

**LONDON BOROUGH OF EALING CORE STRATEGY**  
**Public Examination – Written Statement**

**Matter 1 – Overall Context**

**Question 9 – Is the CS entirely consistent with The London Plan 2011 and is there any potential conflict with the Draft National Planning Policy Framework?**

This statement provides an update on the status of the Thames Tunnel project at the national and regional planning policy level following the publication of the draft **National Policy Statement for Waste Water** (NPS WW) on 16 November 2010 and adoption of the **London Plan** on 22 July 2011. We previously set out the reasons why we believe the Development Strategy (Final Proposals, September 2010) to be unsound in our original representations, dated 08 November 2010.

A reference copy of the London Plan 2011 and draft NPS WW is included within the Examination Library under document reference **NAT55** and **REG29** respectively.

**Draft NPS WW**

The draft NPS WW relates to the provision of major waste water infrastructure in England and includes the Thames Tunnel project as a named project. We believe for Ealing's Core Strategy to be found 'sound' it should be consistent with this national policy document and reflective of national objectives.

It is highly relevant for the Examination of the Core Strategy that at paragraph 4.1.9 of the draft NPS WW there is a list of potentially affected Planning Authorities and Ealing is identified as one of these.

The draft NPS confirms at paragraph 1.1.2 that an application for the Thames Tunnel should be considered under the national level regime; *'Although the Thames Tunnel project does not meet the thresholds contained within the Planning Act, given its significance, the Government has already stated its intention that the project should be considered at national level'*. To deliver on this objective, Defra have recently consulted on a draft Order under Section 14 (2) of the Planning Act 2008 to bring projects such as the Thames Tunnel within the consent process for nationally significant infrastructure projects. That consultation ended on 5 October 2011.

Section 4 of the draft NPS presents a discussion of policies relating to the need for the Thames Tunnel, its potential significant impacts, and how the IPC should consider these factors if an application is directed to it for decision. Paragraph 4.2.17 states the *'IPC should undertake its assessment of any application for the development of the Thames Tunnel on the basis that the national need for this infrastructure has been demonstrated and that appropriate strategic alternatives have been considered and ruled out'*.

In determining applications for waste water infrastructure the NPS states at paragraph 5.1.1 the IPC should adhere to the following key principles:

*i) If the development proposal is in accordance with this NPS, then the IPC should operate on the basis that consent should be given, except to the extent that any of the exceptions set out in the Planning Act apply.*

*ii) The IPC should take into account the national and local benefits (environmental, social and economic) including the contribution to the need for waste water infrastructure, job creation and any long-term or wider benefits. These may be identified in this NPS, in the application or elsewhere.*

The Department for Communities and Local Government's letters to Local Authorities on both the 16 July 2009 and 9 November 2009 stated that draft NPSs should be treated in the same way as other Government statements of planning policy as material considerations in decisions on planning applications. These letters are enclosed as Appendix A and B respectively.

The July letter refers on page 3 to *The Planning System: General Principles (2004)* which states '*emerging policies, in the form of draft policy statements or guidance, can be regarded as material considerations, depending on their context*'.

Annex A of the November letter states at paragraph 14 that '*NPSs are not part of the statutory development plan for the purposes of the town and country planning regime, but are statements of national policy on nationally significant infrastructure... and local planning authorities will therefore need to have regard to NPSs when preparing their plans at regional and local level. Emerging policy in a published draft NPS may also be relevant.*'

NPS are at the heart of the new planning regime and local planning authorities must have regard to NPSs when preparing DPDs, including draft NPSs. The draft NPS should be afforded considerable weight in accordance with the guidance provided by DCLG and should be considered part of the evidence base for the Core Strategy. Ealing is referenced as one of the 14 boroughs directly affected by the project within the draft NPS WW at paragraph 4.1.9 and should, therefore, provide local planning policy support in its Core Strategy. It should also be noted that the final NPS is likely to be designated this year.

### **London Plan 2011**

The replacement London Plan was published on 22 July 2011, superseding the London Plan (consolidated with alterations since 2004), which was published in February 2008. Policy 5.14, *Water Quality and Wastewater Infrastructure*, of the adopted London Plan 2011 states that '*(w)ithin LDFs boroughs should identify wastewater infrastructure requirements and relevant boroughs should in principle the support Thames Tideway Sewer Tunnels*'.

The formal adoption of the replacement London Plan gives full material weight to the spatial development strategy and its policies. The London Plan 2011 is a key consideration for assessing soundness of the Core Strategy and its adoption adds greater weight to our previous representations. Ealing's Core Strategy is the appropriate document in the LDF to address infrastructure issues and it fails to provide the planning policy support in principle for the Thames Tunnel within their LDF, as required by policy 5.14. Without a policy in support of the Thames Tunnel, we consider the Core Strategy to be inconsistent with the London Plan 2011.

Reference to the Thames Tunnel project has been included in the recently adopted Core Strategies for the London Borough of Wandsworth, City of Westminster and London Borough of Tower Hamlets. For reference extracts of these policies are included as Appendices C, D and E respectively to this letter.

## **Conclusion**

The Thames Tunnel project has received government endorsement and this is reflected within clear policy support for the project at the national and regional level. We believe that the introduction of a policy supporting the principle of the Thames Tunnel project, as outlined in our original representation, is required given the importance of the project and would bring the Core Strategy in line with emerging national policy and the recently adopted London Plan 2011. In addition, the London Borough of Ealing has recently entered into a Memorandum of Understanding with Thames Water in order to ensure the delivery of the Thames Tunnel project. We believe this support for the project should be reflected in the Core Strategy.

**APPENDIX A**

**DCLG Letter to Local Authorities on Local Authorities' role in new consenting process for Nationally Significant Infrastructure Projects  
16 July 2009**



Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU

Department of Energy and Climate Change  
3 Whitehall Place  
London  
SW1A 2HD

16 July 2009

To: Local Authorities<sup>1</sup>

## **LOCAL AUTHORITIES' ROLE IN NEW CONSENTING PROCESS FOR NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS**

The Planning Act 2008 establishes a new framework for a more efficient, transparent and accessible planning system for nationally significant infrastructure projects (NSIPs) – with decisions on these projects taken within a new framework of National Policy Statements (NPSs). Some local authorities have asked for clarification about their role in this new framework in relation to the development consent process for new nuclear power stations.

