
Examination of the Tower Hamlets Local Plan

London Borough of Tower Hamlets

Response to Main Matter 4

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?

- 4.1.1 The purpose of this policy is to ensure new developments do not contribute towards the worsening of air quality in the borough and that development users are not exposed to unacceptable levels of poor air quality, in line with the objectives of the Tower Hamlets Air Quality Action Plan (2017) (SED56).
- 4.1.2 Improving air quality is a national, regional and local priority reflecting increasing concern regarding poor air quality in cities and associated effects on human health. This is reflected in paragraphs 109 and 124 of the National Planning Policy Framework (which is explored in further detail below).
- 4.1.3 The Mayor of London's Environment Strategy sets out an aspiration to make London the greenest city in the world. By 2050, London will "have the best air quality of any major world city.... going beyond the legal requirements to protect human health and minimise inequalities". It is against this context that the emerging London Plan (2017) (SD08) requires development to meet a new higher standard of 'air quality positive'. We support this aspiration and will support delivery but consider that as this approach has not yet been examined and lacks sufficient detail regarding delivery; it is not considered justified for the LP to adopt this standard.
- 4.1.4 Locally, air pollution is considered a significant and growing health problem¹. The majority of the borough breaches EU/national air quality objectives limits and the whole borough has been declared as an air quality management area due to the exceedance of nitrogen dioxide and small particles. The impact this has on health and the role planning can play in improving and mitigating poor air quality is evidenced in the Joint Strategic Needs Assessment on Spatial Planning and Health (2016) (SED1) and Tower Hamlets Health and Wellbeing Strategy (2017) (SED7). In addition, the Tower Hamlets Air Quality Action Plan (2017) (SED56) sets out a number of actions (76 in total) to improve air quality in the borough, a number of which will be addressed through the new LP (see actions 20 – 25,

¹ Pollution concentrations are expected to be significantly lower in most areas by 2020, reducing the number of people exposed to poor air quality compared with the present. However... almost 60% of the remaining exceedances of the NO2 limit value occur in the following four London boroughs:

1. Westminster (17% of exceedances, 12,122 people exposed)
2. Tower Hamlets (15%, 10,917)

By 2025, it is predicted that exceedances of the air quality objectives will only occur in these four boroughs. Targeted further measures are required to bring NO2 concentrations in these locations down to within the EU limit value.

Barking and Dagenham, Croydon, Newham, Tower Hamlets and Hackney are the boroughs that have the highest proportion of most deprived populations (top 30% deprived) in London's areas of worst air quality. Tower Hamlets, Southwark, Hackney, Islington and Lambeth are the boroughs that have the highest numbers of people living in London's worst air quality areas. These boroughs in particular need targeted action to reduce inequalities in access to clean air.

Updated analysis of air pollution exposure in the "Updated Analysis of Air Pollution Exposure in London" report from Kings College to the GLA (2017)

28, 40 and 64). These actions address the following aspects: reducing emissions from construction and development; reducing air quality impacts of the end use of developments; ensuring design of developments considers air quality; and ensuring all major developments are suitably assessed for air quality impacts.

- 4.1.5 Policy D.ES2 of the LP has been drafted to address the national and regional focus on this issue, as well as the recommendations of the Joint Strategic Needs Assessment on Spatial Planning and Health (2016) (SED1), Tower Hamlets Health and Wellbeing Strategy (2017) (SED7) and Tower Hamlets Air Quality Action Plan (2017) (SED56) and is therefore sufficiently justified.
- 4.1.6 Policy D.ES2 of the LP is also considered to be positively prepared. The policy seeks to enable the delivery of housing and other needed land uses, ensuring we can meet our assessed needs, through requiring developments to undertake appropriate mitigations in order to not cause harm to air quality or expose end users to poor quality air (policy parts 3 and 4, with further guidance provided in paragraphs 9.18 and 9.19). Without this mitigation and management, it is considered that development could not be sustainably and safely delivered in some parts of the borough, due to the levels of poor air quality (as illustrated in figure 15).
- 4.1.7 In relation to delivery, policy D.ES2 of the LP reaches the right balance between taking an evidence based, proactive action to improve air quality and ensuring development is not unduly restricted. By incorporating a new and innovative spatial designation (areas of sub-standard air quality, as illustrated on the Policies Map and figure 15), scrutiny is focused on those developments which will have the most impact on air quality and in those areas where air quality is already breaching EU/national air quality objectives limits.
- 4.1.8 The policy is also consistent with the objectives of the NPPF. Paragraph 109 of the NPPF requires the planning system to *'prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability'*. It is considered that policy D.ES2 directly seeks to prevent development contributing to (parts 1, 2 and 3) and being put at unacceptable risk from (parts 4) unacceptable levels of air pollution, namely the air quality management area across the whole of the borough and the large parts of the borough in which the air quality breaches EU/national air quality objectives limits.
- 4.1.9 Paragraph 124 of the NPPF states that *'planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.'* The stated aim of policy D.ES2 is to sustain compliance with and contribute towards EU limit values or national objectives for reducing pollutants. Policy S.ES1 (part 1a) requires development to deliver the objectives of the latest Air Quality Action Plan and the Tower Hamlets Air Quality Action Plan (2017) (SED56) has directly informed the development of policy D.ES2.
- 4.1.10 As such, policy D.ES2 provides a robust (justified, positively prepared and deliverable) means of ensuring that developments do not worsen air quality and that end users are protected from exposure to unacceptable levels of poor air quality in line with the NPPF and the London Plan.

