

Examination of the Tower Hamlets Local Plan

London Borough of Tower Hamlets

Response to Main Matter 3

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?

3.1.1 Yes. The evidence base of the LP tested the viability of 14 site allocations. Of the 14 site allocations tested, 3 were identified as unviable in the Local Plan Viability Assessment (SED5) i.e. they cannot on a current day basis viably accommodate the cumulative impact of the proposed policies. Since the draft LP was submitted to the Planning Inspectorate, one further site (Marian Place Gas Works – allocation 1.3) has been identified as unviable. For more information, please refer to the statement of common ground relating to this site (SCG13). In terms of the other sites identified as unviable, please refer to the Local Plan Viability Assessment (SED5) for reasons. In terms of how these sites are deliverable, please refer to the responses to questions 10.4 and 10.6 of the inspector's main matters.

3.1.2 In order to ensure the deliverability of those sites which the viability assessment indicated couldn't on a current day basis viably accommodate the cumulative impact of the proposed policies, it has been agreed with the owners of three of the four unviable sites (the Leven Road, Marian Place and Bow Common gas works sites) that the following proposed modification (MJM26) will be included in the introductory section of the 'Delivering sustainable places' section of the LP:

When determining a planning application, flexibility may be applied to the site allocation requirements based on an up-to-date assessment of need and the agreed viability position of the scheme to ensure the site allocation is deliverable in the context of the principles of sustainable development.

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?

3.2.1 Yes, specific testing of the site allocations has been undertaken. The testing undertaken reflects the nature and circumstances of the proposed allocations in the following ways:

- Site specific costs: Sites have been assessed in terms of the extent to which they might be subject to abnormal costs. For example, the tests undertaken on the gas works sites have accounted for the costs of land remediation.
- Site capacity: Site capacity is formed with reference to the London Plan density matrix. In addition, engagement with relevant officers in the development

management service with site specific knowledge has taken place to refine and sense check site capacities applied.

- Values achievable: The values applied in the viability testing reflect local circumstances and have been established using comparable evidence of local transactions.

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)?

3.2.2 Yes, the viability testing undertaken is underpinned by the following:

Costs: the cumulative costs of development including policies that will apply to housing development following the adoption of the new LP have been accounted for. The Local Plan Viability Assessment (2018) (SED5) sets out the results of testing in an iterative manner, specifically accounting for the following costs:

- Base build costs (this is a blended rate that takes account of the combined cost of delivering market and affordable housing).
- CIL (Tower Hamlets) and the Mayor of London's CIL.
- Section 106 costs levied under the Planning Obligations Supplementary Planning Document (SED8).
- The cost of providing on-site sustainable urban drainage systems.
- The cost of meeting our carbon reduction policy.

Values: The values assumed account for the value of market tenure housing and the value of affordable housing required under the borough's tenure mix. This has involved using the rents chargeable under the Social Target Rent (London Affordable Rent), Tower Hamlets Living Rent and London Living Rent tenures and converting them into a capital sum that can be imported into the appraisal. The testing also establishes a capital sum from the sale of shared ownership housing.

3.2.3 It is worth noting that the Local Plan Viability Assessment has also viability tested "private rented sector" housing. The viability testing takes account of the unique characteristics of this type of housing – the approach taken is described more in Local Plan Viability Assessment (SED5).

Does the evidence base demonstrate that such costs would not threaten the delivery of the housing planned for?

3.2.4 Yes. The cumulative impacts of the costs of the policies in the emerging LP have been rigorously tested, shown to not place the implementation of the plan at serious risk and will facilitate development through the economic cycle.

3.2.5 The results of the viability testing undertaken indicate that the borough's strategic affordable housing target of 35% - 50%, as described in strategic policy S.H1 of the LP remains a reasonable position. The testing indicates that there is a sufficient extent of viable outcomes to conclude that the adoption of the policies is supported by the evidence and will not put the scale of housing in the emerging plan at risk, providing the flexibility envisaged in policies S.H1 and D.SG5 (i.e. subject to viability) follows through into the adopted plan.

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:

3.3.1 The Infrastructure Delivery Plan (SD11) (IDP) provides an assessment of the infrastructure required to support the existing and planned levels of growth set out in

the LP up to 2031. In particular, it draws together the latest evidence and information from internal and external stakeholders who are involved with delivering infrastructure (including Transport for London, London Legacy Development Corporation, Greater London Authority and registered providers to determine current and future infrastructure need. These include:

- benchmarks of need (e.g. sports facility calculator and the Greater London Authority school roll projections);
- strategic housing market assessments (e.g. Tower Hamlets and GLA);
- the GLA's population forecasts; and
- the borough's housing and population projections.

3.3.2 The IDP also includes projections on future community infrastructure levy (CIL) collection levels to indicate the level of funding which may be available to underpin the successful delivery of the infrastructure which is necessary to support the levels of growth outlined within the LP.

3.3.3 Using the growth projections and benchmarks on infrastructure provision provides the ability to understand what the future pressures on infrastructure need are likely to be. Using the projected CIL income and subtracting this from the total project cost means that it is possible to determine what the infrastructure gap is.

3.3.4 Each chapter of the IDP includes a detailed review of other relevant plans and strategies (including the existing London Plan, Core Strategy and Managing Development Document and relevant supplementary planning guidance) to establish the baseline position in relation to different types of infrastructure as well as proposed infrastructure projects and programmes.