This letter focuses on three issues that appear to be of most concern to local authorities: resources; consideration of applications for preliminary works; and materiality of draft NPSs.

This letter is without prejudice to the Government's Strategic Siting Assessment process, which is still ongoing. Whilst a number of sites have been nominated into that process, the Government has not yet reached final views about whether those sites are potentially suitable for the deployment of new nuclear power stations. A list of potentially suitable sites will be included in a draft NPS for nuclear power, which will be published for consultation later in 2009.

### Resources

Local authorities already look closely at any major infrastructure projects proposed in their area and engage with developers on potential applications. However, where a local planning authority receives a request for pre-application advice that requires substantially more resources than is normal, it is open to them to recover costs by charging a fee under section 93 of the Local Government Act 2003. Statutory guidance is available on the use of this power<sup>2</sup>. Such a decision would be a matter for the local authority in question, in light of discussions with the potential scheme promoter.

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<sup>1</sup>This letter is being sent to local authorities in areas where sites have been nominated into the Government's Strategic Siting Assessment process, and to the Local Government Association. It is also being made available online.

<sup>2</sup><http://www.communities.gov.uk/publications/localgovernment/generalpower2>

Further to this and following proposals set out in the 2007 Planning White Paper<sup>3</sup>, Government introduced “Planning Performance Agreements” (PPAs) to help local authorities deal with very large and complex applications (or potential applications in relation to NSIPs). These are up front agreements between a developer and a local planning authority that set out all the information required and the timetable for delivering the decision or advice. As the Planning White Paper set out, the Government believes that where the size and importance of a proposal makes it appropriate, local authorities should seek to agree PPAs with developers. Indeed, the Renewable Energy Strategy<sup>4</sup> has just announced that CLG will be setting up a demonstration project for renewable and low carbon energy applications; encouraging developers to make good use of this process will improve certainty and manage expectations about the process and timetable for completion.

Effective PPAs can however be resource intensive and so, as set out above, local planning authorities will sometimes charge developers for pre-application work on a cost-recovery basis. Again, the decision on charging is entirely up to local planning authorities but, where they do so, this should be specified as part of the agreement.

Further guidance on this, which you may find helpful, is available online:

- joint CLG / ATLAS guidance on Planning Performance Agreements, which provides advice on handling large scale and complex planning applications<sup>5</sup>; and
- case study by the Planning Advisory Service on charging for pre-application advice<sup>6</sup>.

### Preliminary works

Some local authorities have asked about the scope they have to consider applications from developers for planning permission to undertake preliminary works on potential new nuclear sites, in advance of an application to the Infrastructure Planning Commission (IPC).

As explained below, Government policy on new nuclear may be a material factor for local authorities to consider in exercising any role they may have in relation to nuclear new build. Where appropriate, this may include considering applications for planning permission for preliminary or preparatory works on site ahead of the main application to the IPC. Subject to the legal framework, local authorities should have confidence in considering such applications on their merits, including consideration of the need for an environmental impact assessment for the works in question and whether to grant consent. Local authorities may decide that such consent should potentially be granted on the basis that any preliminary works carried out will be removed if the

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<sup>3</sup><http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningsustainablefuture.pdf>

<sup>4</sup>[http://www.decc.gov.uk/en/content/cms/what\\_we\\_do/uk\\_supply/energy\\_mix/renewable/res/res.aspx](http://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/energy_mix/renewable/res/res.aspx)

<sup>5</sup><http://www.atlasplanning.com/lib/liDownload/195/P4.9%20PDA%20Pilot%20Report.pdf?CFID=736988&CFTOKEN=65603811>

<sup>6</sup><http://www.pas.gov.uk/pas/aio/40105>

subsequent application to the IPC is turned down or if, within a specified time, no application is made. Guidance on planning obligations is available in CLG Circular 05/2005<sup>7</sup>.

Appropriate pre-application advice from local planning authorities, or consent for preliminary works, should not fetter the discretion of councils to represent the views of their area on any subsequent application to the IPC.

### Materiality of Draft National Policy Statements

When considering the issue of materiality it may be helpful to refer to *The Planning System: General Principles* published by CLG in 2004<sup>8</sup>. This sets out the approach that has been established as a result of planning case-law. It states that “*In principle...any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration falling within that broad class is material in any given case will depend on the circumstances.*” (Stringer v MHLG 1971)

The General Principles goes on to explain that the Government’s statements of planning policy are material considerations that must be taken into account, where relevant, in decisions on planning applications and that “emerging policies, in the form of draft policy statements or guidance, can be regarded as material considerations, depending on their context”. We would expect draft NPSs to be treated in the same way.

Therefore, it is for decision-makers to reach a view on what they consider to be a material consideration to the planning application before them and the weight to be attached to it. In this case the precise weight to be given to an emerging NPS for nuclear power, ahead of designation (for example if the NPS has been published in draft form and is out to consultation) will be a matter for the relevant decision-maker.

It may be helpful to clarify that NPSs are not part of the statutory development plan for the purposes of the town and country planning regime but are statements of national policy on nationally significant infrastructure. Regional planning bodies (or new style responsible regional authorities when in place<sup>9</sup>) and local planning authorities will therefore need to have regard to NPSs when preparing their plans at regional and local level<sup>10</sup>.

Ahead of publication of the draft NPS for nuclear power, it is also worth pointing out that the Government has already made clear its policy on nuclear energy in various documents, and local authorities, if they consider that they are material to any planning application before them, must take them into account in exercising their role in the planning regime. In particular, the White Paper on Nuclear Power, published in

<sup>7</sup><http://www.communities.gov.uk/publications/planningandbuilding/circularplanningobligations>

<sup>8</sup><http://www.communities.gov.uk/documents/planningandbuilding/pdf/147396.pdf>

<sup>9</sup>Subject to the passage of the Local Democracy, Economic Development and Construction Bill (Part 5).

<sup>10</sup>Sections 5(3)(a) and 19(2)(a) of the Planning and Compulsory Purchase Act 2004.