How will the policy be monitored?

- 4.1.11 Part 5 (chapter 6) of the LP outlines the monitoring and delivery framework. This includes two key monitoring indicators regarding air quality:

Key monitoring indicator	Target
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KMI 28: Concentration of each pollutant at each monitoring station	To meet the limit values for nitrogen dioxide and concentration of PM10 particulate matter
KMI 29: The number of developments that meet or exceed the air quality neutral standards	All development to meet or exceed the air quality neutral standards

4.1.12 It is important to consider that the policy also contributes towards delivering the Tower Hamlets Quality Action Plan, the monitoring of which is undertaken on a quarterly basis by the Air Quality Partnership Board (which includes representatives of our planning service). The actions in the plan are reviewed and updated annually. An 'Annual Status Report' and an 'Annual Summary Status Report' on the action plan is provided each calendar year to the GLA and DEFRA. Both documents are published on our web site.

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?

4.2.1 In relation to the home quality mark, we accept that the Written Ministerial Statement (of the 25th March 2015) sought to prevent local planning authorities from requiring developers to comply with any housing standards other than the building regulations and the optional technical standards. We recognise that the purpose of the statement was to reduce burdens and thereby encourage residential development to come forward. As demonstrated in the Tower Hamlets Housing Delivery Strategy (2017) (SED26), Tower Hamlets has an extremely healthy delivery rate and, unlike other areas in the country, it is not considered necessary to reduce standards in order to increase delivery.

4.2.2 In light of the densities coming forward in Tower Hamlets (see paragraph 8.4 in the Tower Hamlets Housing Delivery Strategy - SED26), it is also important to ensure development is of the highest quality and environmental sustainability, as part of our objective of managing growth and shaping change.

4.2.3 The use of BREEAM within the policy framework to validate sustainability design and demonstrate delivery of sustainable buildings is in accordance with the NPPF's overarching objective to deliver sustainable development. The NPPF identifies that good design is a key aspect of sustainable development and references the importance of achieving high quality designed development schemes. Paragraph 58 of the NPPF identifies '*Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area*'. The requirement of BREEAM ensures that holistic sustainability considerations are embedded within the design of development and provides an independent assessment of the delivery of the design.

4.2.4 Within this context, it is important to note that both policies S.H1 (part 3) and D.ES7 of the LP (following MM184) do not require developments to meet the Home Quality Mark or the BREEAM 'excellent standard'.

4.2.5 Policy S.H1 (part 3) of the LP states: '*All housing must be well-designed, sustainable and take appropriate account of cumulative development. Developments are strongly encouraged to demonstrate this through meeting the Home Quality Mark standard*'. The policy therefore affords sufficient flexibility for this to be demonstrated without reference to, or use of, the Home Quality Mark and is therefore consistent with national policy as expressed in the Written Ministerial Statement.

4.2.6 It is noted that the supporting text (paragraph 4.23) of the LP could be read as a requirement to meet the Home Quality Mark standard and therefore a further minor amendment (PSMM53) is proposed to ensure it is clear.

4.2.7 It is considered that, following the submitted and further proposed minor modifications, both the policies (S.H1 and D.ES7) and supporting text clearly afford sufficient flexibility regarding the meeting of BREEAM and Home Quality Mark standards, with the GLA's Sustainable Design and Construction Supplementary Planning Guidance (2014) providing a reasonable and adopted alternative approach to ensure the delivery of high quality and environmentally sustainable schemes. The approach is therefore considered to be consistent with national policy as expressed in the Written Ministerial Statement and paragraphs 95 and 174 in the NPPF.

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?

4.3.1 Appendix 2 of the LP will be amended to include a statement confirming that the policies are intended to supersede other policies in the current adopted development plan (Core Strategy and Managing Development Document) in line with the Town and Country Planning (Local Planning) (England) Regulations (see PSMM243).