3.3.5 In addition, a number of evidence base studies have been prepared to inform both the LP and the IDP, based on detailed assessments of future infrastructure needs and requirements, including:

- Strategic Transport Assessment (SED61);
- Indoor Sports Facilities Strategy (SED38);
- Open Space Strategy (SED39);
- Playing Pitch Assessment (SED40); and
- Green Grid Study (SED42).

3.3.6 Projects have also been identified through using evidence on school place projections, transport modelling etc.

3.3.7 As part of the engagement process, information has been collated from infrastructure providers, developers, landowners and other stakeholders on the estimated phasing and costs of the infrastructure projects which are necessary to ensure the effective delivery of the LP (see chapter 7 of the IDP). The IDP also indicates how this infrastructure will be funded and provided.

3.3.8 The evidence that feeds into the IDP will be reviewed and updated annually so that decisions on allocating funding for projects can be undertaken with up-to-date information on need and thus infrastructure delivery will have the ability to adapt to the rate of development and future changes to market conditions (a list of potential triggers to review the LP is provided in paragraph 6.1 in section 5 of the LP). For instance, the borough faces significant challenges and opportunities after 'Brexit'; at this stage, it is unclear what impact this will have, but it could result in the slowing of development delivery and the rebalancing of infrastructure investment and priorities.

3.3.9 We will continue to work with infrastructure and service providers on a regular basis to ensure that necessary updates can be made to the IDP to reflect changing needs, priorities and circumstances (e.g. capacity forecasts and demands).

3.3.10 The Annual Monitoring Report will provide the opportunity to track the delivery of infrastructure over the course of the plan period to ensure it comes forward in a timely and comprehensive manner and meets the targets and indicators set out within the LP. As set out in section 5 of the LP, there will also be regular monitoring of the delivery of key infrastructure projects set out within the IDP. The IDP will also feed into any review of the LP (see paragraph 6.2 in section 5) to ensure that its targets and indicators remain relevant and up-to-date.

3.3.11 An infrastructure phasing plan has been developed in response to the inspector’s preliminary letter setting out a detailed list of all the relevant infrastructure requirements on a site by site basis (including individual allocations and windfalls) which are critical to the delivery of the growth targets and housing trajectory set out in the LP (see LBTH/LP/002A). The schedule provides a summary of the anticipated phasing and timing of development. An updated version of this schedule is provided at appendix 5.2 of this statement.

What are the key infrastructure requirements for the successful delivery of the housing planned?

3.3.12 The key infrastructure requirements which are required to support the successful delivery of the borough’s housing target and the objectives of the LP (2016-2031) depends are outlined in sections 2 and section 3 of the LP. These have been derived from the evidence set out in the Infrastructure Delivery Plan and other relevant studies (see paragraph 3.3.5 above).

3.3.13 The overall infrastructure requirements outlined within the site allocations (as outlined in section 4) over the LP period (2016-2031) are as follows:

Key infrastructure requirements	Site allocations
<ul style="list-style-type: none"> • 2-4 community/local presence facilities 	<ul style="list-style-type: none"> • Bishopsgate Goods Yard (1.1) • Crisp Street Town Centre (2.2) (re-provision) • Crossharbour Town Centre (4.3) • Wood Wharf (4.3) (secured through planning permission)
<ul style="list-style-type: none"> • 1 leisure facility and upgrades to existing facilities 	<ul style="list-style-type: none"> • Bishopsgate Goods Yard (1.1)
<ul style="list-style-type: none"> • 4 secondary schools (plus the identification of additional land in the event that the other sites are not delivered) 	<ul style="list-style-type: none"> • London Dock (1.2) • Bow Common Gas Works (2.1) • Leven Road Gas Works (3.2) • Billingsgate Market (4.2) • Westferry Print Works (4.12)
<ul style="list-style-type: none"> • 5-6 primary schools (plus the identification of additional land in the event that the other site are not delivered) 	<ul style="list-style-type: none"> • Ailsa Street (3.1) • Crossharbour Town Centre (4.3) • Limeharbour (4.4) • Marsh Wall East (4.5) • Marsh Wall West (4.6) (secured through planning permission) • Millharbour South (4.7) • Millharbour (4.8) (secured through planning permission) • Reuters (4.10) • Wood Wharf (4.13) (secured through planning permission)
<ul style="list-style-type: none"> • 5-6 health facilities 	<ul style="list-style-type: none"> • London Dock (1.2) (secured through planning permission) • Whitechapel South (sexual health clinic) • Crossharbour Town Centre (4.3) (re-provision and expansion of existing) • Marsh Wall East (4.5) • Marsh Wall West (4.6) • Millharbour South (4.7) • Wood Wharf (4.13) (secured through planning permission)

<ul style="list-style-type: none"> • 220 hectares of open space 	<p>Provision of a minimum of 13 hectares of open space through site allocations:</p> <p>Strategic open space:</p> <ul style="list-style-type: none"> • Bishopsgate Goods Yard (1.1) • Marian Place Gas Works and The Oval (1.3) • Whitechapel South (1.4) • Bow Common Gas Works (2.1) • Leven Road Gas Works (3.2) • Aspen Way (4.1) • Limeharbour (4.4) • Westferry Print Works (4.12) • Wood Wharf (4.13) <p>Small open space:</p> <ul style="list-style-type: none"> • London Dock (1.3) • Ailsa Street (3.1) • Billingsgate Market (4.2) • Marsh Wall East (4.5) • Marsh Wall West (4.6) • Millharbour South (4.7) • Millharbour (4.8) • North Quay (4.9) • Reuters (4.10) • Riverside South (4.11)
--	---

3.3.14 Each of these requirements is listed within the IDP as an individual infrastructure project. These projects and initiatives provide an overview of how infrastructure needs will be addressed across the borough.

