

LONDON BOROUGH OF TOWER HAMLETS

COUNCIL MEETING

WEDNESDAY 17 APRIL, 2013

**LDF: MANAGING DEVELOPMENT – DEVELOPMENT PLAN DOCUMENT
ADOPTION**

**REPORT OF THE CORPORATE DIRECTOR DEVELOPMENT AND
RENEWAL, AMAN DALVI**

1. SUMMARY

- 1.1 The Managing Development – Development Plan Document (MD DPD) identifies sites for the social and physical infrastructure necessary to support growth across the borough. It also provides detailed planning policies to ensure development proposals are of the highest quality and respond to local needs.
- 1.2 The preparation of the MD DPD commenced subsequent to the adoption of the Council's Local Development Framework (LDF) Core Strategy in September 2010. The MD DPD has been through an extensive preparation process, including evidence base collection, issues and options testing, public consultation and independent examination.
- 1.3 On 16 May 2012, Full Council approved the draft MD DPD to be submitted to the Secretary of State for an Examination in Public (EiP). Submission of the MD DPD was undertaken in accordance with regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 1.4 Upon Submission, the Secretary of State appointed an independent Planning Inspector to undertake the EiP, from 18th to 21st September 2012. The Inspector's Report (see Appendix 2) was received on the 22 December 2012 and has been published on the Council's web site.
- 1.5 The Inspector's Report concludes that the MD DPD provides an appropriate basis for managing development within the borough. It does however set out a number of main modifications the Council is required to make in order to meet legal and statutory obligations to ensure the MD DPD is 'sound'. These modifications, together with additional minor modifications that the Council consulted on following the EiP, are set out in Appendix 1.

- 1.6 It is now necessary to adopt the MD DPD to ensure the Council has a robust and up to date planning policy framework to sustainably manage growth and maximise the benefits of development for our local community.

2. DECISION REQUIRED

Council is recommended to:-

- 2.1 Agree the recommendations stated in the Inspector's Report.
- 2.2 Adopt the MD DPD, including the main modifications recommended by the Inspector and the minor modifications, as a Development Plan Document which forms part of the Council's 'Local Plan'.
- 2.3 Authorise officers to prepare and publish an Adoption Statement as set out in regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 2.4 Agree to the removal from the Council's Local Plan of the superseded:
- § Unitary Development Plan (1998), its retained policies and Proposals Map (as stated in Appendix 5 of the Core Strategy (2010)); and
 - § Interim Planning Guidance Core Strategy and Development Control Plan and Proposals Map (2007), City Fringe AAP (2007), Leaside AAP (2007) and Isle of Dogs AAP (2007).
- 2.5 Agree to the name change from 'Managing Development – Development Plan Document' to the 'Managing Development Document' to ensure compliance with the Town and Country Planning (Local Planning) (England) Regulations 2012.

3. REASONS FOR THE DECISIONS

- 3.1 The Managing Development DPD is necessary to provide further detail to deliver the vision and objectives set out in the Community Plan and adopted Core Strategy (2010). The MD DPD will ensure:
- § New developments meet the needs of the borough and are designed to the highest standards; and
 - § Sites are identified to deliver important infrastructure – including new schools, health facilities, local parks and IDEA Stores – to support an increasing population.
- 3.2 On receipt of the Inspector's Report, the Council must consider whether to adopt the MD DPD, in which case it becomes part of the Local Plan. If the Council decides to adopt the MD DPD then it must accept the Inspector's recommendations if the plan is to be deemed 'sound' and have full weight as a Development Plan Document.
- 3.3 The adoption of the Managing Development DPD will provide the Council with updated and detailed policies and guidance used to determine planning applications and manage development. Guidance has been developed to be

consistent with the National Planning Policy Framework (March 2012) and the London Plan (July 2011).

- 3.4 The document will replace the 'saved and retained' development control policies in the Unitary Development Plan (1998) and 2007 'Interim Planning Guidance' (2007). These need to be removed as planning policy guidance to ensure an effective and efficient development management process to deliver the borough's visions and aspirations.

4. ALTERNATIVE OPTIONS

- 4.1 An alternative option would be to rely on the adopted Core Strategy, London Plan, and the Council's existing planning guidance contained within the Unitary Development Plan (1998) and the 'Interim Planning Guidance' (2007).
- 4.2 In the absence of an up-to-date detailed policy framework, the high-level general guidance contained within the Core Strategy and London Plan will not be able to provide sufficient detail to manage development, while the outdated 'Interim Planning Guidance' would not effectively deliver the Council's aspirations. Additionally, in relying more heavily on the London Plan, the Council would be less able to address local needs.
- 4.3 This option would therefore mean that the borough would not be able to respond to the challenges of recent changes in national and London planning policy, as well as to emerging development pressures, to address specific issues affecting Tower Hamlets. It would also mean that the Council would not have sites identified to provide the necessary infrastructure to support an increasing population.

