

Tower Hamlets Managing Development DPD Examination

635625 – CBRE (Quod) for St George Ltd

Issue 4: Education

1. Introduction

- 1.1 This Position Statement has been prepared by Quod, on behalf of St. George (Central London Limited), in relation to the News International Site, now known as London Dock. The Site is identified in the Submission Draft Development Plan Document, as Site 4 News International and in Table 6, supporting Policy DM18 although not forming part of it, which identifies potential locations for new schools.
- 1.2 This statement relates specifically to Issue 4 (Education). It should be read alongside the Position Statement produced by CBRE Limited, Planning Advisers to St. George, which addresses Issues 1, 5, 6 and 10.
- 1.3 The first part of the Statement sets out a brief overview of our understanding of the adopted Core Strategy policy, its relationship to the evidence base when it was adopted and the additional evidence produced by the Council (including that which was made available on 28 August 2012). In doing so we have, as requested in the Briefing Notes, refrained as far as possible from quoting from these documents but feel that it is necessary in some cases in order for the Inspector and other participants to understand the logic of our arguments.
- 1.4 The following two sections identify a response to the specific issues raised in the Hearing Note, and why the currently proposed policy fails the Soundness Tests and/or legal requirements, and how this might be addressed.
- 1.5 The Statement is supported by two appendices, one on viability and the other on the evidence base.

2. Context

- 2.1 LBTH's Core Strategy was adopted in 2010. Policies SO17 and SO18 set the strategic objectives in relation to improving education and skills.
- 2.2 Policy SP07 sets out the detailed approach to delivering schools. Part 2 of the policy is split into several components which include 2 (a & b) identifying "areas of search" for new primary and secondary schools, 2 (c) using the Sites and Placemaking DPD to identify suitable sites "within these areas of search", and 2 (d) "Using the Pupil Place Planning process and the Population Growth and Change Model to identify future needs for additional school places throughout the lifetime of the plan."
- 2.3 The Evidence Base for the Core Strategy included an *Infrastructure Delivery Plan Report* (September 2009), which in turn was based upon a *Population Growth and Change Model*, which was intended to be a live model on which future updates would be based. The inputs to the model were assumptions on housing delivery over a 15 year period (2010 to 2025), which included two scenarios, one for 35,497 homes and one for 43,170 homes, which were broken down by ward.
- 2.4 For the purposes of school place modelling "Child Yields" were applied to the unit assumptions, which gave projections of likely requirements, which were then grouped under eight "Local Area Partnership" (LAP) areas, which were then paired as a basis to identify the spatial spread, and therefore optimal geographical location, for new schools. The "News International Site is located in LAP 4, part of the paired LAPs 3 and 4 (See Map 1 in Appendix 2).
- 2.5 The report concluded that up to 8 Forms of Entry (FE) of primary school provision and 8 to 13 FE of secondary school provision would be required by 2020 through expansion or new provision to meet demand in the east of the borough. The model showed declines in demand in the planning areas in the west of the borough to 2015 followed by a rise, but not on sufficient level to necessitate new schools. Consequently the Core Strategy did not identify need for new primary or secondary schools in the west of the Borough, and therefore they were not included in "areas of search" in Policy SP07.
- 2.6 Following adoption of the Core Strategy the Council published two engagement documents: the *Development Management DPD* and the *Sites and Placemaking DPD* (both May 2011). Where the need for schools was identified, using Core Strategy criteria, the potential for them was identified in relation to specific sites in the Sites and Placemaking document. This identified the News International Site (Site 7) but made no reference to the need for schools.

- 2.7 Subsequently the Council produced a *Site Selection Methodology Note* dated November 2011. This identifies proposed criteria for the identification of potential sites for items of community infrastructure. Those for schools are set out in the extract from the table below.

Use	Criteria	Criteria source
Primary schools	Within Core Strategy Area of Search for new primary school.	LBTH Core Strategy (2010)
	In the centre / east of borough	LBTH Core Strategy (2010) areas of high growth
	Size for school required is 0.4 hectares	DfE Building Bulletin 99
	Good levels of public transport accessibility	PTAL
Secondary schools	Within Core Strategy Area of Search for new secondary school.	LBTH Core Strategy (2010)
	1.5 hectares	DfE Building Bulletin 98
	Good levels of public transport accessibility	PTAL