3.3.15 Where windfall sites come forward as part of the development management process, an assessment of what infrastructure can be provided on site will be undertaken and suitable measures will be taken to secure its provision in line with policies S.SG1 and D.SG3 of the LP.

3.3.16 Appendix 5.2 sets out in more detail the key infrastructure requirements that are needed to support the housing trajectory set out in the LP over the course of the plan period.

What reassurances are there that these elements can and will be delivered when and where they are needed?

3.3.17 The National Planning Policy Framework (NPPF) defines the approach to addressing the provision of infrastructure, stressing the importance of setting out strategic policies in local plans to deliver (amongst other things):

- the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management;
- the provision of minerals and energy (including heat); and
- health, security, community and cultural infrastructure and other local facilities.

3.3.18 The NPPF also outlines that the LP should positively plan for the development and infrastructure required in the area and ensure that there is a reasonable prospect that planned infrastructure is deliverable in a timely fashion.

3.3.19 The requirements of the NPPF are embedded within the LP, in particular policies S.SG1 and S.SG2 which seek to ensure that sufficient infrastructure is provided in the right locations at the right times to support future growth. Policy D.SG5 of the LP sets out the mechanisms through which developers and landowners will be expected to contribute towards meeting the additional infrastructure needs arising from new development, as set out within section 4 of the LP.

- 3.3.20 The IDP identifies the infrastructure and services that will be required to meet the anticipated growth targets and objectives set out in the LP. It is not an exhaustive list and other items will be required, as appropriate, in response to new development in the borough.
- 3.3.21 The IDP sets out a schedule of key infrastructure projects across different types of infrastructure based on the short, medium and long term timescales. However, it is recognised that those projects that are due to come forward in the short term (i.e. within the first five years of the plan period) have greater certainty in terms of delivery timescales and the accuracy of the information. As part of the annual review, project timescales will be updated to ensure that planned infrastructure is delivered in a timely fashion.
- 3.3.22 Site allocations (as outlined in section 4 of the LP) will be the main mechanism through which infrastructure will be delivered within the borough. The long lead-in times associated with the delivery of infrastructure means that the site allocations will need to be carefully phased and planned to ensure new development comes forward with infrastructure at the right time in the right place. Appendix 5.1 sets out a phasing programme which indicates when and where infrastructure will need to be provided to support the delivery of the borough's housing target over the plan period.
- 3.3.23 Existing infrastructure deficits in areas where significant growth is not expected to occur will still need to be addressed and the LP has robust policies in place which seek to retain and improve existing infrastructure (for example, policies S.CF1 and S.OWS1).
- 3.3.24 The LP is also flexible enough to take account of the implications arising from any uncertainty or delay to the delivery of key infrastructure and housing during the plan period. Where policies are not being implemented, section 5 of the LP sets out a contingency plan to deal with unforeseen events and risks, such as infrastructure constraints and economic downturns. Such measures include:
- reviewing the mechanisms through which developers fund or contribute towards infrastructure (e.g. CIL and section 106 agreements) and mitigating the effects arising from development;
 - developing further working relationships with various partners across the public, private and voluntary sectors to look at ways to facilitate implementation, including potential alternative forms of funding;
 - holding discussions with developers and landowners to identify barriers to delivery; and
 - reviewing capacity forecasts (projections) to make sure they reflect up-to-date guidance and any future changes to population and household growth.
- 3.3.25 Sections 4 and 5 of the LP also outline specific measures to ensure that infrastructure is delivered and coordinated in a timely fashion. These include:
- requiring developers to set aside land within each site allocation to accommodate different types of infrastructure (e.g. new schools, open space, green grid connections such as bridges and the expansion and redevelopment of existing facilities such as health centres);
 - encouraging early engagement on planning applications to address issues and challenges;
 - working with developers and infrastructure providers to develop masterplans and relevant guidance to coordinate the delivery of key development sites;
 - establishing effective delivery mechanisms, such as housing zones and town centre forums; and
 - requiring developers and landowners to work together to facilitate potential land assembly and comprehensive development due to multiple ownership issues (see site allocations 1.3, 2.2, 3.1, 4.5, 4.6 and 4.8).

