



Managing Development DPD Public Examination

Issue 1: Housing

Position Statements prepared on behalf of Ayken Group
Developments: Representation 360

04.09.2012

1.1 The following Position Statements set out why the Managing Development DPD (the 'DPD') is unsound and provides a recommendation to the Inspector outlining how the DPD could be amended to be made sound.

1.2 **What particular part of the document is unsound?**

1.3 Policy DM3 is unsound.

Which soundness tests does it fail?

1.4 It is unsound because it is not effective and is not consistent with the National Planning Policy Framework (NPPF, 2012) and the London Plan (2011).

1.5 **Why does it fail?**

1.6 The NPPF requires planning to proactively drive and support sustainable economic development including through the delivery of new homes, including affordable homes.

1.7 London Plan Policy 3.12 requires Borough's to seek the maximum reasonable amount of affordable housing when negotiating on individual private residential and mixed-use schemes.

1.8 London Plan Policy 3.11 includes a strategic target that 60% of new affordable housing should be for social rent and 40% for intermediate rent or sale.

1.9 The Mayor has published an early minor alteration to the London Plan to address the introduction of affordable rent, with further guidance set out in a draft Affordable Rent SPG.

1.10 Regarding tenure split, the Mayor's position is that both social rent and affordable rent

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should be included within the 60% element of the strategic target.

- 1.11 The Core Strategy Policy SP02 sets an overall strategic 50% target for affordable homes until 2025, including the requirement for 35%-50% affordable homes on sites providing 10 new residential units or more (subject to viability).
- 1.12 Policy DM3, as drafted, requires development to provide affordable housing in accordance with the Council's tenure split (70% Social Rent and 30% Intermediate) as set out in the Core Strategy.
- 1.13 Policy DM3 only allows for the provision of affordable rented homes where: the required proportion of 70% for Social Rent homes is demonstrated to be unviable; the provision of Affordable Rent homes alongside Social Rent homes ensures the delivery of between 35%-50% affordable housing; and the delivery of larger family homes is prioritised for Social Rent.
- 1.14 The Tower Hamlet's Affordable Housing Viability Assessment (July 2011) forms part of the evidence base for Policy DM3. It concluded that the Borough should not shift its policy position to adopt Affordable Rent on an equal footing with Social Rent, hence the subsequent drafting of Policy DM3.
- 1.15 The drafting of proposed early minor alterations to the London Plan as they relate to affordable housing provision and the Affordable Rent product makes it clear that the Mayor's intention is that Affordable Rent is intended to address the same housing needs as Social Rent housing in London. Regional guidance does not advocate the cascading policy approach that is currently set out in Policy DM3.
- 1.16 In failing to adopt a similar approach in the drafting of Policy DM3 and failing to further review its affordable housing evidence base, it is considered that the Council has failed to ensure the soundness of Policy DM3.
- 1.17 We argue that Policy DM3 as drafted will not be effective and will not comply with national and regional planning policy insofar as it will fail to secure the maximum delivery of affordable housing.
- 1.18 We consider that the policy therefore fails to take full account of the importance of scheme viability considerations and will constrain the ability of developers to deliver new



housing. Through the provision of Affordable Rent housing as part of development proposals, there is an opportunity to increase the viability of schemes and to therefore maximise the overall delivery of affordable housing provision.

1.19 We also note correspondence which has been sent by the Mayor of London to the Inspector dated 30 August 2012. In summary, the following sets out in broad terms some of the key conclusions reached by the Mayor in this correspondence:

- Prioritising Social Rented housing at the expense of Affordable Rent will constrain the Council's ability to maximise overall provision of affordable housing;
- In not taking a realistic account of available resources the plan will not be 'deliverable' in the sense the term is used in paragraph 173 of the NPPF and thus will not be sound;
- Prioritising Social Rented housing before Affordable Rented housing would slow down the process of planning applications and add undue burdens on developers;
- National guidance and the early alterations to the London Plan make it clear that Affordable Rent and Social Rent are intended to meet the same housing needs.
- A pragmatic approach should be taken to deciding which tenure is going to result in the maximum provision of affordable housing and there is no basis for preferring one over the other;

1.20 We support the Mayor's conclusions insofar as these are consistent with those of Ayken Group Developments.

How could the document be made sound?

1.21 Policy DM3 should be amended to ensure that the preference for Social Rent provision over Affordable Rent provision is removed.