- 2.8 Despite not meeting the “Area of Search” criteria and, in the case of primary schools the suggested location within the Borough, the document identifies the News International Site as being suitable for a primary school or a secondary school. It claims in relation to the site that “Revised Pupil Place Planning Process for the borough has identified a significant increase in need for primary and secondary school provision since the IDP (2009) *following an increase in local birth rates.*” (our italics).
- 2.9 The Council has also produced two other documents of relevance to the subsequent site designation, these are the Infrastructure Delivery Plan (2012 Update, January 2012), and the Site Viability Testing Report (February 2012). The IDP update does not use the Population Growth and Change model referenced in the Core Strategy but instead includes some headline school roll projections and references the GLA School Roll Projection service. This again includes the News International Site as a potential site for a primary or secondary school with no transparency on the process for this proposed approach or justification for the change to the Core Strategy policy.
- 2.10 The *Site Viability Testing Report* is intended to assess whether sites would be viable in the event they were required to house a school. A description of the approach and critique of its conclusions are attached at Appendix 1 to this statement.
- 2.11 *The Submission Draft of the Managing Development DPD (May 2012)*, which incorporates the Sites and Placemaking DPD identifies the News International site as a potential location for either a primary or a secondary school in Table 6, supporting Policy DM18, and in the two options for Site 4.

- 2.12 On Tuesday 28 August 2012 the Council published a report to cabinet entitled "*Planning to Meet the Growth Requirement for School Places 2012 -2022*". This includes at Appendix A, a report "Planning for School Places 2012 to 2022" (dated September 2012). This was approved by cabinet on Wednesday 5 September. This sets out some further details of the GLA School Roll Projection numbers on which the Council is now relying. However, neither the inputs or outputs to the model are identified properly nor in a transparent manner in the way that was provided for the IDP that supported the Core Strategy. Comments on this document below are based on our understanding of the information that has been made available, having had a very short period of time to review it.

3. General Response to Inspectors' Questions:

- 3.1 The Inspector's Hearing Note includes specific questions for participants. Our response to each is set out under the sub-headings below.

Inconsistent with the Core Strategy and the NPPF

- 3.2 It is clear from the above discussion that Policy DM18, insofar as it makes specific reference to the News International Site, and the two site specific options for Site 4 (a Primary and Secondary School) are inconsistent with the Core Strategy. The site is not located in a Search Area for a Primary or Secondary School as set out in Policy SP07. Subsequently the Council has not used the "Population Growth and Change Model" for monitoring and management purposes as required in part 2 (d) of the policy, to support revisions to policy.
- 3.3 Policy DM18 is unclear about its relationship with Core Strategy Policy SP07. The explanatory text at paragraph 18.5 states that Part (b) of DM18 "adds to the Core Strategy Spatial Policy 07." However, there is no express statement confirming whether or not DM18 is intended to supersede Policy SP07, in part or in whole, in respect of the way in which areas of search are identified and allocations are made. The document is inconsistent with the adopted Core Strategy. It does not meet legal requirements in the Regulations for consistency.
- 3.4 Whilst the NPPF (paragraph 72) requires local authorities to "give great weight to the need to create, expand or alter schools", this does not negate the requirement to base plans on "adequate, up to date and relevant evidence" (para 158), and ensure "deliverability and viability (paras 173 to 177), and meet the Soundness tests (which are considered further below).
- 3.5 As we shall demonstrate below, virtually all of the development which will generate the need for school places is in the east of the Borough, which is also the area with the fewest current school places. In these circumstances the Council should (and did in the Core Strategy) seek to plan spatially so that schools and other community provision at both primary and secondary levels are situated in or as close as possible to those locations from which demand will arise. The arbitrary allocation of the News International site to meet this demand would conflict with the NPPF policies (at paragraphs 34 and 37) which aim to ensure developments are located in a way which minimises the need to travel and achieves a balance of land uses across their area.

Not supported by clear and robust evidence

- 3.6 As described above the policies in the Core Strategy were founded on a clear and transparent evidence base which had been the subject of consultation and review. The Infrastructure Delivery Plan, and the findings of the Population and Change Model were incorporated into the policy, as was a commitment to continue to use that evidence for any future review (SP07 part 2D). The consultation drafts of the two DPD documents made no reference to any intention to cease to use this approach.
- 3.7 The *Site Selection Methodology Note* and the *Infrastructure Delivery Plan Update* make reference to a change to projections but provide no transparency or evidence which would allow anyone to respond to their assertions in an informed manner. The site selection methodology criteria do not, in any case, appear to have been properly applied either within that document or within the sites selected for schools provision in the Submission Draft DPD. The News International site clearly does not meet the criteria and therefore should not have been identified as a site for a school.
- 3.8 The revised pupil projections, on which the policy now appears to rest, are based on a new methodology and have been published in draft just a week before representations for the Examination were due, fifteen months after the initial consultation drafts of the DPD documents and nine months after the Site Selection Methodology note. No justification has been provided for the change in approach from that adopted for the Core Strategy or for the differences in findings between the two models.
- 3.9 However, it is clear from a review of the cabinet report and its appendices, that the vast majority of suggested additional demand for school places continues to arise from the identified development pipeline in the east of the Borough.
- 3.10 The Development Trajectory table identified on page 8 of the School Rolls Report (Appendix of the September 5 Report to Cabinet), states that the Council (and therefore the GLA) has used 43,319 net additional housing units to 2021 as an input to their model, which equates to approximately 4,300 units a year. This significantly exceeds the London Plan target (2,885 per annum) and the average units delivered per year over the last decade (around 2,000 per annum). It also exceeds the housing trajectory in the most recent Annual Monitoring Report. In the peak year of the housing boom (2008/9) only around 2,800 net additional units were delivered.