- 3.3.26 A number of the infrastructure projects/requirements set out in the plan will be financed through developer contributions which will be collected through the Community Infrastructure Levy (CIL) and/or section 106 agreements. The council has plans to renew its CIL Charging Schedule and earlier in 2018 undertook a consultation on a preliminary draft charging schedule. Once the planning policy context against which the new charging schedule is set has been clarified, we will undertake a consultation on the draft charging schedule, following the scheduled hearing sessions. The updating of the CIL Charging Schedule and the fact that it will be actively seeking other funding sources will help ensure that the infrastructure requirements are delivered on time and in the places they are needed.
- 3.3.27 However, it is clear that developer contributions alone will not be sufficient to fund all the infrastructure requirements set out in the LP. The scale of growth projected in Tower Hamlets means that the vast majority of funding towards infrastructure will need to come from sources other than CIL.
- 3.3.28 The current identified infrastructure funding gap (based on the best available information as of October 2017) is only a snapshot of the current situation. We are proactively exploring other possible options to fund the delivery of infrastructure projects (see section 5 of the LP and sections 2 of the Infrastructure Delivery Plan). This includes:
- recent bids to the Mayor of London from the Housing and Infrastructure Fund and the Good Growth Fund;
 - housing delivery vehicles (e.g. Poplar Riverside Housing Zone);
 - utilising crowdfunding sources; and
 - setting up business improvement districts.
- 3.3.29 The monitoring framework of the LP (table 10) includes a series of targets and indicators to monitor the effectiveness of the policies such as developer contributions (a breakdown of CIL and section 106 funds spent on projects) and delivery of major infrastructure (e.g. open space and social infrastructure). Progress towards infrastructure delivery will be regularly monitored through the Annual Monitoring Report.

Has the cost of these infrastructure elements been estimated, and funding sources identified?

- 3.3.30 Chapter two of the Infrastructure Delivery Plan (SD11) provides details on the current infrastructure funding position, which includes a breakdown of the total cost of projects by infrastructure type, the percentage of the total cost of all projects that have been costed and also highlights the number of projects that are un-costed. It also provides further analysis of current and projected developer contributions: combining section 106 and CIL monies with the capital grant funding sources (which have been identified) and then subtracting this from the total infrastructure cost has allowed us to calculate an up-to-date infrastructure funding gap. Each chapter includes a summary of the information collected on each project from infrastructure providers has been provided including project cost, type of funding (CIL/section 106 agreements) and funding sources, where known.
- 3.3.31 The funding projections set out in the IDP have been derived from our adopted capital investment programme (2017/18-2020/21), business plans (e.g. Transport for London) and CIL/section 106 monies.
- 3.3.32 The annual update of the IDP will provide the opportunity to refine the cost of projects and improve the level of detail of the funding required to deliver projects.
- 3.3.33 Further details (including the mechanisms through which developers will be expected to contribute towards meeting the additional infrastructure needs arising from new development) are outlined in policy D.SG5 and section 5 of the LP.

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?

3.3.34 The LP identifies nine primary and five secondary school site allocations. These site allocations address the need for statutory school places. Primary sites are located where the majority of housing will be focused, as per policy S.H1. Secondary sites are planned on the basis of borough-wide need as pupils are expected to travel further and sites are more strategic.

3.3.35 The designation of each site allocation must be responsive to the identified need for school places at the time when the site is delivered. Based on the Spatial Assessment Need for Schools (SED72) and indicative delivery timescales, school places will be delivered as follows:

Primary schools		
Where (primary school catchment area)	When	How (site allocations available to deliver places)
Isle of Dogs	2022/23	Wood Wharf*†, Marsh Wall West*, Millharbour*
Isle of Dogs	2024/25	Millharbour*, Crossharbour Town Centre, Limeharbour
Poplar	2024/25	Ailsa Street, Reuters
Isle of Dogs	2026/27	Limeharbour, Marsh Wall East, Millharbour South
Poplar	2029/30	Ailsa Street, Reuters
Isle of Dogs	2030/31	Limeharbour, Marsh Wall East, Millharbour South

Secondary schools	
When	Where/how (site allocations available to deliver places)
2018/19 to 2021/22	Existing school expansions
2021/22 to 2025/26	London Dock*, Westferry*, Leven Road Gas Works
2026/27 to 2030/31	Bow Common Gas Works, Billingsgate Market

* Site allocations with planning permission.

† Wood Wharf is located just on the boundary of the Poplar and Isle of Dogs catchment areas and would be more accessible to families in the Isle of Dogs catchment. The catchment areas are reviewed annually and may be revised in line admissions and journey patterns.

3.3.36 Our approach to school place planning must be responsive and resilient to changing levels of need in the borough throughout the plan period:

- Pupil projections are updated regularly, but can be volatile with significant changes in migration trends, particularly over the longer-term.
- There will continue to be significant demographic change in Tower Hamlets in the context of Brexit.
- Tower Hamlets has an increasing proportion of children with complex needs as evidenced by it having one of the highest proportions of pupils with Education, Health and Care Plans in the country. Some of these pupils will require specialist or alternative education provision.
- The GLA's assessment of the Isle of Dogs and South Poplar opportunity area indicates that housing densities could be much higher than assumed.
- The number of school places at existing schools is subject to change, for example an existing school expanding, a new provider opening a school or a school closing.
- In addition to ensuring that there is sufficient provision to match projected demand, the Tower Hamlets education estates strategy will explore opportunities for schools to improve their accommodation and facilities.

3.3.37 The LP defines early years settings to include children of pre-school age (0-4 years). Such facilities are addressed through the following policies.

3.3.38 Policy D.CF3 (see parts 3 and 4) supports the provision of education facilities at early years in appropriate locations, where they meet local need and demonstrate high quality

and inclusive design in line with the relevant guidance from the Department for Education, Sport England and other relevant national governing bodies. For instance, suitable locations for early years provision could include the ground floor of residential blocks or secondary frontages in existing town centres (see paragraph 7.21 of the supporting text). There are also opportunities to deliver early education facilities along active frontages, especially within the proposed site allocations (see section 4).