5. BACKGROUND

- 5.1 The Core Strategy was adopted by Full Council in September 2010 and provides an overall spatial vision for the development of Tower Hamlets until 2025. The Fish Island AAP was subsequently adopted in September 2012 to help manage the regeneration of Fish Island. It is now being used to inform the development of the London Legacy Development Corporation (LLDC)'s Local Plan, with LLDC now being the Local Planning Authority for that part of the Borough.
- 5.2 In order for the Core Strategy spatial vision and Community Plan aspirations to be delivered, it is necessary to replace the existing detailed policies and guidance within the Unitary Development Plan (1998) and the Interim Planning Guidance (2007) with the updated policies and guidance within the Managing Development DPD.

- 5.3 Specifically, the Managing Development DPD will provide updated policies and guidance on:
- § Implementation of detailed development management policies against which planning applications will be assessed.
 - § Identifying sites for important services – primary and secondary schools, IDEA Stores, waste management facilities and parks – and sites capable of accommodating 500+ new homes; and
 - § Defining boundaries for planning policy areas including town centres and employment areas.

6. BODY OF REPORT

Managing Development DPD development process

- 6.1 The Managing Development DPD was prepared in accordance with the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012. The associated regulations requires the MD DPD to be:
- § consistent with the National Planning Policy Framework (NPPF) (March 2012) and the London Plan (July 2011)/Revised Early Minor Alterations (June 2012);
 - § underpinned by relevant and proportionate evidence base to inform content;
 - § supported by options testing to explore alternative scenarios and implications of different policies or site allocations;
 - § informed by a consultation and engagement process with the community and key stakeholders, including appraising the options of draft policies and site allocations;
 - § supported by a Sustainability Appraisal to review the policies and site allocations; and
 - § examined in public by an independent Planning Inspector.
- 6.2 The process for the preparation of the MD DPD is set out in the Council's latest Local Development Scheme, approved by Cabinet in December 2010. The process to date is summarised below.
- 6.3 Work commenced on the Managing Development DPD shortly after the adoption of LDF Core Strategy in September 2010. Originally the document consisted of two separate documents that were subsequently joined to stream-line the planning process.
- 6.4 The preparation of the Managing Development DPD has been carried out during a time of extensive planning reform with the publication of the NPPF, the Localism Act and associated regulations. The MD DPD has been developed to be in conformity with the relevant national and regional legislation and policy to ensure the soundness of the document.

Consultation

- 6.5 The Council has a duty to cooperate as set out in s33A of the Planning and Compulsory Purchase Act 2004. The Council has engaged constructively, actively and on an on-going basis with the relevant bodies in the process of preparing the Managing Development DPD. The Council has also undertaken extensive consultation and engagement with the community in accordance with the Council's Statement of Community Involvement (SCI) and national legislation.
- 6.6 Previous reports considered by Cabinet in December 2011 and full Council in May 2012 outline the extensive consultation and engagement process undertaken. The key stages are listed below.
- § Call for sites – 22 March to April 2010
 - § Informal consultation – November 2010
 - § Engagement stage – 3 May to 9 June 2011
 - § Call for Representations - 23 January and 9 March 2012
- 6.7 The consultation and engagement process has shaped and informed the development of the Managing Development DPD. The Managing Development DPD represents a collaborative approach between the Council and key external stakeholders (including statutory agencies, landowners and residents).

Submission

- 6.8 The Managing Development DPD 'submission version' was presented to full Council on 16 May 2012 for approval to submit to the Secretary of State. In accordance with regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012, the Council submitted the DPD, including supporting evidence base, to the Secretary of State on 18 May 2012 to undertake an independent examination into the soundness of the document.

Examination

- 6.9 The Secretary of State appointed an independent Planning Inspector to undertake an Examination in Public (EiP). In accordance with regulation 24 of the Town and Country Planning (Local Planning) (England) regulations 2012, the Council gave public notification on the date, time and location for the EiP.
- 6.10 The Inspector held fourteen hearings from 18 to 21 September 2012. The structure of the hearings focused on specific topics that were determined by the Inspector for further examination. The hearings were attended by key representatives, including landowners, GLA, English Heritage and representatives of the local community. Lead Member for Housing, Councillor Rabina Khan, introduced the first hearing, and hearings were also attended by a number of senior managers and specialist officers from the Council to support the examination process.

- 6.11 Following the EiP, the Council consulted on a number of proposed modifications to the MD DPD (Appendix 1). These modifications were in response to the Statements of Common Ground, Position Statements, the EiP hearings, and also included other amendments suggested by the Council.
- 6.12 During the 6 week consultation period, the Council welcomed comments relating directly to the proposed modifications. These were sent to the Inspector for consideration ahead of the Inspector issuing his Report.

