

London Borough of Tower Hamlets

Examination of the Local Plan

Schedule of Matters and Issues for the Examination

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Introduction

Following my initial examination of the Tower Hamlets Local Plan 2031 (LP) and the supporting material, I set out below the main Matters, Issues and questions regarding the soundness of the LP. These should be read in conjunction with the guidance note for people participating in the examination issued on 25 May 2018.

As the hearing sessions will take place across a number of weeks, matters have been grouped together and the deadline for the submission of statements is set out in the guidance note. Participants should be aware of the Council's schedule of minor modifications (SD3) as well as the Council response to the Inspectors initial comments and questions (ID02). Agendas for the individual hearing sessions will be issued before the hearings commence.

The LP at present has no policy index. As a result, please ensure that you include the page number for any policy references made within the statements submitted.

Matter 1: General Matters and Legal requirements

Issue 1 – Is the LP legally compliant?

Duty to cooperate

- 1.1 Overall, has the LP been prepared in accordance with the 'duty to cooperate' imposed by Section 33A of the Planning & Compulsory Purchase Act 2004 (as amended)?
- 1.2 What actions have been taken in relation to the 'duty to cooperate'? What have been the outcomes of the actions taken in relation to the 'duty to cooperate'?
- 1.3 Does the LP adequately acknowledge cross border issues, particularly with regard to the Duty to Cooperate on strategic matters?
- 1.4 How does the LP align with those of adjacent boroughs?

Other legal requirements

- 1.5 Has the LP been prepared to be in general conformity with the London Plan?
- 1.6 Has the LP been prepared in accordance with the Council's Statement of Community Involvement and met the minimum consultation requirements in the Regulations?
- 1.7 Has the formulation of the LP been based on a sound process of sustainability appraisal (SA) and testing of reasonable alternatives, does the SA consider all likely significant effects on the environment, together with economic and social factors? Is it clear how the SA has influenced the final LP?
- 1.8 Does the LP give adequate consideration to the Habitat Regulations? Will the implementation of the LP, alone or in combination, adversely affect any Natura 2000 sites?

- 1.9 In light of the Judgement of the Court of Justice for the European Union of 12 April 2018 (People Over Wind and Sweetman v Coillte Teoranta Case C-C323/17: Consideration of avoidance and reduction measures in Habitat Regulations Assessment). Does the Council consider the HA to be legally compliant, and if not, what further work would be required in light of the judgement?

Matter 2: Basis for the LP and Spatial Strategy

Issue 2 –Are the strategic objectives justified and in accordance with national policy and the London Plan?

- 2.1 Does the LP provide a clear, positively prepared and justified vision for the borough?
- 2.2 Are the locations identified for development, namely the opportunity areas identified by policy S.SG1, the most appropriate locations when considered against all reasonable alternatives? What factors have influenced the distribution proposed? What role has the sustainability appraisal had in influencing the distribution of development?
- 2.3 How have issues concerning viability been addressed, in order to ensure that there is a reasonable prospect that the sites identified will come forward for development during the plan period? Please provide a clear explanation as to what methodology has been used to assess viability.
- 2.4 Policy S.SG1 (page 26) states that new development in the borough will be directed towards the opportunity areas and/or highlight accessible locations along transport corridors. Para 26 advises that these locations should have access to good links to public transport, cycling and walking networks. Is the policy precise and clear in this regard? How will the criteria be assessed in practice?
- 2.5 How do the Council envisage policy S.SG2 b (i) will be addressed in development control terms? Is the evidence links box here correct or should reference also be made to the wider evidence base?
- 2.6 Does the LP adequately address the issue of neighbourhood planning? Does the LP as submitted accord with national policy in this regard?
- 2.7 With reference to policy D.SG3 – Health Impact Assessments, can the Council explain the justification for part C of the policy? In what way is this part of the policy aligned with policy 3.2 of the London Plan?
- 2.8 In relation to policy S.SG2, p 29 – (b(i) is the wording justified and effective? What is meant by 'tenure blind' development (b, iii). Is the policy wording suitably clear?

Matter 3: Deliverability, Infrastructure and Viability

Issue 3 – Does the LP take a justified and suitably evidenced based approach to deliverability, infrastructure and viability? Is the LP consistent with national policy in this regard and will it be effective in terms of its implementation?