- 3.3.39 Policy D.EMP2 requires new employment space to meet the needs of potential end users and this could be through the provision of childcare facilities.
- 3.3.40 In Tower Hamlets, all primary, infant and nursery schools which provide early education to children aged 3-4 are funded via the childcare entitlements. For private voluntary and independent childcare, we have not specifically allocated sites for early years facilities, due to the fact that they are a diverse and volatile business market that cannot be managed and maintained in the same way that school places are. New provision for early years will be managed through the Childcare Sufficiency Assessment (SED73).
- 2.3.41 In the Isle of Dogs and City Fringe, provision of early education is largely dependent on private sector providers. In these locations, developers have sought to incorporate early year school facilities, such as nurseries and crèches, as part of comprehensive mixed-use schemes, especially where it supports the needs of different groups, including the local workforce.
- 3.3.42 Early education and care is a complex area involving different types of private businesses and a range of educational institutions. Whilst schools are fairly consistent in their places offer, private childcare businesses respond to parental needs and their figures fluctuate greatly depending on the time point when the data is collected. For example, the data for two year olds accessing a place 2016-17 ranged from 453 (23%) to 1,063 (54%). In July 2018, the figure was 888 (44%). The factors causing these large differences are parental choice and business choice. The volatility of private childcare means that figures for places, occupancy and settings change significantly across the year.

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?

- 3.3.43 The emerging LP acknowledges the interrelationship between development and the additional pressure on infrastructure. The broad infrastructure challenges facing the borough over the plan period (2016-2031) are set out within sections 2 and 3 of the LP (see chapters 1 and 3) which sets out an expectation that growth will need to go hand-in-hand with the delivery of infrastructure provision to address current and future needs, taking account of cumulative impact of future development, especially in deficient areas.
- 3.3.44 In response to this challenge, there are a number of policies which together deliver a clear and effective framework for securing the necessary infrastructure or other obligations to mitigate the effects of development or support development. These are set out below.
- 3.3.45 Policies S.SG1 and S.SG2 of the LP set out the overall strategic approach to delivering infrastructure and services across the borough. Under policy S.SG1, development is required to demonstrate how it will address the priorities and principles relating to infrastructure and development within the four sub-areas of the borough: City Fringe, Central, Isle of Dogs and South Poplar and Lower Lea Valley. Specific infrastructure priorities include:
- improvements to the transport network, such as public transport schemes (see policies S.TR1 and S.OWS1);

- green grid projects, such as new cycle and pedestrian routes and bridges (see policies S.OWS1, D.OWS2 and D.OWS3 and section 4); and
- social infrastructure, such as publically accessible open space, schools, health centres and leisure facilities (see policies S.SG1, S.OWS1 and D.CF3 and section 4).

3.3.46 Policy S.SG2 outlines the ways in which development will be expected to contribute to the principles of sustainable development (for example, it delivers social and transport infrastructure and public realm improvements which are inclusive and accessible to all) and mitigate the impacts of development.

3.3.47 Policy D.SG5 seeks contributions from developers to fund improvements to infrastructure which are necessary to support or mitigate development. Developers will be expected to pay community infrastructure levy charges (based on the Regulation 123 List and/or the Mayor of London's charging schedule) or enter into section 106 agreements to mitigate the impacts of the development and address site specific infrastructure requirements, where necessary or appropriate. As part of the planning application process, we will work closely with developers and landowners to ensure that design and mitigation requirements are delivered as part of the development proposal (see chapter 2 of the Planning Obligations Supplementary Planning Document (SED8) and section 5 of the LP).

3.3.48 Policy D.DH7 states that residential development exceeding the density guidelines set out in the London Plan must demonstrate that the cumulative impacts of the proposed development have been considered and do not give rise to any unacceptable impacts. For the purpose of this policy, unacceptable impacts are those resulting from a level of development that is excessive in terms of demand on infrastructure and services, or the impact on local amenity and character that cannot be mitigated.

3.3.49 Policy S.TR1 states the development that increases demand without appropriate mitigation including infrastructure contributions to service improvements and/or delivering effective modal shift in transport will not be supported.

3.3.50 In relation to the site allocations, development will be required to deliver the identified land uses, infrastructure requirements, design principles and delivery considerations set out in section 4 of the LP.

3.3.51 Progress on the delivery of these policies will be reviewed and monitored through the Annual Monitoring Report to make sure that sufficient infrastructure comes forward to meet the growth targets and objectives set out in the monitoring and delivery framework of the LP. The report will also provide a list of all the projects/infrastructure requirements which have been delivered.

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.

3.4.1 We have entered into a statement of common ground with Thames Water (see SCG14) and it is agreed that details regarding the scale and density of developments within all site allocations within the LP will be addressed through the development management process. We will continue to consult and work with Thames Water to ensure that developments do not have significant detrimental impacts on the water network. Thames Water has agreed that overall they have no objections in relation to the site allocations.