Inspector's Decision Statement

- 6.13 The Inspector's Report was received on the 22 December 2012 and has been published on the Council's web site.
- 6.14 The Inspector's Report concludes that the MD DPD provides an appropriate basis for managing development within the borough. It does however set out a number of main modifications the Council is required to make in order to meet legal and statutory obligations to ensure the MD DPD is 'sound'. These main modifications, together with additional minor modifications that the Council consulted on following the EiP, are set out in Appendix 1.
- 6.15 The Inspector supported the vast majority of the content of the plan, including:
- § Allocation of sites for 2 new secondary schools.
 - § Allocation of sites for 4 new primary schools.
 - § Allocation of sites for 4 new local parks.
 - § a rigorous approach to control the location and number of hot food takeaways.
 - § a detailed framework for assessing tall buildings.
 - § robust design standards for new homes, including provision of amenity space and child play space.

Affordable Housing

- 6.16 Key to the main modifications is the change to Policy 'DM3 – Delivering Homes'. Most significantly, the Inspector supported the Mayor of London's objection to Policy DM3 and recommended that two parts of the policy be removed to ensure it is in conformity with the London Plan:
1. Prioritising Social Rent housing ahead of Affordable Rent housing; and
 2. Using local evidence base to define the Tower Hamlets 'adjusted rents' to be used as a basis for negotiation in the development management process.
- 6.17 The Inspector concluded that prioritising social rented housing would reduce the overall number of affordable homes produced. Similarly the Inspector interpreted the Tower Hamlets 'adjusted rents' to imply that maximum rents (or rent caps) were being set which would further restrict the delivery of affordable housing.

- 6.18 The Council must accept the recommendations of the Inspector but is concerned that the final policy will create uncertainty for developers and Registered Providers and that the Council will have no control on rents which can be 'up to 80% of market rent' and therefore beyond the reach of residents in housing need.
- 6.19 Having considered the Inspector's Report and the Mayor of London's objection, the Council has prepared a draft Affordable Housing Supplementary Planning Document to provide the level of detail considered necessary to ensure the Council's affordable housing objectives can be met. The SPD will ensure an appropriate balance between maximising affordable housing numbers and ensuring that new homes are genuinely affordable for borough residents, in particular those in need of affordable family homes.
- 6.20 The Council is aware that the Mayor of London is still waiting for the Inspector's Report into the revisions of the London Plan. It is these revisions which our Inspector used to justify his affordable housing recommendations. In the event that the London Plan Inspector's Report is more favorable to Tower Hamlets' affordable housing approach, it is proposed to undertake an urgent revision of the MD DPD Affordable Housing policy to re-introduce key elements of the policy which the Inspector recommended be removed.

Removal of the Unitary Development Plan and Interim Planning Guidance DPD documents

- 6.21 To facilitate an efficient planning policy framework, the existing 'saved and retained' policies within the Unitary Development Plan (1998) and Interim Planning Guidance DPD documents (2007) need to be removed. These policies are now deemed superseded consequent to the proposed adoption of the MD DPD.

Further implications of NPPF

- 6.22 Under the NPPF and the 2012 Local Planning Regulations the Council's documents which have development plan status now form 'The Local Plan'. This means that the Council will no longer use the term Local Development Framework and the MD DPD will be renamed 'Managing Development Document' on adoption.

Next Steps

- 6.23 Subject to Full Council adopting the Managing Development DPD, it will be finalised and published on the Council's web site and made available in the borough's Idea Stores, libraries and planning reception at the Town Hall.
- 6.24 The Council will need to prepare an Adoption Statement to accompany the MD DPD in accordance with regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Adoption Statement sets out:

- § date which the MD DPD was adopted;
- § modifications following the submission version (May 2012); and
- § notice that any person aggrieved by the process can make an application to the High Court within 6 weeks from the date of adoption.

6.25 Following the 6 week adoption period and subject to no legal challenges, the Managing Development DPD can then be used as part of the 'Development Plan' to determine planning applications.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

7.1 Following the completion of the statutory consultation process and the independent inspection undertaken on behalf of the Secretary of State, this report seeks approval from Council to adopt the Managing Development - Development Plan Document within the Council's Local Development Framework.

7.2 Following the Inspector's recommendations, officers had specific concerns regarding the necessary amendments to the Affordable Housing element of the policy. In order to mitigate the effects and to establish a balance between maximising the number of affordable housing units and ensuring that new homes are genuinely affordable to residents, a draft Affordable Housing Supplementary Planning Document was considered by Cabinet in April (paragraph 6.19).