January 2008, set out the Government's policy on new nuclear<sup>11</sup>. It concludes that "the Government believes new nuclear power stations should have a role to play in this country's future energy mix alongside other low-carbon sources; that it would be in the public interest to allow energy companies the option of investing in new nuclear power stations; and that the Government should take active steps to facilitate this".

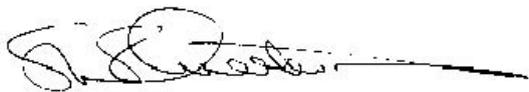
In addition, the Government response to consultations on the Strategic Siting Assessment process, published in January 2009, contains Government policy on the identification and assessment of sites which are potentially suitable for the deployment of new nuclear power stations by the end of 2025<sup>12</sup>. The cut-off date of 2025 reflects the Government's view that "...it is important to focus on sites which can come on stream in good time to contribute to our goals on climate change and energy security..."

Most recently, the Government's UK Low Carbon Transition Plan, published on 15 July 2009, says that "...in order to decarbonise, our electricity supply will need to come from a mix including renewable sources, nuclear power and fossil fuels with carbon capture and storage. The draft National Policy Statement (NPS) for nuclear power, which the Government is publishing for public consultation and Parliamentary scrutiny later this year, will set out in more detail why the Government considers there is an early need for nuclear power as part of this mix"<sup>13</sup>.

More background on the Government's new nuclear policy can be found on the Office for Nuclear Development website<sup>14</sup>.

I hope this letter is helpful.

Yours,



**Steve Quartermain**  
**Chief Planner**  
**Department for Communities**  
**and Local Government**



**Mark Higson**  
**Chief Executive**  
**Office for Nuclear Development**  
**Department of Energy and Climate Change**

<sup>11</sup> <http://www.berr.gov.uk/files/file43006.pdf>

<sup>12</sup> <http://www.berr.gov.uk/files/file49865.pdf>

<sup>13</sup> [http://www.decc.gov.uk/en/content/cms/publications/lc\\_trans\\_plan/lc\\_trans\\_plan.aspx](http://www.decc.gov.uk/en/content/cms/publications/lc_trans_plan/lc_trans_plan.aspx)

<sup>14</sup> [http://www.decc.gov.uk/en/content/cms/what\\_we\\_do/uk\\_supply/energy\\_mix/nuclear/nuclear.aspx](http://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/energy_mix/nuclear/nuclear.aspx)

**APPENDIX B**

**DCLG Letter to Local Authorities on National Policy Statements  
9 November 2009**

The Chief Planning Officer

9 November 2009

Dear Chief Planning Officer

## **National Policy Statements**

I am writing to let you know that the first National Policy Statements (NPSs) are being published in draft today for public consultation and parliamentary scrutiny. The Department for Transport (DfT) is publishing its draft NPS for Ports and the Department of Energy and Climate Change (DECC) is publishing its draft NPSs on energy. The energy suite comprises an Overarching NPS for Energy (EN1) plus ones on Fossil Fuel Electricity Generating Infrastructure (EN2); Renewable Energy Infrastructure (EN3); Gas Supply Infrastructure and Gas and Oil Pipelines (EN4); Electricity Networks Infrastructure (EN5) and Nuclear Power Generation (EN6).

I thought it might be helpful to draw your attention to them and provide some general information to explain the expected interaction between NPSs and the town and country planning regime. This is attached at annex A. For copies of the draft NPSs, the consultation document and other supporting documents please go to DfT and DECC's websites. You will also be contacted directly as statutory consultees to the NPSs.

The Planning Act 2008 ("the Act") has provided for the new planning regime which includes the establishment of the Infrastructure Planning Commission (IPC) and the publication of NPSs across a range of infrastructure types - energy, transport, water, waste water and hazardous waste. The aim of the new planning regime is a faster, fairer and more efficient system for the consideration of proposals for nationally significant infrastructure projects.

The IPC will be the decision-making body on applications for nationally significant infrastructure projects, as defined in the Act and NPSs are the statements of Government policy that the IPC will use to determine those applications. NPSs are therefore at the heart of the new planning regime for nationally significant infrastructure. The intention is that NPSs will operate as the primary policy document for the IPC, applicants and other interested parties when considering applications for development consent made under the Act. The IPC can, of course, consider other matters which it considers both important and relevant to its decisions. And this may include, for example, the local development framework.

In order to help local people to understand the new regime we have produced an information leaflet *Infrastructure Planning – How will it work? How can I have my say?* The leaflet explains the new regime and stresses why it is important that people make their views known during NPS consultations, as well as at the pre-application consultation stage and during IPC examination of applications.

The leaflet, which was produced with advice from Planning Aid, is available on the CLG website at

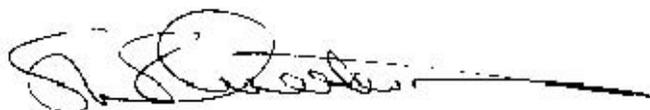
<http://www.communities.gov.uk/publications/planningandbuilding/infrastructureplanningwork>. It points towards some material on the new planning regime at [www.direct.gov.uk/infrastructureplanning](http://www.direct.gov.uk/infrastructureplanning), which provides links to accessing any of the current NPS consultations, and also gives contact details for Planning Aid if further advice is required.

If you wish to make an order for copies of the leaflet, free of charge, for use within your local community please contact Linda Rawlings at [linda.rawlings@communities.gsi.gov.uk](mailto:linda.rawlings@communities.gsi.gov.uk).

I hope you find the attached information helpful but if you have any questions about this letter please do not hesitate to contact Alison Cremin at [alison.cremin@communities.gsi.gov.uk](mailto:alison.cremin@communities.gsi.gov.uk).

I am copying this letter to Katrine Sporle at the Planning Inspectorate and to Sir Michael Pitt at the Infrastructure Planning Commission.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Steve Quartermain', with a long horizontal flourish extending to the right.