3.5 Is policy D.SG5 concerning developer contribution sufficiently clear and robust?

- 3.5.1 Policy D.SG5 of the LP provides clear guidance for applicants regarding expectations in relation to developer contributions. In April 2015, the borough adopted a local Community Infrastructure Charging Levy (CIL) which applies to development in the borough. In addition, the Mayor of London adopted his CIL Charging Schedule in April 2012 to contribute towards the costs of delivering the Crossrail project. It is therefore necessary for the policy to reflect these levies (part 1a) as well as the continued operation of section 106 contributions for site-specific mitigation in line with the borough's adopted Planning Obligations Supplementary Planning Document and affordable housing contributions in accordance with the affordable housing policies in the LP. The policy is clear that site-specific mitigation and affordable housing contributions will only be sought 'where necessary and appropriate' (part 1b) i.e. making it clear that some sites won't have to provide affordable housing (i.e. non-residential developments). Part 1c provides a clear route through which developers, whose applications cannot meet policy and/or section 106 obligations, can evidence this and secure an agreed variation. Further guidance on our approach to development viability, is provided in the borough's Development Viability Supplementary Planning Document (2017) (SED9), which is referenced in supporting text at paragraph 2.43 – it is therefore clear where developers can find further guidance. It is important to note that this guidance is in alignment with the Mayor of London's Affordable Housing and Viability Supplementary Planning Guidance (2017) (SED22).
- 3.5.2 The contributions sought in the borough are done so in accordance with the CIL regulations and this is reflected in the policy and supporting text (see supporting text paragraph 2.40). It is therefore considered that this policy is in conformity with national policy and its inclusion is justified in order to meet national policy requirements.
- 3.5.3 It is considered that this policy is positively prepared in that it puts in place the mechanisms to meet objectively assessed needs for affordable housing (the need for which is evidenced in the Strategic Housing Market Assessment (2017) (SED17)) and infrastructure provision (the need for which is evidenced in the Infrastructure Delivery Plan (2018) (SD06)) required to deliver sustainable development, through CIL and section 106 contributions. The CIL and affordable housing contributions have also been levied at a rate which will not limit development, thus ensuring broader objectively assessed need for development can be met. See the *Local Plan Viability Assessment* (SED5). Finally, part 1c provides a positive mechanism to ensure the delivery of developments, even where there are viability constraints.
- 3.5.4 The response to question 3.2 above demonstrates that developer contribution requirements, which will be sought through CIL and section 106 agreements, are deliverable, as evidenced in the viability testing on the LP (SED5). In the limited circumstances where site specific constraints or requirements limit viability, part 1c provides a mechanism to ensure delivery. The deliverability of part 2 of the policy is addressed in the answer to question 3.6 of the inspector's main matters.
- 3.5.5 The approach to vacant building credit and its consistency with national policy is addressed in detail in the response to question 3.6 below. We are clear that it is justified in precluding the use of vacant building credit, given it is able to demonstrate that its application in the borough would be contrary to our ability to meet the housing delivery policies set out in the LP.
- 3.5.6 It is considered therefore that policy D.SG5 is sufficiently clear and robust in that it is in conformity with and justified by national policy and local need, is evidenced to be deliverable but provides sufficient flexibility to make provision for schemes with greater viability constraints. Finally, it is noted that there was significant support in favour of the policy (in particular part 1c) in the regulation 19 representations.

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?

National planning guidance

3.6.1 National planning guidance (PPG) (Paragraphs: 021 Reference ID: 23b-021-20160519 to Paragraph: 023 Reference ID: 23b-023-) describes what the vacant building credit ("VBC") is and sets out a process for determining it.

3.6.2 In considering how the LP should consider this guidance, Section 19(2)(a) of the Planning and Compulsory Purchase Act 2004 requires that:

In preparing a local development document the local planning authority must have regard to—

(a) national policies and advice contained in guidance issued by the Secretary of State...

We have therefore had regard to this guidance, but have given greater emphasis to the requirements of the NPPF (in particular the requirements described in paragraph 182 and 47) and the significant local evidence (described in paragraphs 3.6.12 to 3.6.24 below), and consider that we would not be able to accept the application of the VBC in the area and comply with paragraph 182 of the NPPF.

3.6.3 In addition, it is considered that the local authority should primarily have regard to the intention of the national policy. Given that the PPG, at paragraph 23, describes that the aim of VBC is to incentive brownfield development, the extent to which evidence directs that VBC will do this (in a particular location) is a material consideration, as is the effects of VBC on other development plan policies.

3.6.4 It is also considered that the PPG regarding VBC must also be seen in the context of paragraph 47 of the NPPF which requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period' (emphasis added).

3.6.5 Policy D.SG5 (part 2) of the LP acts upon the evidence available to the council (summarised below) that the local use of the national approach to VBC would not meet its own aim and would stifle other important development plan policies, in particular our ability to meet the full objectively assessed need for affordable housing.

London Plan

3.6.6 The adopted London Plan is silent on the matter of VBC. Policy 3.12A does state "*The maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed use schemes*". We have put forward evidence (below) to prove that the use of the VBC in Tower Hamlets would undermine the ability to deliver the objectives of this policy.

3.6.7 Policy H9 of the new draft London Plan states, with regards to VBC, that in "*most circumstances, its application will not be appropriate in London.*"

3.6.8 Part B of draft policy H9 confers power onto boroughs to decide whether the vacant building credit should be applied. It states "*In the limited circumstance where a borough feels the credit should be applied...*"

3.6.9 The supporting text to draft policy H9 refers to there being further guidance in the Affordable Housing and Viability Supplementary Planning Guidance (2017) (SED22). Paragraph 2.71 of this guidance states:

In London, the VBC is unlikely to bring forward more development. Brownfield land already delivers the majority of London's housing, and affordable housing requirements are already subject to viability testing, so affordable housing requirements are not preventing sites from coming forward. The policy could undermine key existing policies in the London Plan and Local Plans, which have been tested through examination in public, are based on robust evidence, and take account of the pressing need for affordable housing across London.