- 3.11 The report goes on to suggest that of the deficit in school places identified by the Council, approximately 95% are the result of demand from additional development rather than any other changes (see tables on Pages 6, 8 and 13 of the report). Therefore the changes in education demand which the Council suggests underpin the need for additional and/or changed site allocations are not in the most part based on any changes in background population since the 2009 report which supported the Core Strategy. Instead they are based on a significant and unrealistic increase in assumptions about annual housing delivery (despite a drop in average annual completions over the same period) and probably (although it is not clear as the methodology is not transparent) an increase in assumed "Child Yields" per unit.
- 3.12 Furthermore, it does not appear that the assumed spatial spread of development (and therefore additional education demand) has changed significantly from that identified in the 2009 Infrastructure Delivery Plan. The Council has only provided maps showing notional demand by sub-area (LAP area) for primary schools but even with the additional demand predicted they do not appear to show any increase over and above that identified in the 2009 IDP in LAP areas 3 and 4, which include the News International site and currently have a surplus of places. Virtually all of the identified demand is in LAP areas 6, 7, and 8 which principally cover Bow, Poplar and the Isle of Dogs (ie the east of the Borough).
- 3.13 The Council now suggests that looking at sub-areas when assessing demand (and locations) for secondary school provision is not appropriate, despite the fact that such an analysis was undertaken to support the development of the Core Strategy (IDP 2009), that accessibility is a key criteria for the identification of sites in Policy SP07 3 (b) and the principle of appropriate areas of search, reflecting demand, underpins the adopted Core Strategy policy. Despite the Council not producing sub-area data (although this must be possible as the GLA methodology is based on ward projections) it is reasonable to assume that, as it is based on housing growth, it will follow similar lines and again be concentrated in the east of the Borough.
- 3.14 The Submission Draft DPD identifies potential secondary school sites at Westferry Printworks, Bow Locks and Fish Island which are well located to serve these needs. If projected development does not come forward in those locations the identified additional places will not be required as the Council's own evidence suggests that the demand for them will be generated by developments in that area. Map 5 contained in Appendix 2 to this document shows the large sites (over 5 hectares) identified in the Submission Draft DPD in the east of the Borough along with the News International site. In addition to those identified for schools there are a further five sites in or around the east of the Borough search areas which would appear to meet the Council's criteria.

- 3.15 It should be noted that the London Borough of Tower Hamlets planning committee refused consent for a large housing development (Strategic Development Committee 16 August 2012, PA/11/3670) for reasons including “Concerns over the impact of the development on the sustainability of educational provision on the Isle of Dogs.” Despite the proposal making financial contributions to education provision, the lack of both primary and secondary school capacity within the Isle of Dogs where growth is planned to occur was a major concern for the committee. As Map 4 in Appendix 2 shows, two thirds of current secondary provision is in the western side of the borough.
- 3.16 Providing further school places in the west of the borough to meet needs in the east would not support sustainable travel patterns or the development of sustainable communities in those locations. In addition the recently opened Wapping Free School has added further capacity in the area which includes the News International site within its catchment.