**Steve Quartermain**  
Chief Planner

Attachments: annex A

## **National Policy Statements**

### ***A framework for decision making***

1. The Government is publishing national policy statements (NPSs) across a range of infrastructure types, specifically on energy, transport, water, waste water and hazardous waste. NPSs will vary in content depending on the infrastructure type, the need for that infrastructure and whether the Government has determined that it should establish through the NPS where that infrastructure should be located. The Government has made clear that the Nuclear NPS and the Airports NPS will be location-specific. NPSs may also set out criteria to be applied in deciding whether a location is suitable, or potentially suitable for a specified description of development.
2. The intention of NPSs is to make clear Government policy on the need for new nationally significant infrastructure projects (NSIPs) thereby eliminating the need to debate this at public inquiries. NPSs will give the Infrastructure Planning Commission (IPC), applicants and those affected by development proposals, greater clarity about what forms of development are, or are not, in line with Government policy. This will therefore provide the IPC with a clear framework for decision making.
3. NPSs will be the primary consideration for all IPC decisions on proposed development, whether onshore or offshore, although when taking decisions in the marine area the IPC will also have regard to the forthcoming Marine Policy Statement and relevant marine plans. Our intention is to ensure consistency between NPSs and the Marine Policy Statement, the latter of which would be established under the Marine and Coastal Access Bill.

### ***Sustainable Development***

4. The Planning Act 2008 (“the Act”) places requirements on the Secretary of State in certain respects. Specifically, the Secretary of State, in designating or reviewing an NPS, has a duty to do so with the objective of contributing to the achievement of sustainable development, having regard to the desirability of mitigating and adapting to climate change and achieving good design. NPSs will therefore bring together the Government’s objectives for infrastructure provision with its strategic environmental, social and economic policy objectives, including its climate change objectives, in order to help to deliver sustainable development.
5. To help ensure that policies within NPSs contribute to the achievement of sustainable development, all NPSs will be subject to an Appraisal of Sustainability (AoS)<sup>1</sup> covering the economic, environmental and social effects of the policies within the NPS. This analysis is carried out in parallel with the drafting of the NPS so that it can inform its development. Where necessary, NPSs will also be subject to Strategic Environmental Assessment.

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<sup>1</sup> See section 5(3) of the Planning Act 2008.

### ***Consultation and publicity***

6. All NPSs, or material amendments to NPSs, are subject to public consultation and Parliamentary scrutiny. The Secretary of State must have regard to the outcome of public consultation and Parliamentary scrutiny when deciding whether or not to proceed to designate the NPS. Separate regulations have been published regarding consultation requirements for potential applications to the IPC.
7. Where an NPS identifies one or more locations as suitable, or potentially suitable, for a NSIP the Secretary of State must ensure that appropriate steps are taken to publicise the proposals. The Government wants to ensure that those who may be affected by future NSIP development are given the opportunity to comment on those proposals. Any relevant local authority must be consulted as to what steps are appropriate to publicise the proposals.

### ***When will the IPC start making decisions?***

8. It is intended that the IPC will be able to receive applications from the energy and transport sectors from 1 March 2010 irrespective of whether the NPSs which are being published in draft today have been designated. If, for any reason, the relevant NPS is not designated when a particular application reaches decision stage, the IPC would have to make a recommendation to the Secretary of State rather than make the decision itself. The Secretary of State is under a duty to make the development consent decision within 3 months of the recommendation from the IPC (although the Secretary of State may extend this deadline).

### ***Local issues***

9. Applicants will be required to consult local communities and local authorities before submitting an application to the IPC. Under section 60 of the Act, in accepting an application for an order granting development consent, the IPC will give notice in writing to the relevant local authority, inviting them to submit a local impact report by a specified deadline. The Planning Act is not prescriptive about what should or should not be included in local impact report – it is for the local authority to determine what they regard as relevant having considered the likely impact of the proposed development on the authority's area (or any part of that area).

### ***How long will national policy statements remain in force?***

10. NPSs will continue in force until such time as they are withdrawn or replaced. There is no set period for NPSs although each individual NPS may suggest a time-frame, for example, up to 2025 or 2030. While it is important that NPSs have a long shelf-life it is also important that they remain up to date and reflect changing circumstances. The Act<sup>2</sup> therefore places a duty on the Secretary of State to review each NPS whenever the Secretary of State thinks it appropriate to do so.
11. The Secretary of State may review the NPS partially or in its entirety. Following that review the Secretary of State can amend the NPS, withdraw its designation as an NPS or leave it as it is. If the Secretary of State does

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<sup>2</sup> See section 6 of the Planning Act 2008.

decide to amend the NPS the amendment will again be subject to Appraisal of Sustainability and, where necessary, Strategic Environmental Assessment, public consultation and Parliamentary scrutiny (unless the amendment does not materially affect the policy as set out in the NPS).

12. Where an NPS, or part of an NPS, is being reviewed, the Secretary of State may direct that the IPC's examination of an application be suspended until that review is complete. However, Ministers may determine that, despite the review of the NPS, it is in the national interest that the application be decided quickly. In these circumstances the Secretary of State has the power to intervene and take the decision, ensuring that proposals for nationally significant infrastructure can be considered without delay.

### ***Implications for the town and country planning regime***

13. The new single consent regime for NSIPs will operate alongside the town and country planning regime. Although the two regimes are legally distinct, there are close interactions between them.
14. NPSs are not part of the statutory development plan for the purposes of the town and country planning regime but are statements of national policy on nationally significant infrastructure. Regional planning bodies (or new style responsible regional authorities when in place<sup>3</sup>) and local planning authorities (LPAs) must therefore have regard to NPSs when preparing their plans at regional and local level<sup>4</sup>. Emerging policy in a published draft NPS may also be relevant.
15. However, the designation of an NPS should not unnecessarily delay the process of preparing development plans, including regional strategies. LPAs and responsible regional authorities should consider the extent to which emerging plans and strategies can reasonably have regard to emerging NPSs, depending on the stage which the development plan has reached. Where it is not practical for changes to be made to emerging plans to take account of policy in an NPS, LPAs and responsible regional authorities should consider the steps they will need to take to address any issues arising from emerging policy through an early plan review.
16. Under existing planning law, decisions by LPAs on planning applications must be taken in accordance with the development plan unless material considerations indicate otherwise<sup>5</sup>. In cases where development plans have not yet been updated to take account of a particular NPS, the NPS is likely to be a material consideration which the LPA (and the Secretary of State on appeal or call-in) will have to take into account when determining planning applications. Whether or not the NPS is a material consideration in this or any

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<sup>3</sup> Under Part 5 of the Local Democracy, Economic Development and Construction Bill, Responsible Regional Authorities, comprising Regional Development Agencies and local authorities Leaders' Boards, will be required to prepare new integrated Regional Strategies which will replace Regional Spatial Strategies currently prepared by the Regional Planning Bodies and Regional Economic Strategies currently prepared by the Regional Development Agencies.

