring Report. In particular, the outcomes, indicators and targets listed therein are sufficiently comprehensive to satisfactorily address the issues most likely to lead to a failure of delivery and/or justify the need for an early review of the plan. Consequently, its effectiveness over time should be adequately monitored.

Assessment of Legal Compliance

72. 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 Area Action Plan is identified within the approved LDS of December 2010, which sets out an expected adoption date of March 2013. The Area Action Plan's content is compliant with the LDS and the timing is in advance.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in November 2009 and consultation has been compliant with the requirements therein, including that on the post-submission proposed 'main modification' changes (MM).
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Appropriate Assessment (AA)	The Habitats Regulations AA Screening Report of November 2011 sets out why AA is not necessary.
National Policy	The Area Action Plan complies with national policy, except where indicated and modifications are recommended.
Regional Strategy	The Area Action Plan is in general conformity with the London Plan.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
2004 Act (as amended) and 2012 Regulations.	The Area Action Plan complies with the Act and the Regulations.

Overall Conclusion and Recommendation

73. The Plan has a number of deficiencies in relation to soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the Act. These deficiencies have been explored in the main issues set out above.

74. The Council has requested that I recommend main modifications to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Fish Island Area Action Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Nigel Payne

Inspector

This report is accompanied by the Appendix containing the Main Modifications

Appendix – Main Modifications

The modifications below are expressed by specifying the modification in words.

The page numbers and paragraph numbering below refer to the submission AAP and do not take account of the deletion or addition of text.

Ref	Page	Policy/ Paragraph	Main Modification
MM1 Also Also	Foreword 3 24	Para 4 Para 1.7 Para 2.2	Replace "up to 2,500" with "about 3,000".
MM2	6	Policy FI 1	<p>Add new policy "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.</p> <p>Planning applications that accord with the policies in this plan will be approved without delay, unless material considerations indicate otherwise.</p> <p>Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:</p> <p>Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or</p> <p>Specific policies in that Framework indicate that development should be restricted."</p>
MM3 Also Also	25 45 49	Figure 2.1 Figure 4.1 Figure 4.2	Extend the boundary of the Bow Midland West Rail Yard so that the whole site is safeguarded and referenced as "Safeguarded Rail Site – Bow Midland West.
MM4 Also	25 45	Figure 2.1 Figure 4.1	Identify the area north of the Greenway within the LIL as employment led regeneration.
MM5 Also	25 45	Figure 2.1 Figure 4.1	Delete "Potential" from key for primary school site – Fish Island Mid.
MM6 Also	25 45	Figure 2.1 Figure 4.1	Amend key to "Location for primary and/or secondary school – Fish Island East.
MM7 Also Also	25 45 83	Figure 2.1 Figure 4.1 Figure 6.3	Delete "Potential for" from key in relation to open space.
MM8	35/39	Figures 3.2 and 3.3	Consolidate into one plan showing existing and proposed connections in the area.

Ref	Page	Policy/ Paragraph	Main Modification
MM9	37	Policy 3.3	Delete part 5 regarding the lock on the Hertford Union canal.
MM10	37	Para 3.16	Add new para after 3.16: "3.17 The upgrading and/or replacement of existing and/or additional bridges across the Hertford Union canal are also needed to support connectivity. Specifically with regard to the connections shown as 4a, 4b, and 3 in Table 3.1 and Figure 3.3, new connections will be expected to meet the highest standards in relation to design and management safety with minimal impact on towpath/waterway users and ecology."
MM11	39	Table 3.1	Add "new" at end of Option 4b and "(subject to release of safeguarded rail land in Newham)" at end of Option 13.
MM12	45	Figure 4.1	Add "Local Open Space" locations as per Figure 2.1.
MM13 Also	45 49	Figure 4.1 Figure 4.2	Delete the LIL designation from the Greenway.
MM14	47	Policy 4.1	Add new part 2 b): "The Bow Midland West Rail Yard will be safeguarded for uses which make effective use of the railhead, including for existing, planned or potential use of the railhead for aggregate distribution."
MM15	48	Policy 4.2	Add "and B8" after "B2" in part 2.
MM16	48	Para 4.14	Replace "Smeed Road" with "Dace Road".
MM17	50	Para 4.18	Add new para after 4.18 as follows: "Development within the mixed use area will be expected to provide a balance of residential, commercial and other supporting uses to create a vibrant and diverse community. Residential – led development will be expected to provide predominantly residential which can be complemented by other uses such as community or commercial."
MM18	52	Para 4.27	Replace "up to 2,800" with "about 3,000".
MM19	53	Para 4.34	Add new para after 4.34: "HOUSING IN THE LIL - As set out in FI 4.2 and DM 17, the LIL in Fish Island will protect and safeguard industrial land. If a mixed use development is suitable within the LIL, redevelopment would need to ensure that industrial land and its future function is not jeopardised by reverse sensitivity issues. Through effective high quality design, layout and management, LIL could potentially provide residential alongside an industrial employment led scheme."
MM20	54	Figure 4.4	FI North – delete "850 –", FI Mid – replace "550 – 800" with "1,250" and FI East – delete "600 –".
MM21	55	Policy 4.5	Replace "PPS 3" with "National Planning Policy Framework".
MM22	64	Para 5.16	Add new para after 5.16: "LOCAL SHOPS OUTSIDE THE HUB – The Hub will provide for local retail needs, contributing to the character and function of the area. To protect the vitality and viability of the Hub, retail uses outside the Hub should be ancillary to development and comply with policy DM2."
MM23	65	Para 5.21	Replace "the character of the Hub and buildings of "local importance"" with "the proposed Conservation Area,