- 3.1 Does the evidence base support the site allocations proposed and demonstrate that they are viable and deliverable, having regard to all of the policies contained within the LP?
- 3.2 Are the viability assessments contained within Tower Hamlets Local Plan Viability Assessment 2018 (SED5) sufficiently robust and are they based on reasonable assumptions? Is the housing set out in Policy S.H1, and are the housing sites proposed as part of the Site Allocations financially viable? In particular:
- Do the viability assessments adequately reflect the nature and circumstances of the proposed allocations?
 - Has the cost of the full range of expected requirements on new housing been taken into account, including those arising through policy requirements identified by the LP (for example, in relation to affordable housing)?
 - Does the evidence base demonstrate that such costs would not threaten the delivery of the housing planned for?
- 3.3 Is there robust evidence to demonstrate that all of the necessary infrastructure to support the level of growth proposed can be provided in accordance with the timetable identified? This includes all infrastructure including health care, education, transport, open space. In particular:
- What are the key infrastructure requirements for the successful delivery of the housing planned?
 - What reassurances are there that these elements can and will be delivered when and where they are needed?
 - Has the cost of these infrastructure elements been estimated, and funding sources identified?
 - Where, when and how will the additional school places and early education provision required as a result of the housing set out in Policy S.H1 be delivered?
 - In what way do the policies provide a clear and effective framework for securing the necessary infrastructure or other obligations to mitigate the effects of, or support development?
- 3.4 The representations on behalf of Thames Water (representation number 1102564) states that they have not been able to provide a detailed assessment in relation to the site specific allocations due to the level of detail provided. Are the Council intending to produce any form of statement in conjunction with Thames Water? This would greatly assist the hearing sessions in terms of having a response in relation to the site allocations proposed.
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- 3.5 Is policy D.SG5 concerning developer contribution sufficiently clear and robust?
- 3.6 In relation to policy D.SG5 (part 2) - developer contributions – how does the exemption for vacant building credit align with the national planning guidance and the London Plan?

Matter 4: Energy, Air Quality, Waste, Water and Open Space

Issue 4 - Does the LP take a justified and suitably evidence based approach towards energy, air quality, waste, water and open space?

- 4.1 Policy D.ES2 - is the policy as currently drafted sufficiently robust? How will the policy be monitored?
- 4.2 Policy D.ES7 and S.H1(3) – is the reference within the policies and supporting text to the BREEAM ratings and the home quality mark justified and consistent with national policy? How does this text align with national planning policy and the issue of additional local technical standards?
- 4.3 Regulation 8 (5) of the Town and Country Planning (Local Planning) (England) Regulations 2012 says *"Where a local plan contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy."* Is that the intention of Appendix 2 of the LP? If so, should that fact be more clearly stated? If not, where is the statement within the LP setting out the policies which it supersedes?
- 4.4 Regulation 9 of the Town and Country Planning (Local Planning) (England) Regulations 2012 sets out the form and content of the policies map. It says, amongst other things, that the policies map must comprise of, or contain a map which must illustrate geographically the application of the policies in the adopted development plan. The policies map submitted alongside the submission LP shows land designated as Metropolitan Open Land (MOL). With this in mind, please could the Council confirm the following:
- With reference to this LP or the extant development plan, can the Council please clarify which policy it is which brings about the designation of the MOL – that is, of which development plan policy is the MOL shown on the policies map a geographical illustration?
 - In response to the question above, if a policy from the Core Strategy brings about the MOL designation on the policies map, is it policy SP04?
 - Is it the Council's intention that Core Strategy policy SP04 will be superseded by this LP? If this is the case, is it to be superseded by policy S.OWS1, as Appendix 2 of the LP appears to indicate?
 - Is a new policy designating MOL needed in the LP, in order to support the illustration of MOL on the policies map? If so, what evidence is there to justify the illustration of MOL, and the boundaries shown, on the policies map submitted?

Given the nature of the above questions, it may be that legal advice will assist the Council in responding them.

- What is the policy approach taken to MOL in the LP and in what way is it consistent with the London Plan, and in particular, policy 7.17?

4.5 Does MOL require a definition within the glossary?

4.6 Notwithstanding the points raised above, is the approach to open space outlined by policy S.OWS1 sufficiently flexible?