What is the precise change/wording sought?

1.22 Part 1 of Policy DM13 should be amended by deleting the following sentence and criteria:

"Affordable Rent will be accepted where:

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- a. the required proportion of 70% for Social Rent homes is demonstrated to be unviable;*
- b. the provision of Affordable Rent homes alongside Social Rent homes ensures the delivery of between 35%-50% affordable housing;*
- c. the delivery of larger family homes is prioritised for Social Rent.”*

Italics have been added for emphasis to highlight the text to be deleted.



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Issue 2: Canary Wharf Activity Area Designation

Position Statement prepared on behalf of Ayken Group
Developments: Representation 95

04.09.2012

1.23 Ayken Group Developments Limited submitted representations on 9 March 2012. The Borough is currently determining a development promoted by Ayken Group Developments Limited at a site bounded by Cuba Street, Tobago Street and Manila Street on the Isle of Dogs, hereon referred to as the 'Cuba Street site'. The Cuba Street site shares the characteristics of the Canary Wharf Activity Area as defined in the Core Strategy as a transitional area which promotes "a vibrant mix of uses that are economically competitive, based on a set of principles, defined in the Town Centre Spatial Strategy" (policy SP01). The set of principles defined at Policy DM1 align with the existing Cuba Street site proposals. On this basis it is reasonable that as part of the spatial strategy for the Borough the site should be included in the Activity Area boundary.

1.24 **What particular part of the document is unsound?**

1.25 The boundary definition of the Canary Wharf Activity Area.

1.26 **Which soundness tests does it fail?**

1.27 Positively prepared

1.28 The development form of the proposed Cuba Street proposal comprises two towers that are 127.2m AOD and 160.2m AOD containing residential, hotel and commercial uses. Correspondence received from the Borough in April 2012 noted that provided outstanding matters could be finalised officers would be working towards giving the proposal a positive recommendation for the Strategic Development Committee. The scheme has not been referred to committee yet as the details of the affordable housing package have not been finalised.

1.29 The potential recommendation anticipated by officers reflects the objective assessment of the scheme in terms of the land use principle and form of development proposed on

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the site. The development proposal fulfils the role of the Canary Wharf Activity Area providing a vibrant mix of uses and incorporating a transition from the site and its immediate townscape setting with the Isle of Dogs to the south.

1.30 **Why does it fail? – positively prepared**

1.31 The Canary Wharf Activity Area boundary fails to include a site that performs the function identified in the Core Strategy and Managing Development document for this designation. It has been objectively considered that a development of the Cuba Street site could be positively recommended by officers that would align with the objectives of the Canary Wharf Activity Area.

1.32 **How could the document be made sound?**

1.33 The Canary Wharf Activity area boundary should be re-drawn to include the parcel of land bounded by Manila Street and Tobago Street directly adjacent to the designation as currently drawn.

1.34 **What is the precise change/wording sought?**

1.35 As noted above at 1.11 the Canary Wharf Activity Area should be amended.



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Issue – 6: Building Heights

Position Statement prepared on behalf of Ayken Group Developments Limited: Representation 357 & 358

04.09.2012

- 1.36 Ayken Group Developments Limited issued a representation on 9 March. The representation stated that Policy DM26 – Building Height was unsound noting that there is insufficient evidence to support the policy which includes a rigid definition of building heights. Furthermore, we do not consider that an arbitrary guideline provides a suitable opportunity for site specific circumstances to be assessed. The Statement provides further justification on this matter in accordance with the Briefing Notes – August 2012 document that was issued for the examination in public (EIP).
- 1.37 The Borough is currently determining a development promoted by Ayken Group Developments Limited at a site bounded by Cuba Street, Tobago Street and Manilla Street on the Isle of Dogs, hereon referred to as the 'Cuba Street site'. The development form comprises two towers that are 127.2m AOD and 160.2m AOD respectively. Correspondence received from the Borough in April 2012 noted that provided outstanding matters could be finalised officers would be working towards giving the proposal a positive recommendation for the Strategic Development Committee. The scheme has not been referred to committee yet as the details of the affordable housing package have not been finalised. Ayken Group Developments Limited considers that the local planning policy framework should reflect the favourable approach that officers have noted towards tall buildings in this location.

What particular part of the document is unsound?