<sup>4</sup> Sections 5(3)(a) and 19(2)(a) of the Planning and Compulsory Purchase Act 2004.

<sup>5</sup> See section 38(6) of the Planning and Compulsory Purchase Act 2004.

other circumstance and the weight to be applied to it by the decision-maker will have to be determined on a case by case basis.

17. NPSs may specifically set out policies which will need to be taken into account by decision-makers other than the IPC. The Ports NPS, for example, has set out the Government's policies for all types of ports infrastructure – both above and below the thresholds set out in the Planning Act. LPAs and other decision-makers should therefore take account of those policies when determining applications for consent for below-threshold infrastructure applications made under the town and country planning regime. The policies in a draft NPS may also be relevant to planning applications for below-threshold infrastructure or any appeals made under the Town and Country Planning Act.
18. Locationally-specific NPSs may result in a conflict with local or regional plan policies. Statutory consultees are encouraged to highlight these when NPSs are published in draft for public consultation so that any conflicts can be taken into account. If, following designation of the NPS, the conflict remains, the more recent policy in the NPS will normally prevail for decisions made under the TCPA.
19. Applicants may bring forward proposals for nationally significant infrastructure on a site that already has an extant planning permission. The IPC will determine such applications in accordance with the Government policies set out in any relevant NPS except to the extent one or more specific exceptions apply<sup>6</sup>.

#### ***Applicability to the devolved administrations***

20. The new consent regime for NSIPs established by the Act makes no changes to the devolution settlement. It introduces a new simpler planning system for applications to build NSIPs in England and Wales, and cross-border oil and gas pipelines into Scotland. In Wales the new system will only apply to ports and certain energy applications. The IPC will not take any decisions on sites in Northern Ireland.

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<sup>6</sup> See section 104 (4) to (8) of the Planning Act 2008.

**APPENDIX C**

**Extract of London Borough of Wandsworth adopted Core Strategy (2010) and  
Policy IS 6 which supports the implementation of the Thames Tunnel**

# Wandsworth Local Development Framework

## Core Strategy



Adopted October 2010



number one for  
service and value

£35

## Core Policies for Issues: Policy IS 6

### Community services and the provision of infrastructure

a. The Council will support the provision and/or improvement of facilities for community services including education and childcare, health and social welfare, police and other emergency services and the prison service. It will work with partner organisations to support the provision of adequate, high quality social and community facilities by:

- i. Resisting the loss of social and community facilities unless there is no current or future demonstrable need.
- ii. Seeking to secure the provision of new, or improvements to existing, social and community facilities.
- iii. Supporting the dual use of social, educational and community facilities, particularly the use of schools after hours, for a mix of sporting, social, cultural and recreational uses.
- iv. Supporting the provision of improved health services, including mental health care, GP and local hospital services, having regard to scale of development and public transport availability.

b. The provision of infrastructure including transport, particularly improvements to public transport and facilities for walking and cycling, utilities, telecommunications, waste and recycling facilities, water and sewerage capacity will be supported. The provision of the infrastructure necessary to support development set out in the Strategy, particularly in the areas identified for major change, will be sought as identified in the Infrastructure Schedule in Appendix 1. The availability of infrastructure both existing and potential will be taken into account in considering development proposals.

c. The Council will support an enabling approach to the provision of public services, which allows them to be incorporated within developments as proposals are brought forward by partner organisations, with funding secured through planning obligations.

d. The Council will work with Thames Water to support the timely implementation of the Thames Tideway Sewer Tunnel project, including the connection of the combined sewer overflows in the borough.

**APPENDIX D**

**Extract of the City of Westminster adopted Core Strategy (2011) and  
Policy CS45 which supports the implementation of the Thames Tunnel**

# Core Strategy



### Reasoned Justification

This approach acknowledges the excellent flood defences in place, whilst acknowledging that there is a need to adapt to the effects of climate change in the long-term, which will continue to be necessary in the future to protect the existing built infrastructure along the riverside.

## THAMES TUNNEL

5.83 Most of Westminster, like most of London, is served by combined sewers designed in the 1860s, which receive foul water, and water from roofs, hard standing and sometimes the highways. During rainy periods the sewers fill up and overflow through a series of overflow outlets from the combined sewers into the River Thames and its tidal tributaries. This overflow results in the release of raw sewage into the river, affecting water quality and biodiversity. Specialist barges are currently used to oxygenate the river to mitigate for the impacts of combined sewer overflows on wildlife, however this still results in a breach of the requirements of the EU Urban Waste Water Treatment Directive (1991).

5.84 In London, given the growth in development and population, the strain on the existing system can trigger an overflow in the combined sewers even from relatively modest rainfall. During wet spells, the sewers fill up with rainwater very quickly. The impact of climate change, in terms of intensified rainfall events, is likely to increase the number of combined sewer discharges in the River Thames.

5.85 Thames Water is developing plans for a Thames Tunnel, a scheme to reduce and limit pollution from the sewerage system for the whole of London, in order to comply with EU Urban Waste Water Treatment Directive (1991). The Thames Tunnel project, if approved, is due to commence in 2012 and be completed by 2020. The council supports necessary infrastructure of this nature, subject to their detail and assessment of impacts.

### POLICY CS45 THAMES TUNNEL

**The council will work with Thames Water to support the timely implementation of the Thames Tunnel project, including the connection of the combined sewer overflows in the city.**

### Reasoned Justification

The Thames Tunnel project will help to reduce and limit pollution necessary to comply with the EU Urban Waste Water Treatment Objective (1991).

**APPENDIX E**

**Extract of the London Borough of Tower Hamlets adopted Core Strategy (2011)  
and Policy SP 04 which supports the implementation of the Thames Tunnel**



TOWER HAMLETS

LDF  
TOWER  
HAMLETS

# CORE STRATEGY 2025

## DEVELOPMENT PLAN DOCUMENT

Adopted September 2010



## How we are going to get there

SP04

1. Deliver a network of open spaces, by:

### Protecting

- a. Protecting and safeguarding all existing open space such that there is no net loss.