Matter 5: Housing

Issue 5 - Is the level of housing required deliverable?

Overall delivery over the plan period

5.1 Policy S.H1 advises that the LP will secure the delivery of 58,965 homes across the borough between 2016 and 2031. This equates to 3931 homes per year. I understand this has been calculated by 'rolling forward' the annual target identified by the London plan. Is this approach justified?

5.2 Are the suggested rates of planned housing development realistic and achievable when considered in the context of the past completion rates?

5.3 The LP acknowledges that there will be a shortfall in the housing delivery towards the end of the plan period. Chapter 6, para 6.4 (page 265) advises the Council will explore ways of addressing this shortfall during the plan period:

- What specific measures are the Council proposing the deal with this issue?
- Why has the Council not identified sufficient sites for the plan period?

Five year delivery

5.4 Will the Council be able to demonstrate a five year supply of housing land upon adoption of the LP?

5.5 Is the housing trajectory in appendix 7 realistic? In the context of footnote 11 of the NPPF, does it form an appropriate basis for assessing whether sites are deliverable?

5.6 Does the housing trajectory align with the Infrastructure Delivery Plan?

5.7 Is the LP clear in terms of the status of allocated sites and commitments? Where is the evidence to explain this?

General Matters

5.8 Is the estimate of windfall numbers identified by the LP appropriate and realistic?

5.9 Is the 5% buffer appropriate and what is the evidence to support this?

5.10 How do the Council propose to address future changes to the London Plan?

Matter 6: Local Housing need – including Affordable Housing and Student Housing

Issue 6 – Will the LP be effective in delivering the appropriate type of housing to meet the needs of the borough?

- 6.1 Has the affordable housing target identified by policy SH.1 been calculated in accordance with policy 3.11 of the London Plan and is the approach sound?
- 6.2 Is policy D.H2 justified by the evidence base? Is the policy sufficiently flexible? Is the threshold level set for affordable housing deliverable? Is part 5(c) as drafted justified and effective?
- 6.3 Does policy S.H1 adequately reference self-build homes and is the approach adopted in line with national policy?
- 6.4 In relation to page 311 - What is meant by 'non-conventional' housing? Please could a definition be provided as a footnote to the table?
- 6.5 Does policy D.H6 adequately support the needs of the student population within the borough? Is the approach adopted consistent with the London Plan?
- 6.6 Is the approach to density as defined by policy D.DH7 reasonable? Is the policy justified by the evidence base?
- 6.7 Would policy H4 be effective? How does the LP seek to address the GLA benchmark of 70 units a year (of which 45 should be affordable) as set out in para 4.50, page 74, over the plan period?
- 6.8 How does the proposed tenure split of 70% rent and 30% intermediate relate to the London Plan proposed tenure split of 60% and 40%? Is this approach sufficiently flexible, justified and consistent with national policy?
- 6.9 Does Policy D.H5, page 75 make satisfactory provision to meet the needs of the gypsy and traveller community over the plan period?
- 6.10 What is the identified need for gypsy and traveller sites over the plan period? The LP refers to the inclusion of a new traveller site as part of the Elizabeth line development – it is recommended that consistency is applied to the naming of this site throughout the LP.
- 6.11 Does the gypsy and travellers accommodation assessment (2016) (SED23) provide a realistic assessment of the needs of the gypsy and traveller community?
- 6.12 Do policies S.H1 and D.H2 provide sufficient support to the role and function of the Barkantine, Kingsbridge, Samunda and St Johns Estates in terms of existing housing provision?
- 6.13 How have the Council considered the needs of people residing in the borough with respect to the provision of places where inland waterways can be moored? In what way does the LP reflect the locations highlighted as appropriate within the Tower Hamlets Water Space Study (SED43)?

Matter 7: Employment & Economic growth

Issue 7 - Are the policies justified, deliverable and consistent with national policy? Are the site allocations proposed by the LP in relation to employment and economic growth clearly justified and appropriately defined?