- 3.6.10 Our approach of proposing the adoption of its policy D.SG5 (part 2) is consistent with the matters described in paragraph 2.71 above. Paragraph 2.72 of the Affordable Housing and Viability SPG (SED22) is also relevant; it states:

To ensure that the VBC operates in a way that delivers the intention of policy and does not simply reduce the affordable housing requirement of schemes that would have come forward without the VBC (and thus reduce the ability to meet objectively assessed needs), this SPG provides guidance on application of the policy in London. Boroughs are also encouraged to reflect this approach in policy in their forthcoming local plans.

- 3.6.11 The final sentence of paragraph 2.72 encourages local authorities to include provisions in forthcoming Local Plans relating to the operation of VBC to ensure it does not result in the reduction of the affordable housing requirement of schemes. Our evidence (see below) indicates that any use of the VBC may result in the loss of affordable housing and as such the approach taken to part 2 of policy D.SG5 is the most appropriate approach we can take to adhere to this section of the SPG.

Evidence available

- 3.6.12 Paragraph 2.73 of the Affordable Housing and Viability SPG (2017) (SED22) states:

Decision makers are encouraged to take account of: the current need for affordable housing in London (both at the local and strategic level); the rate of past delivery against local and strategic targets; the requirement of the NPPF to seek to meet objectively assessed need; the fact that brownfield sites come forward for development without such an incentive; and the requirement in the NPPF to provide competitive returns to a willing land owner and willing developer which already addresses the issue of the impact of affordable housing requirements on viability.

- 3.6.13 Our approach to exempting the application of the VBC takes the matters described in paragraph 2.73, and others, into account (see below).

The fact that brownfield sites come forward for development without such an incentive

- 3.6.14 In London, development generally comes forward on brownfield sites. This is described in the London Strategic Housing Land Availability Assessment (SHLAA), of which paragraph 2.3 states (with reference to the SHLAA methodology):

This methodology is specifically tailored to suit London's dynamic land market, where 98% of housing is delivered on brownfield sites and where significant amounts of future capacity comes forward on sites which are currently in other active land uses.

- 3.6.15 Given the re-emphasis on VBC was only recently implemented, it is reasonable to assume that the 98% described applies to development where VBC has not been applied, clearly indicating that VBC is not required as an incentive to ensure brownfield development comes forward.

- 3.6.16 Furthermore, the majority of (if not all) development in Tower Hamlets comes forward on brownfield sites and VBC has never been applied. We recently undertook an analysis of all schemes providing 10 or more residential units granted (decision notice issued)

between the 1st April 2015 (which is when the borough's adopted CIL Charging Schedule came into effect) and the 29th March 2018. Of the 25 permissions analysed, it was found that every single site has operated in some other use and therefore constituted a brownfield site. This information is summarised in the table:

Reference	Site address	Land use of site at the point of planning application (as per application form)	Which benchmark is land use most similar to
PA/14/01246/A1	Enterprise Business Park, 2 Millharbour, London	Vacant, cleared site (since 1996)	4
PA/14/01946/EX	62-66 Cavell Street, London, E1 2JA	Vacant site with vegetation and hoarding at perimeter.	4
PA/14/03166/A1	Bethnal Green Mission Church, 305 Cambridge Heath Road, London, E2 9LH	Church/community centre	3
PA/14/03424/EX	281-285 Bethnal Green Road, London, E2 6AH	Warehouse	4
PA/14/03594/A1	Hercules Wharf Castle Wharf And Union Wharf, Orchard Place, London, E14	Class B1c/B2, B8	4
PA/14/03660/A1	219-221 Bow Road and 27-31 Payne Road, Bow, London E3	Vacant - previously warehouse, workshop, 2 x residential apartments and car parking	4
PA/15/00039/A1	Land At 160 To 166, Chrisp Street, London	"Industrial buildings"	4
PA/15/01789/A1	Site Bound by Raven Row, Stepney Way Sidney Street, London E1	Storage (B8) and temporary pop up sport facility	4
PA/15/02045/A1	221 Burdett Road, London, E3 4AR	Poor quality petrol filling station buildings and hardstanding	3
PA/15/02148/A1	Our Ladys Primary School, Copenhagen Place, London, E14 7DA	Vacant - formerly primary school	3
PA/15/02156/A1	Attlee House, Sunley House, Profumo House and College East, 10 Gunthorpe Street, London	Mixed use - office, advice services, residential and HMO	3
PA/15/02675/B1	Hertsmere House, 2 Hertsmere Road, London	The site is currently occupied by a four/five storey office building	1
PA/15/03073/B1	South Quay Plaza 4, Marsh Wall, London, E14	Vacant	4
PA/16/01041/A1	42-44 Thomas Road, London	Cash and carry (A1) and ancillary office space.	3
PA/16/01538/A1	34-40 Bow Road, London	Open amenity space associated with 34-40 Bow Road.	4
PA/16/01763/A1	Castle Wharf Esso Petrol Station, Leamouth Road, London, E14 0JG	Vacant suis generis petrol filling station	3
PA/16/02140/A1	Leven Wharf (known as Glaucus Works), Leven Road, London, E14 0LP	Vacant former industrial use (metal galvanisers)	4