### Creating

- b. Maximising opportunities for new publicly accessible open space, of a range of sizes, particularly in the following locations:
- Poplar Riverside
  - Bethnal Green
  - Fish Island
  - Bromley-by-Bow
  - Aldgate
  - Spitalfields and Shoreditch
- c. Assisting in the delivery of new strategic publicly accessible open spaces, including the Lea River Park, FAT Walk and the Olympic Park, to significantly address deficiencies in open space in the eastern part of the borough.

### Enhancing

- d. Improving the quality, usability and accessibility of existing publicly accessible open spaces across the borough and to neighbouring boroughs.

### Connecting

- e. Promoting publicly accessible open spaces as multi-functional spaces that cater for a range of activities, lifestyles, ages and needs.
- f. Improving access to the strategically important publicly accessible open spaces, which currently include Metropolitan Open Land (East India Dock Basin and Brunswick Wharf, Island Gardens, Lee Valley Regional Park, Meath Gardens, Mile End Park, Mudchute Park and Millwall Park, Tower Hamlets Cemetery, Victoria Park) as well as the Olympic Park, Lea River Park and the FAT Walk.

- g. Creating new green corridors and enhancing existing ones to connect publicly accessible open spaces to main destination points, such as town centres, schools, health facilities, other publicly accessible open spaces, and also to, and along, water-spaces.



2. Promote and support new development that provides green roofs, green terraces and other measures to green the built environment.
3. Protect and enhance biodiversity value through:
  - a. The design of open space and buildings.
  - b. Ensuring development protects and enhances areas of biodiversity value in order to achieve a net gain in biodiversity.
4. Work with British Waterways and the Port of London Authority to deliver a network of high quality, usable and accessible waterspaces, through:
  - a. Identifying opportunities for new water spaces, particularly in Poplar Riverside.
  - b. Protecting and safeguarding all existing water spaces from inappropriate development.
  - c. Improving the quality, usability, accessibility of the environment of water spaces including the immediate area and water quality.
  - d. Working with relevant agencies and others to protect and enhance the aesthetic, ecological and biodiversity values of the borough's waterspaces.
  - e. Improving accessibility to and along waterspaces to maximise usability and promote these places for cultural, recreational and leisure activities.
  - f. Ensuring that new development responds positively and sensitively to the setting of waterspaces while respecting and animating waterspaces to improve usability and safety.
  - g. Using waterspaces for movement, including passenger and freight transport.
  - h. Ensuring residential and commercial moorings are in locations that do not negatively impact on waterspaces or navigation.
5. Reduce the risk and impact of flooding through:
  - a. Using the Sequential Test to assess and determine the suitability of land for development based on flood risk.
  - b. All new development that has to be located in a high risk flood zone must demonstrate that it is safe and passes the Exceptions Test (in accordance with PPS25).

SP04

- c. Ensuring that all new development across the borough does not increase the risk and impact of flooding.
  - d. Ensuring the application of flood-resilient design of all new developments in areas of Flood Risk 2 and 3a.
  - e. Protecting and where possible increasing the capacity of existing and new waterspaces to retain water.
  - f. All new developments must aim to increase the amount of permeable surfaces, including SUDS, to improve drainage and reduce surface water run-off.'
  - g. Seeking to maintain existing flood defences to the appropriate standards and, in the case of riverside development, improve the standard, lifetime and access to such defences.
  - h. Ensuring effective emergency-planning practices are in place.
  - i. Working closely with the Environment Agency to keep up-to-date information about flood risk in the borough.
6. Supporting the development of the Thames Tunnel and associated storm relief connections by working closely with Thames Water to facilitate its implementation.

### Programme of Delivery

This strategy will be implemented through a number of key projects including:

-  Masterplans and Area Action Plans (All)
-  Flood barriers
  - Lea River Park and FAT Walk and Olympic Park
-  LBTH Open Space Strategy
  - Development Management DPD
  - Sites and Placemaking DPD
  - Proposals Map
  - LBTH Local Biodiversity Action Plan
-  LBTH Green Grid Projects (All)

Please refer to the Programme of Delivery (Appendix two) for full implementation and delivery details and the Monitoring Framework (Appendix three) for full plan, monitor and manage details.

**APPENDIX F**

**Thames Water Utilities Ltd Representation on the Ealing Development Strategy  
(Final Proposals, September 2010) submitted 8 November 2010**

# Development Strategy DPD Representations Form

- This form should be used to provide a representation to the policies detailed in the **Ealing 2026 Development Strategy DPD Final (Submission) Proposals** document.
- You must fill in all parts of the form marked with an asterisk (\*). Anonymous forms will not be accepted and details submitted will be publicly available. A separate form should be used for each policy.
- If you intend to make a representation it should include all the information, evidence and supporting information to support and/or justify the representation and suggested change. After this stage, further submissions will only be made at the request of the Planning Inspector based on the matter and issues s/he identifies for examination.
- Please return by **Monday 1<sup>st</sup> November 2010**. Feel free to continue on separate sheets if necessary.

<b>Email</b>	planpol@ealing.gov.uk
<b>Post</b>	Planning Policy Regeneration and Property 4 <sup>th</sup> Floor Perceval House 14-16 Uxbridge Road EALING W5 2HL
<b>Website</b>	<a href="http://www.ealing.gov.uk/planpol">www.ealing.gov.uk/planpol</a>

<b>Name*</b>	Carmelle Bell
<b>Company / Organisation</b>	Thames Water Utilities Ltd
<b>Address*</b>	Clearwater Court Vastern Riad Reading Berkshire
<b>Postcode*</b>	RG1 8DB
<b>Telephone*</b>	0118 3738054
<b>Email*</b>	townplanningpolicy@thameswater.co.uk
<b>I am...*</b>	<input type="checkbox"/> Local resident <input type="checkbox"/> Planning consultant <input type="checkbox"/> Registered Social Landlord (RSL) <input checked="" type="checkbox"/> Statutory Body <input type="checkbox"/> Developer <input type="checkbox"/> Community Group  <input type="checkbox"/> Other _____

<b>Policy and/or paragraph reference*</b>	Page 67
<b>Soundness</b>	Do you consider this to be sound or unsound?  <input type="checkbox"/> Sound <input checked="" type="checkbox"/> Unsound
<b>Legality</b>	Do you consider this to be legally compliant or not?  <input type="checkbox"/> Compliant <input checked="" type="checkbox"/> Non-compliant
<b>Reason</b>	If you do not consider this to be sound, is this because you consider it not to be:  <input checked="" type="checkbox"/> Justified  <input checked="" type="checkbox"/> Effective  <input checked="" type="checkbox"/> Consistent with national policy

## Explanation

Please explain as precisely as possible why you think this text or the document overall to be sound and legally compliant or not.