- 7.1 Is the overall amount of employment provision and its proposed distribution consistent with the evidence base?
- 7.2 Is the job growth target informed by robust and up to date evidence? In what way does the target relate to the planned level of housing growth?
- 7.3 What evidence is there to support the approach to designated employment locations adopted by policy S.EMP1 – how will the policy be implemented effectively?
- 7.4 Are the proposed employment locations which have been identified by policy S.EMP1 the most appropriate when considered against all other reasonable alternatives?
- 7.5 Has sufficient land been identified to meet the short and long term employment needs of the borough over the plan period?
- 7.6 Is policy D.EMP4 consistent with paragraph 22 of the NPPF in terms of the context of the long term protection of allocated employment sites?
- 7.7 Which policy addresses the protection of the Strategic Industrial Locations (SIL)?
- 7.8 Policy D.EMP2: 4 refers to at least 10% of new employment floorspace to be provided as affordable workspace. The supporting text at para 5.24 refers to letting the space at least 10% below the indicative market rate for a period of at least 10 years. Are the thresholds reasonable? What evidence is there to support this approach? Will it be effective in implementation?
- 7.9 Is the scope of defined employment uses sufficiently clear or should a definition be provided with the glossary?
- 7.10 Part 3 policy D.DH2 – does this policy adequately address the letter from the Government’s Chief Planning Officer to Local Authority Chief Executives dated 12 July 2017 in relation to crime prevention security?
- 7.11 Policy D.EMP3 - this policy refers to an active marketing period of 24 months. Is this figure justified and what is the evidence to support this approach? Is the policy sufficiently flexible?
- 7.12 Does policy D.EMP4 provide sufficient flexibility in terms of redevelopment within designated employment areas?

Matter 8: Heritage, Design and Tall Buildings

Issue 8 – Does the LP take a justified and suitable evidence based approach to heritage, design and tall buildings? Is the LP consistent with national policy in relation to these matters and will it be effective in implementation?

- 8.1 Are the policies relating to heritage, design and tall buildings sufficiently positive, clear and consistent with both the London Plan and national policy objectives?
- 8.2 Are the criteria of policies S.DH1 and D. DH2 effective and sufficiently flexible to secure high quality design?
- 8.3 In the context of policy S.DH1, does an explanation need to be provided regarding bullet point h? How will bullet point i be measured?
- 8.4 In relation to Policy D.DH6 –Is the policy wording as currently drafted specific and effective?
- 8.5 Policy D.TC5 – does the scope of this policy need to be extended to incorporate cultural event space? How does the policy as currently drafted address this issue?
- 8.6 Is policy D.DH4 supported by a robust evidence base?
- 8.7 Is policy D.DH6 sufficiently clear, capable of effective implementation and consistent with national policy and guidance? Is the policy supported by a robust evidence base?
- 8.8 At present, the definition provided of a tall building at paragraph 3.64 is inconsistent with the glossary term provided at appendix 6, page 281. Is either definition used consistent with the London Plan? I request that the Council ensure there is a consistency in the approach to the terminology used.

Matter 9: Retail, Markets and Community Facilities

Issue 9 – Are the retail, markets and community facilities policies justified, deliverable and consistent with national policy?

- 9.1 Is the approach to retail provision over the plan period within the borough sufficiently robust and in accordance with the London Plan?
- 9.2 What evidence is there to support the threshold levels set in connection with primary and secondary frontages as defined by policy D.TC2 and para 6.21 (page 101)?
- 9.3 Is the approach to hot food takeaways (policy D.TC5, 3 a-e) reasonable and justified? Will it be effective?