Not Reasonable or Deliverable or Appropriate to Local Needs and Circumstances

- 3.17 The arbitrary and late designation of the News International site, contrary to policy in the Core Strategy and not supported by evidence is therefore unreasonable. The NPPF makes clear that Local Plans should be developed in co-operation with private sector interests, including “early and meaningful engagement” (paras 155 and 157). Such an approach allows developers and landowners to understand planning policy and have some certainty over likely site requirements, particularly in the case of required on-site provision such as a school which has a substantial impact on development viability and design and masterplanning for a mixed use scheme.
- 3.18 A review of the Council’s site viability document is attached to this Statement at Appendix 1. It concludes that the inputs and assumptions applied in the Viability Study are not robust and are inconsistent with the approach and assumptions that the authors (BNPP) have adopted in other work for the LB of Tower Hamlets, such as the December 2011 Affordable Housing Viability Study. The costs associated with the News International site are significantly underestimated and as such it is not considered to be a robust part of the evidence base for the site.
- 3.19 As a consequence the conclusions drawn in respect of the News International site are misleading, in terms of the true scale of the funding gap, both as an individual site and compared to other sites tested. A corrected assessment demonstrates that the site is ranked worst of all the sites in terms of “subsidy” required for delivery. As a result the use of the site for either a primary or a secondary school would have a major impact on the viability and therefore deliverability of the site, with inevitable knock on effects for other policy requirements such as affordable housing. It therefore does not properly consider the cumulative impact of requirements placed on the News International site (with some assumptions inconsistent with adopted or proposed policy) to provide competitive returns and allow the development to be deliverable.

- 3.20 Recent professional guidance (RICS “Viability in Planning” (1st Edition GN 94/2012)) recommends that viability assessments for sites should adopt a “Market Value with assumptions approach”, as opposed to the “Existing Use Plus” approach adopted in the BNPP viability study. This is defined as:

‘Site Value should equate to the market value subject to the following assumption: that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan.’

- 3.17 St. George purchased the site through an open market competition, with the bid for the site based on adopted planning policy, and therefore consistent with the RICS approach to site value. The identification of a requirement for either a primary or secondary school, in conflict with the Core Strategy undermines such an approach.
- 3.18 In relation to masterplanning, the inclusion of a substantial block of a single use (either 0.4 ha or 1.5 ha) which by its nature tends to require some separation from other uses for management and security purposes, would significantly reduce the flexibility of planning for the site and limit the ability to achieve the proposed design principles for the site set out on Page 103 of the Submission Draft DPD. Further information on this is contained in St. George’s response to Issue 10 (Section 6 of the Position Statement submitted by CBRE), which includes a diagram showing the potential impact of on-site provision.

4 Response to Soundness Tests

4.2 Policy DM18b, associated Table 6, and both options 1 and 2 for site 4 fail the following soundness tests:

Not justified:

- The policies are based on a changing, unclear and unsound evidence base, with no justification for the site's allocation based on current or future demand for schools provision;
- The Core Strategy sets a criteria based policy for site selection, including search areas and the use of the Population Growth and Change Model for monitoring and management. The approach taken in the DPD and its Evidence Base documents is contrary to this policy;
- The consideration of alternatives is not transparently undertaken, and the allocation of four secondary school sites when only one may be required is not consistent with evidence or deliverability, and creates significant uncertainty for site owners. The assessment has not properly taken into account reasonable alternatives despite requirements to do so under the NPPF, sustainability appraisal guidance and strategic environmental assessment legal requirements;
- The evidence base is not clear or transparent (unlike that which supported the Core Strategy) and is based on unrealistic housing delivery numbers; and,
- In any case the News International site is not an appropriate alternative – as it does not meet the Core Strategy criteria and is in the wrong location to meet even the demand identified in the Council's new, flawed, evidence.

Not Effective:

- The inclusion of a school on the site would have a significant impact on viability and put at serious risk the wider benefits that the scheme can bring, particularly housing delivery; and,
- The Site Viability assessment is flawed, both in terms of its assumptions and overall methodology. The use of a DPD to effectively change the policy set out in the Core Strategy, against which the market price for the site has been determined in line with professional guidance, is contrary to the NPPF (paras 173 to 177).

In-consistent with National Policy:

- The proposals are inconsistent with a range of policies in the NPPF including a lack of evidence (para 158), lack of collaboration with site owners (paras 155 and 157), inappropriate location of the News International site in relation to education demand, with more appropriate locations available (paras 34 and 37), and impacts on viability and deliverability (paras 173 to 177) that significantly outweigh the support for school development (para 72).

Does not Satisfy Legal Requirements

- Policy DM18 and the supporting text are not consistent with the Core Strategy, forming part of the adopted development plan;
- Policy DM18 and the supporting text are unclear about their status and relationship with Core Strategy SP07. They do not say that the document supersedes the Core Strategy in any way; and,
- Consideration of sites for allocations has not taken into account reasonable alternatives or applied adopted selection criteria, taking into account environmental and sustainability impacts or the location of allocations.

How Could the Document be Made Sound?

4.3 The document could be made sound by:

- The removal of “News International” from Table 6: New Schools
- Removal of Options 1 and 2 from box on specific site 4. News International, Page 102