In order to meet the test of 'soundness', as set out in PPS12, a DPD must be found to be 'justified', 'effective' and 'consistent with national policy'. PPS12 also states that core strategies must comply with legislation and have a legal requirement to 'have regard to national policy' and to be in general conformity to the Regional Spatial Strategy. Whilst Regional Spatial Strategies were revoked by the government on the 6<sup>th</sup> July 2010, the London Plan was identified as continuing to provide the spatial planning framework for London boroughs.

It is essential that LDFs cover water and waste water/ sewerage infrastructure issues and in doing so are consistent with national and regional policy objectives.

As you are aware, Thames Water are currently undertaking phase 1 consultation on the preferred sites for the construction of the Thames Tunnel and the interception of a number of combined sewage overflow (CSO) points that currently discharge untreated sewage into the Thames. The site at Acton Storm Tanks has been identified as our preferred option to intercept the Acton Storm Relief CSO and receive the tunnel boring machine that will have driven the connection tunnel from Hammersmith Pumping Station. The Acton Storm Tanks is situated within the London Borough of Ealing, We believe for your core strategy to be found sound and legally compliant there should be specific policy support for the principle of the Thames Tunnel in order to reflect national priorities for the scheme and comply with regional guidance set out in the London Plan. Without such a policy, or other supporting reference, the core strategy would not be justified, effective, conform to the London Plan, or be consistent with national policy. We have outlined our reasoning for determining your Development Strategy unsound below,

### **Justified:**

We believe that the Development Strategy is not properly justified as a sufficient examination of your evidence base would have led to the conclusion that policy support for the Thames Tunnel was required. The Infrastructure Delivery Plan (September 2010) forms part of the LDF evidence base and identifies the Thames Tunnel as infrastructure to be delivered within the plan period. Further evidence is presented within the existing and proposed replacement London Plans, which require LDFs to support the project. It is therefore clear that insufficient regard has been made to the supporting evidence base and the decision to not support the Thames Tunnel within the Development Strategy is not justified.

### **Effective:**

We believe that the Development Strategy is not effective as it fails to ensure the delivery of essential national infrastructure. According to the Planning Inspectorate's *Local Development Frameworks, Examining Development Plan Documents: Soundness Guidance*, in order for a core strategy to be determined as 'effective' it should be clear '*who is going to deliver the required infrastructure and does the timing of the provision complement the timescale of the strategy/policies*'. Currently, there is insufficient support for the implementation of the Thames Tunnel, which is advocated at a national and regional level. Public consultation on the preferred scheme is underway and consultation on the selected scheme will take place during summer 2011. The current programme would also seek consent in 2012 and deliver an operational scheme by 2020, which is well within the forecast 20 year lifespan of the Council's LDF.

Whilst it is acknowledged that the site specific details of the project may change through ongoing design developments and as a result of public consultation, the strategic requirement for the scheme will remain unchanged. Therefore, the principle of the project should be supported by Ealing and expressed accordingly in the Development Strategy.

### **Consistent with national policy:**

Core strategies must contain policies or proposals that are in line with national guidance to be found sound, or provide clear and convincing reasons to justify any departure. Core strategies should also be in general conformity to the Regional Spatial Strategy (paragraph 4.33).

It is, therefore, essential that the Development Strategy is consistent with national and regional policy objectives in relation to waste water infrastructure. In order for the Development Strategy to be found sound, there should be a specific policy supporting the principle of the Thames Tunnel in order to reflect national priorities and emerging policies and comply with regional guidance set out in the London Plan. We believe that without such a policy, the current Development Strategy is inconsistent with national policy and consequently 'unsound'.

The Thames Tunnel project has received national political support from both the previous government and the coalition government. As you will be aware, in 2007, Thames Water was tasked by the previous government to develop and implement a scheme that reduces and limits pollution from the Beckton and Crossness sewerage system. The option for a tunnel from West London and Beckton Sewage Treatment Works (the Thames Tunnel) with a separate tunnel between Abbey Mills Pumping Station and Beckton STW (the Lee Tunnel) was supported on the basis that the two projects offered the best and quickest solution for significantly reducing the current volume of sewage discharges into the River Thames and River Lee. Endorsement for the project was reiterated on 1<sup>st</sup> March 2010 by the then Secretary of State for Environment, Food and Rural Affairs, Hilary Benn, who advocated the building of the Thames tunnel as '*vital for the future health of Londoners and for the environment and reputation of our capital city*'. More recently, on 7<sup>th</sup> September 2010, the new Secretary of State, Caroline Spelman, confirmed the backing of the coalition government to continue to progress the Thames Tunnel stating '*a tunnel continues to offer by far the most cost effective solution to the unacceptable problem of raw sewage being regularly discharged into the Thames*'.

## European Context

The driver for the government's decision is the need to comply with the requirements of the 1991 EU Urban Waste Water Treatment Directive. The Thames Tunnel will substantially reduce the level of overflows of untreated sewage from CSOs forming part of London's sewers, into the River Thames. The Environment Agency considers that these overflows are causing: adverse environmental impacts on fish species; unacceptable aesthetic issues and elevated health risks for recreational users of the Thames. The project will make the tidal River Thames cleaner and healthier.