Ref	Page	Policy/ Paragraph	Main Modification
			buildings of "local importance" and the Hub."
MM24	66	Policy 5.1	Add ", Lee Valley Regional Park" after "Wick area" in part 6.
MM25	71	Policy 6.1	Add at end of part 5: "Proposals above 6 stories in Fish Island North will be subject to detailed assessment against the criteria in policy DM 26, English Heritage/CABE guidance for tall buildings and the proposed White Post Lane Conservation Area."
MM26	71	Policy 6.1	Replace "Managing Development tall building policy" with "policy DM 26".
MM27	75	Policy 6.3	Add at end of part 2 of policy 6.3: "Regard will be had to the existing industrial character of Fish Island South and the need to ensure that future development at Bow Midland West Rail Yard for rail related uses and aggregate distribution is not prejudiced."
MM28	82	Policy 6.6	Add 2 new points: "protecting or enhancing active uses on the waterways, such as recreation or leisure uses." "within Fish Island South SIL, and particularly the safeguarded Bow Midland West Rail Yard, regard will be had in the application of these design principles to the existing industrial character of the area and the need to ensure that future development at Bow Midland West Rail Yard for rail related uses and aggregate distribution is not prejudiced."
MM29	83	Figure 6.3	Remove "enhanced towpath" reference on eastern side of Fish Island East. Show Carpenter's Lock, Bridge F06 and Bridge E39 as existing bridges. Extend "Waterfront character – predominantly residential character" to the LIL waterfront boundary.
MM30	93	Policy 7.2	Replace "PPS 25" with "National Planning Policy Framework" at end of both parts 1 and 2.
MM31	94	Para 7.15	Add new para after 7.15: "The Council will take a proactive approach toward development when delivering the AAP such that it reflects the presumption in favour of development as set out in the National Planning Policy Framework and policy FI 1. The Council will seek to balance the need for encouraging and promoting redevelopment in Fish Island with the requirement for contributions towards its priorities, as defined by the policies in the AAP and the Implementation Plan in Appendix 2."
MM32	96	Para 7.27	Replace "could" with "should" in first sentence.
MM33 Also	96 100	Figure 7.2 OS 4	Extend southern boundary of Opp. Site 4 to Dace Road.
MM34	97	OS 1	Replace "Opportunity for mixed use development to" with "Mixed use development should" in first point.
MM35	98	OS 2	Delete "Opportunity for" in second point and reword final point as: "Form, connectivity and delivery of development needs to be considered with the Neptune Wharf site opposite".
MM36	99	OS 3	Delete "Opportunity for" in first point and "Opportunities to" in third and fifth points.

Ref	Page	Policy/ Paragraph	Main Modification
			<p>Delete "Opportunity to" and "to serve the wider area" from second point. Add at end of point 3: "This takes first priority over all other non transport infrastructure requirements apart from the CIL but including affordable housing, in relation to the redevelopment of this site, to ensure that it is economically viable and that a new primary school is provided in a sustainable location to help meet education needs arising across Fish Island."</p> <p>Reword final point as: "Form, connectivity and delivery of development needs to be considered with the McGrath site opposite".</p>
MM37	100	OS 4	<p>Reword first point: "Mixed use development including employment, residential, affordable housing and galleries to come forward in a comprehensive manner."</p> <p>Add new fourth point: "Development should improve and enhance the setting of the Conservation Area and provide a high quality frontage to Dace Road."</p>
MM38	101	OS 5	<p>Delete "Opportunity for" from start of first point and add "residential," after "including".</p> <p>Add at the end of fifth point: ", the location of which is to be determined through the development management process."</p>
MM39	109	App. 2	Delete "/Long" under Timescales for Primary School.