- 1.38 Part 1 of Policy DM26 in relation to the areas identified as acceptable for tall buildings and building height guidance and the associated figures 9 and 10 referenced in the policy.

1.39 Which soundness tests does it fail?

- 1.40 Positively prepared

- 1.41 Part 1 of Policy DM26 fails to objectively meet the assessed development requirements for the Borough. The evidence base LBTH Building Heights Note (2012, version 2, document EB35) seeks to apply a restrictive zone based approach to identifying suitable building heights in the Borough. The original evidence base document LBTH Building Heights Note (2011, document EB34) included at Appendix 2 a townscape cross section from 1 Canada Square through Marsh Wall East, this section does not reflect the townscape background of the Cuba Street site. The cross section is still cross referenced in version 2 of the document (EB35) as the basis for the building heights approach in the wider Borough.
- 1.42 The cross section used at Appendix 2 of the original evidence base (EB34) is an arbitrary line. A cross section drawn through the Cuba Street site from 1 Canada Square would create a different baseline condition taking account of the immediate townscape which includes the Landmark Buildings to the north (height circa 103m) and extant planning permission at City Pride (building of 215mAOD). This is at odds with the guideline heights set out at figure 9 of Policy DM26.
- 1.43 Part 2 of Policy DM26 includes a list of objective criteria for the assessment of tall buildings. Similar to both policy 7.7 of the London Plan and Guidance on Tall Buildings produced by English Heritage and CABE this is based upon an objective assessment of site specific criteria and the proposed architectural response. We support the approach of part 2 of policy DM26 that is 'positively prepared' in accordance with the test of soundness.
- 1.44 **Why does it fail? – positively prepared**
- 1.45 Part 1 of Policy DM26 fails to provide an objective basis for height guidelines identified at figure 9. The immediate townscape around the Cuba Street site is for tall buildings and no allowance is made within Part 1 of policy DM26 for areas that have a different townscape context. This blanket approach to policy making is not objective and fails the positively prepared test of soundness set out in the NPPF.
- 1.46 Justified
- 1.47 Part 1 of Policy DM26 fails to be the most appropriate strategy when considered against reasonable alternatives. The alternative that we consider to be the most appropriate response is that building heights are assessed on the basis of part 2 of Policy DM26 in accordance with the approach taken at policy 7.7 of the London Plan and Guidance on

Tall Buildings produced by English Heritage and CABE. This would pre-suppose that the most appropriate building height would be identified on the merits of a particular case and not limited by an arbitrary guideline.

1.48 The evidence base that sets out the suggested indicative building heights included in figure 9 is based upon an extremely limited data set using a single townscape cross section to support this approach. Therefore we do not consider that evidence base is proportionate to the weight afforded the indicative height guidelines within the policy.

1.49 **Why does it fail? – justified**

1.50 An insufficient level of evidence has been prepared to support the assertions set out in part 1 of policy DM26. The level of weight afforded figure 9 of policy DM26 even as an indicative guideline is not based upon a proportionate level of evidence to support the guideline heights. On this basis and in the context of London Plan policy and guidance prepared by English Heritage and CABE we do not consider that part 1 of policy DM26 is justified.

1.51 Consistent with national policy

1.52 The National Planning Policy Framework (2012) contains a number of requirements in relation to 'Requiring good design'. Paragraph 58 notes that local plans should develop policies that are based upon understanding and evaluating areas and their defining characteristics. The third bullet under the policy states that policies should aim to ensure that developments optimise the potential of site's to accommodate development. The fourth bullet goes on to note that developments should respond to local character whilst not preventing appropriate innovation.

1.53 Paragraph 60 of the design section of the NPPF also notes that planning policies should not impose architectural styles or tastes, innovation, originality or initiative through unsubstantiated requirements.

1.54 **Why does it fail? – consistent with national policy**

1.55 Part 1 of policy DM26 is not consistent with the NPPF specifically those parts of the document relating to design as noted above. The policy fails to allow for appropriate building heights to be assessed on the basis of design rationale their merits. The guidelines



fail to allow this flexibility of approach to ensure that development potential of sites is optimised. It also imposes an unsubstantiated design parameter upon development.

1.56 **How could the document be made sound?**

1.57 We consider that the document could be made sound through the deletion of part 1 of Policy DM26 and the deletion of figures 9 and 10 that sit alongside the policy.

1.58 **What is the precise change/wording sought?**

1.59 As noted above at paragraph 1.22.