On 8<sup>th</sup> October 2009, the European Commission announced its intention to commence infraction proceedings against the UK government regarding compliance of the wastewater collecting system in London with the Urban Waste Water Treatment Directive. Depending on the outcome of the case, there is the potential for unlimited fines to be levied against the UK government. It is, therefore, in the national interest to deliver the Thames Tunnel as it is an integral part of the solution to the problem of water quality in the Thames.

## National Context

Regulation 17 of the Water Environment (Water Framework Directive) (England and Wales) Regulations, 2003 states that each public body must have regard to River Basin Management Plans and supplementary plans. This requirement applies to both local authorities and the Planning Inspectorate. The Thames River Basin Management Plan, which has been approved by the Secretary of State for DEFRA, states that *'.....and the construction of the London Tideway Tunnels are planned to be delivered by Thames Water over the next two river basin cycles. These major projects represent the primary measures to address point source pollution from the sewerage system and are fundamental to the achievement of good status in this catchment'*. The London Tideway Tunnels comprise two separate projects, namely the Lee Tunnel (which has been granted planning permission) and the Thames Tunnel. A failure to support the Thames Tunnel would overlook a key project that is fundamental to necessary improvements to the Thames, required to ensure that the UK complies with the EU Urban Waste Water Treatment Directive.

As discussed, the Thames Tunnel project has received government endorsement and this is reflected within clear policy support for the project at the national, as well as regional, level. National Policy Statements (NPS) are at the heart of the new planning regime and local planning authorities must have regard to NPSs when preparing DPDs, including draft NPSs. The draft NPS on waste water is due to be issued in autumn 2010 and the intention outlined by the Secretary of State, Caroline Spelman, in her ministerial statement is to include reference to the Thames Tunnel. It would, therefore, be prudent for the Development Strategy to support the project, since failure to expressly support the Thames Tunnel may mean that the Development Strategy would not be in accordance with emerging national policy. The Communities and Local Government's letter to local authorities, dated 16<sup>th</sup> July 2009, stated that draft NPSs should be treated in the same way as other Government planning policy statements as material considerations in planning application decision making. The letter continues to say *'NPSs are not part of the statutory development plan for the purposes of the town and country planning regime, but are statements of national policy on nationally significant infrastructure...and local planning authorities will therefore need to have regard to NPSs when preparing their plans at regional and local level'*.

## Regional Context

Policy 4A.18, water and sewerage infrastructure, of the Consolidated London Plan (2008) contains the following statements in relation to the Thames Tunnel and Lee Tunnel projects:

*'...In particular the Mayor will and the Boroughs should support the implementation of the Thames Tideway Sewer Tunnel project and associated infrastructure and sewage treatment from Hammersmith to Beckton and Lower Lee Valley to Beckton.'*

Sub text to the policy states (paragraph 4.52):

*'...The Mayor supports the timely implementation of the project, which is expected to take up to 2020. Boroughs will need to resolve local matters for example, design, construction, traffic management, remediation and mitigation. The project directly affects some 12 London boroughs. The principal of the project is strategically important to delivering a more sustainable London....'*

Furthermore, the draft replacement London Plan (currently undergoing its Examination in Public) was published in October 2009 together with the draft Water Strategy. Whilst so far the draft replacement London Plan can only be afforded limited weight as a material planning consideration, it will only gain weight as Ealing's Development strategy progresses towards examination. The Development Strategy will, therefore, need to reflect the sentiment of the new Plan. Proposed Policy 5.14 relates to Water Quality and Strategic Infrastructure and states that *'Within LDF's boroughs should identify sewerage infrastructure requirements and relevant boroughs should support in principle the Thames Tideway Sewer Tunnels'*.

The general sentiment of the published summaries dated 25<sup>th</sup> August 2010 (<http://www.london.gov.uk/london-plan-eip>) of all comments received during the examination in public of the draft replacement London Plan is positive towards Policy 5.14 in terms of addressing water quality issues and for the provision of strategic infrastructure including the Thames Tunnel,

The Mayor's draft Water Strategy also clearly supports the Thames Tunnel and contains a useful summary of the background to the Thames Tunnel in chapter 5. Proposal 10 states that *'The Mayor will work with Thames Water and other partners to support the construction of the Thames and Lee Tunnels, in a cost-effective way and minimising disruption, as a means of greatly reducing storm discharges from the combined sewer system and improving the quality of the water in the River Thames'*.

**Changes** Please suggest, in the form of a rewording of the text or policy you would like changed, the changes you consider would make the policy sound or legally compliant.

On 13<sup>th</sup> September 2010, Thames Water announced the start of the 14 week phase 1 consultation on our preferred tunnel route and sites for the project, along with our shortlisted options. As previously discussed, we have identified the Acton Storm Tanks as our preferred site to intercept the Acton Storm Relief CSO and receive the tunnel boring machine that will have driven the connection tunnel from Hammersmith Pumping Station. Thames Water is keen to work closely with the borough in order to deliver improvements in waste water infrastructure. We, therefore, consider that there should be specific policy support in the Development Strategy for the Thames Tunnel development to help facilitate its approval and construction. A suggested policy is set out below:

**'Thames Tunnel**

The Borough of Ealing supports the timely implementation of the Thames Tunnel, which will collect and forward flows for treatment. The Borough of Ealing will work with Thames Water and other stakeholders to identify any work site needs within the Borough and resolve local matters, for example, design, construction, traffic management, remediation and mitigation.'

Given that the importance of the project has been recognised by your Council, we believe that the introduction of such a policy is acceptable. Inclusion of policy support would bring your documents into line with emerging national policy and the London Plan, whilst also reflecting the Infrastructure Delivery Plan evidence base, and subsequently address matters concerning the soundness of your Development Strategy. We suggest that our proposed policy is added to the Final Proposal 6.1 as an appropriate point within the Development Strategy for inclusion. However, we would stress that the Thames Tunnel is not required to enable the amount of development proposed for the area

It is worth emphasising that we will be prepared to amend our plans in the light of feedback we receive and will be conducting a second round of public consultation next year before seeking planning approval in 2012.

Use a separate sheet if necessary

**Examination**

If you are seeking a change, do you consider it necessary for you to appear at the examination?

Yes     No

**Reason**

Please explain why you would like to attend the examination.

To ensure the interests of delivering the nationally significant Thames Tunnel is sufficiently represented

Use a separate sheet if necessary