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- 9.4 In relation to policy D.TC6 – where is the evidence to support the Council’s view that an over concentration of hotel use in town centres can be harmful? Is the policy wording at present sufficient to address this concern and where is the justification for including a need requirement for this town centre use?
- 9.5 In relation to policy S.TC1 and table 4, the Council has provided a response to my initial query in relation to the retail floorspace requirements identified by the policy. The Council is requested to provide a detailed response to this point including the revised table which it has referred to in its letter of 15 May 2018.
- 9.6 Policy D.TC7 3 a refers to supporting markets of a temporary nature outside of town centres, how do the Council propose that temporary is defined? Is the policy sufficiently clear in this regard?
- 9.7 In relation to the Crossharbour District Centre – is the wording in paragraph 10, page 221 precise enough?
- 9.8 There is confusion throughout the LP regarding the use of ‘town’ centres and ‘district’ centres. Para 2.6 (page 27) refers to development being focused within designated town centres as outlined by policies S.TC1 and S.TR1. Even though both town and district centres as defined within the glossary, the LP makes no such designation within the policies map. As such, the definition provided within the glossary is incorrect. The Council should consider a consistent approach to the terminology and classification of its centres throughout the LP.
- 9.9 Is the approach to Markets as identified by policy D.TC7: Markets justified and effective?
- 9.10 The LP is inconsistent as to whether Canary Wharf is a higher order ‘*Metropolitan Centre*’ rather than a ‘*Major Centre*’, having regard to the Town Centre classifications in the London Plan. Policy S.SG1 defines it as a metropolitan centre (there is no definition in the glossary although 2.13 page 28 contradicts this). The retail chapter appears to define it as a major centre. The London Plan is clear that the Canary Wharf should develop as a metropolitan centre and indeed the draft London Plan classifies the centre as a metropolitan centre. How does the LP address this issue? If the intention is to support and facilitate this designation should this be acknowledged in the table at page 93 policy S.TC1?
- 9.11 The Council advises they will review all town centres boundaries on an annual basis to reflect changes or extensions – what mechanism will be used to implement these changes annually?
- 9.12 The retail study suggests a number of recommendations in terms of specialist leisure designation and the designation of Redchurch Street and Columbia Road as specialist retail areas, which may benefit from designated primary shopping frontages. What is the rationale behind the selection of the recommendations put forward in terms of the retail hierarchy review para 1.15, page 7 executive summary? The LP as drafted defines it as a neighbourhood centre with
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individual characteristics (para 6.15). What does this mean in practical terms?
Is policy D.TC2 sufficiently clear and effective in this regard?

9.13 Is policy S.CF1 positively prepared, justified by the evidence base and consistent with national policy?

9.14 What is the rationale for the separate policy approach to indoor sports and leisure facilities (policy S.CF1) and policies S.OWS1 and D.OWS3 which deals with playing fields and outdoor sports provision? Is this approach justified and effective?

9.15 Is policy D.CF3 sufficiently flexible to ensure implementation?

Matter 10: Site Allocations

Issue 10 - Are the Site Allocations justified by the evidence base and of sufficient detail so as to be effective in delivery?

10.1 In relation to all of the proposed site allocations contained within City Fringe, Central, Lower Lea Valley, Isle of Dogs and South Poplar:

- Are the criteria in the allocations policies necessary, relevant and deliverable?
- Is the allocation justified by the evidence base?
- Is the extent of each site correctly identified?
- Are the detailed requirements for each site clear and justified?
- Are the allocated sites deliverable?
- Are the allocations justified and effective? Have all of the site constraints/aspirations been taken into account?
- What has informed the figures and layouts provided for each site allocation? To what degree do they accurately reflect any extant planning permission?
- Is the overall scale and mix of development proposed for each site justified?
- In order to provide a comprehensive response for each of the site allocations, it is requested that the Council respond to each of these bullet points above individually for each site allocation. All responses should be supported by reference to the evidence base as appropriate.

10.2 What is the purpose of the summary icons presented at paragraphs 2.4, 3.4, 4.5 and 5.5?

10.3 Site allocation 1.3 – does the allocation recognise adequately the heritage assets affected?

10.4 Site allocations 2.1 and 3.2 – How does the viability work undertaken and the conclusions reach impact on the infrastructure delivery included within the site allocations?

- 10.5 Site allocation 3.1 – does the allocation recognise the capacity of the water network in this location? What evidence is there to support the retention of the safeguarded waste site? Does the safeguarding reflect policy 5.17 G of the London Plan?
- 10.6 Site allocation 4.7 – how does the viability work and conclusions reached impact on affordable housing delivery?

Matter 11: Transport, Monitoring and Other Matters

Issue 11 - Does the LP set out a clear framework for monitoring the implementation of the policies? Does the LP adequately address transportation issues across the borough?

- 11.1 Is the approach to transportation matters justified and effective? Is the approach adopted accepted by Transport for London?
- 11.2 How will the effectiveness of the LP and its policies be measured and assessed?
- 11.3 Will the mechanisms set out in Part 5 of the LP in relation to monitoring and delivery be effective? Should Part 5 of the LP include timescales to assist monitoring? Would this measure assist in being able to assess policy effectiveness?

Christa Masters

Inspector