7.3 Whilst there are no specific financial consequences arising directly from the recommendations in the report, ultimately the Local Development Framework and its constituent elements will underpin key decisions in relation to the allocation of the limited resources available within the Borough, and will influence the shaping of the Council's Capital Strategy.

7.4 The documents within the Council's LDF set out some of the challenges that the Authority and its partners may face over coming years as a result of demographic and economic growth. Individual infrastructure developments will need to be subject to detailed planning at the appropriate time, including consideration of the financial impact on both partner organisations and on the Council.

7.5 The main costs associated with the production of the Local Development Framework are staffing related and have historically been part supported through Housing and Planning Delivery Grant. The Managing Development – Development Plan Document included within this report has been the subject of on-going consultation processes which incurred costs on items such as advertising, printing, hiring venues and facilitating public meetings. Although the Housing and Planning Delivery Grant regime ended in 2009-10, resources had been earmarked to fund this expenditure. The final stage of the LDF process is an 'inspection in public' for which the Authority must incur all costs, including those of the appointed inspectors. Resources have previously been

set aside as part of the budget process to contribute towards the funding of these costs.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1. The Local Plan (formerly described as the Local Development Framework) consists of a suite of documents which set out planning policy. As the report notes, the Council has already adopted its principal DPD, being the Core Strategy, which establishes the general spatial vision and planning objectives for the borough. Approval is now being sought to adopt the MD DPD following examination in public and receipt of the Inspector's report.
- 8.2 The MD DPD is adopted by the Council under section 23 of the Planning and Compulsory Purchase Act 2004 (as amended). The Council may only adopt the MD DPD if they accept the modifications to the DPD suggested by the Inspector to this report. This report confirms this legal requirement and also notes the name change of this document at paragraph 6.22 pursuant to the Town and Country Planning (Local Planning) (England) Regulations 2012 ("2012 Regs").
- 8.2 Full Council is requested to adopt the MD DPD as pursuant to section 9D(2) of the Local Government Act 2000 and regulation 4 and Schedule 3 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the adoption of a DPD is a function that is not to be the responsibility of a local authority's executive.
- 8.3 As set out at paragraph 6.24 of the report, an adoption statement must be prepared and published as soon as reasonably possible following adoption of the MD DPD in accordance with Regulation 26 of the 2012 Regs. The adoption statement must specify, inter alia, that any person aggrieved by the local plan may make an application to the High Court.
- 8.4 In carrying out the function of preparing and adopting a DPD, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. The report indicates that an equality analysis has been carried out and no negative equality impacts arise.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 An Equalities Assessment (EqA) has been undertaken in support of the Managing Development DPD. The EqA assesses issues relating to the diversity of the borough including, race, gender, disability, age, sexual orientation faith and deprivation. The EiP did not disclose any impacts that required re-assessment of the equalities analysis. The EqA Report is included as part of the evidence base and is available upon request.

- 9.2 It should also be noted that the Managing Development DPD supports the delivery of the Council's LDF Core Strategy, which was itself subject to an EqA.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 A detailed Sustainability Appraisal has informed the preparation of the Managing Development DPD. The Sustainability Appraisal Report is included as part of the evidence base and is available upon request.
- 10.2 In accordance with the Core Strategy, the Managing Development DPD will help ensure a greener environment in a number of ways, including: helping improve existing areas of open space and secure new areas of open space; promoting biodiversity; promoting sustainable transport options; and ensuring new buildings meet the highest environmental standards.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 An LDF Board was established in May 2010, chaired by the Corporate Director of Development & Renewal, to lead on the preparation of future planning documents within the Local Plan. Risk Management and mitigation is a standard item at monthly LDF Board meetings. As part of the Borough's Local Plan, the MD DPD has been subject to this risk management process.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 The Managing Development DPD has specific policies to improve the safety and security of new developments and the surrounding public realm. These policies will contribute to ensuring that communities feel safe and secure.

13. EFFICIENCY STATEMENT

- 13.1 The Managing Development DPD has been prepared in the context of the Core Strategy and other relevant Council Strategies, such as the IDEA Store Strategy, Employment Strategy and Leisure Strategy. As such, the Managing Development DPD closely reflects Council priorities and the Council's capital planning process and fully compliments the Core Strategy vision of ensuring the timely provision of necessary social and physical infrastructure to support the growth in population and jobs in the Borough over the next 15 years.
- 13.2 The Managing Development DPD will also ensure the Council has a fully up-to-date suite of planning documents which responds to the identified needs of the Borough and provides a more efficient basis for the determination of planning applications.

14. APPENDICES

Appendix – Table of Modifications to the Managing Development DPD
(1A – Main Modifications, 1B – Minor Modifications)

Appendix 2 – Inspector’s Report, Report on Examination into the Managing
Development Local Plan

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
N/A	