PA/16/02605/A1	(Locksley Estate Site A) Immediately To The North of 86-144, Rhodeswell Road, London	An underused car park is located to the south of the site. An area of hard standing in the centre of the site is used to store site cabins and shipping containers used for building works in the area. To the north of the site are a group of mature trees surrounded by soft landscape.	4
PA/16/02789/A1	William Brinson Centre, 3-5 Arnold Road, London, E3 4NT	Adult day learning centre	3
PA/16/02842/A1	38-44 White Horse Road, 611-613 & 619-623 Commercial Road, Limehouse, London E1	Retail at ground floor with ancillary storage	3
PA/16/02878/A1	11-31 Toynbee Street and 67-69 Commercial Street, London	11 derelict commercial units	3
PA/17/00028/A1	62-66 Cavell Street, London, E1 2JA	Vacant site with vegetation and hoarding at perimeter.	4
PA/17/00254/A1	3-19 Caroline Street, London, E1 0JG	B8 (storage and distribution)	4
PA/17/00732/A1	Land Bounded By Watts Grove And Gale Street, London, E3	Vacant site previously used as open storage.	4
PA/14/03003/A1	24-26 Bow Road, London	Used car dealership with class B1(a) offices	3

The VBC and the requirement in the NPPF to provide competitive returns to a willing landowner and willing developer

3.6.17 Given the evidence presented above, that development in the borough already comes forward on brownfield sites, and in the context of policy D.SG5 and the Development Viability Supplementary Planning Document (SED9) which already provides a mechanism to overcome site specific delivery/viability constraints, it is considered VBC does not help meet the requirements to provide competitive returns to a willing landowner and developer.

3.6.18 The Local Plan Viability Assessment (SED5) considers the effect of VBC on the delivery of affordable housing and its interaction with the viability process (from paragraphs 6.19 to 6.30). Figures 6.25.1 and 6.25.2 (i)(ii)(iii) of the assessment demonstrates the effect of VBC generally. This effect is summarised in paragraph 6.26 which states '*the VBC reduces the quantum of floorspace from which local planning authorities can seek the provision of affordable housing.*' Paragraphs 6.26/6.27, in this regard, go onto state: '*In BNP Paribas Real Estate and the Council's experience there is no reliable correlation between the viability of schemes and the VBC policy mechanism which operates on net additional floorspace. The determination of a scheme's viability is more complex than this and varies from site to site and scheme to scheme.*

The VBC is identified to be a blunt tool, which has a tendency to go too far in reducing affordable housing in some schemes and does not go far enough in other schemes to ensure their viable delivery.'

3.6.19 Moreover, it concludes that VBC would only hinder our ability to meet its affordable housing need and target: '*Given the urban nature of the Borough and that the majority of sites that come forward for redevelopment are brownfield sites, which could be eligible for the VBC, this would have a significant impact on the Council's affordable housing supply.'*

- 3.6.20 Finally, paragraph 6.29 concludes BNP Paribas' position on the application of VBC in Tower Hamlets. It states *"we conclude that in Tower Hamlets the VBC policy is an inappropriate mechanism for delivering the maximum viable quantum of affordable housing as well as incapable of ensuring the delivery of schemes with more complex economic viability characteristics."*

The current need for affordable housing in London (both at the local and strategic level)

- 3.6.21 The Tower Hamlets Strategic Market Assessment (2017) (SED17) identifies the high need for affordable housing in the borough (45%) (as outlined in paragraphs 5.21 to 5.23). This echoes the London Strategic Housing Market Assessment (2014) which identifies a London-wide affordable housing need of 52% (table 1).

The rate of past delivery against local and strategic targets

- 3.6.22 As outlined in the Tower Hamlets Housing Delivery Strategy (2017) (SED26), past housing delivery against the London Plan set housing targets, when considered in light of normal market fluctuations, has been strong (see paragraph 5.1).
- 3.6.23 Paragraph 5.4 (of SED26) indicates that Tower Hamlets has delivered significant levels of affordable housing and has achieved a greater annual average delivery rate than the London three-year (2013/14 – 2015/16) average of 24%. However, against the affordable housing target established in the current Local Plan of 50% of overall delivery and a target of 35% - 50% on individual major schemes (10 units or more), the current 50% target has never been met and the 35% target has been missed in three of the past five years.
- 3.6.24 It is therefore clear from past delivery that overarching delivery of homes is extremely healthy against our London Plan targets. However, while affordable housing delivery is significantly stronger than average in London, it is still not reaching levels needed to meet objectively assessed need. The Housing Delivery Strategy evidences why further actions and policies are required to deliver more affordable homes, and not less.
- 3.6.25 In view of the healthy delivery rates and the under delivery of affordable housing, it is clear that VBC is not an appropriate tool within a Tower Hamlets context.

The requirement of the NPPF to seek to meet objectively assessed need

- 3.6.26 As outlined above, paragraph 47 of the NPPF requires local planning authorities to use their evidence base to ensure that their plan meets the full, objectively assessed needs for market and affordable housing in the housing market area...' (emphasis added). As evidenced in the Tower Hamlets Strategic Market Assessment (2017) (SED17), this involves the delivery of 3,097 homes a year (objectively assessed need for housing) which is below our London Plan housing target (3,931 homes per year) of which 45% needs to be affordable housing. Given we are delivering more housing than meets our need, but less affordable housing (see above), indiscriminately reducing the level of affordable housing delivered in each scheme is not required to increase overall delivery and would undermine the ability for the plan to deliver affordable housing and therefore this NPPF requirement.