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?**

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- 4.4.1 With reference to this LP, strategic policy S.OWS1 brings about the designation of the MOL and shows it on the Policies Map as a geographical illustration. Paragraph 8.13 of the supporting text makes a reference to figure 13 which illustrates the distribution of publicly accessible open spaces across the borough. Whilst figure 13 does not show in detail the classification of open spaces, the Policies Map (SD2) gives a more detailed indication of different types of open spaces. Paragraph 8.13 lists open spaces and water spaces that are designated as MOL which are shown on the Policies Map with accurate boundaries.
- 4.4.2 With reference to the current adopted development plan, strategic policy SP04 in the Core Strategy (2010) and development management policy DM10 in the Managing Development Document (2013) bring about the designation of the MOL and show it on the policies map as a geographical illustration. Part 1.f. of policy SP04 lists all the MOL in the borough which is shown on the Policies Map.
- 4.4.3 With reference to the adopted London Plan, policy 2.18 sets out strategic aims for green infrastructure. Map 2.8 of the London Plan indicates London's strategic open space network which includes MOL.
- 4.4.4 Policy SP04 of the Core Strategy will be superseded by strategic policy S.OWS1 in the LP. Policy DM10 of the Managing Development Document will be superseded by policy D.OWS3 in the LP.
- 4.4.5 It is considered that policy S.OWS1 and London Plan policies 2.18 and 7.17 sufficiently support the illustration of MOL on the Policies Map. The MOL boundary shown on the Policies Map reflects the boundary from the adopted policies map of the Managing Development Plan Document. It is considered that the current boundary is accurate and includes all identified MOL, as shown in the London Plan (on map 2.8).
- 4.4.6 Policy 7.17 of the London Plan states that the Mayor of London strongly supports the current extent of MOL, its extension in appropriate circumstances and its protection from development having an adverse impact on the openness of MOL. We have not amended the current MOL boundary in the LP, since all open spaces currently designated as MOL satisfy the requirements under part D of London Plan policy 7.17. We have also not identified any new open spaces where the land would meet the relevant criteria listed under part D of London Plan policy 7.17.
- 4.4.7 Policy S.OWS1 of the LP seeks to prevent the loss of all existing open space, including areas designated as MOL. Policy 7.17 of the London Plan states that inappropriate development should be refused where it has an adverse impact on MOL, except in very special circumstances (see part B).
- 4.4.8 In order to support the illustration of MOL on the Policies Map, policy S.OWS1 will be amended to include a specific bullet point that requires development to maintain the open character of the MOL, the boundaries of which are shown on the Policies Map. See major modification (MJM23):
1. *Proposals will be required to provide or contribute to the delivery of an improved accessible, well-connected and sustainable network of open spaces through.....:*
 - b. maintaining the open character of Metropolitan Open Land;*
 - 2 *Developments on areas designated as MOL (as shown on the Policies Map) will not be permitted unless very special circumstances can be demonstrated in line with the requirements set out in the National Planning Policy Framework.*
- 4.4.9 A new paragraph 8.19 will also be added to support the above addition to the policy (PSMM115).
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4.4.10 In addition to the proposed modifications to policy S.OWS1, the following changes are proposed to policy D.OWS3 in order to strengthen the protection of MOL in line with policy 7.17 of the London Plan. See major modification (MJM24):

1. *Development on areas of open space (excluding Metropolitan Open Land) will only be supported in exceptional circumstances where: ...*

4.5: Does MOL require a definition within the glossary?

4.5.1 Metropolitan Open Land (MOL) is defined in the glossary of the London Plan as '*Strategic open land within the urban area that contributes to the structure of London.*'. Paragraph 8.13 of policy S.OWS1 of the LP lists areas designated as MOL in the borough and states that these open spaces form part of London's strategically defined open space network. Given that the Local Plan needs to be in general conformity with the London Plan, it is expected that the definition of the MOL would be the same as in the London Plan as this designation arises from the London Plan itself and not local planning policies. As such, in order to ensure consistency with the London Plan, a definition of the MOL will be included in appendix 1: glossary and acronyms of the LP (PSMM228).

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

4.6.1 Policy S.OWS1 of the LP seeks to protect and enhance the borough's open spaces regardless of their ownership and public access, as well as to promote the creation of new publicly accessible open spaces. Paragraph 74 of the National Planning Policy Framework (NPPF) states that existing open space including playing fields should not be built on unless there is a surplus to requirements. Since there is a high deficiency of open space in the borough which is expected to rise due to projected development, it is considered appropriate to protect all existing open space to ensure that there is no net loss.

4.6.2 It is acknowledged that part 1.a. of policy S.OWS1 appears at odds with part 1 of policy D.OWS3 in that the former does not allow net loss, while the latter allows developments on areas of open space only in exceptional circumstances. This is also not consistent with the NPPF in which development on existing open spaces is allowed where there is an equivalent or better provision in terms of quantity and quality in a suitable location or the development for sports and recreational provision outweighs the loss. In the interests of flexibility the following modification is proposed to policy S.OWS1 to more closely reflect the requirements set out in paragraph 74 of the NPPF (which allows development on open spaces in special circumstances). See major modification (MJM23):

1. *Proposals will be required to provide or contribute to the delivery of an improved accessible, well-connected and sustainable network of open spaces through:*
 - a. *protecting all existing open space including to ensure that there is no net loss (except where it meets the criteria set out in policy D.OWS3);*