

LBE Response: Inspector's Further Questions Regarding SIL

As set out in Section 24(1)(b) of the Planning and Compulsory Purchase Act 2004 (as amended), all development plan documents must be in general conformity with the London Plan; this is a key test of the soundness of plans. As set out in paragraph 17 of Mayor's response to the publication DPD (attached at Appendix A), the Planning Inspectorate has stated that the view of the Mayor's opinion "*will be given considerable weight*" and that a lack of general conformity would need to be fully justified on the basis of local circumstances, based on relevant evidence.

In responding to the publication DPD, the GLA considered that, in failing to apply a SIL designation the portion of OIS7 south of the canal, Ealing was not in general conformity with the London Plan. However, the Mayor supported the proposed de-designation/reconfiguration of SIL and LSIS boundaries in the remainder of the borough. Therefore the Council did not consider it appropriate to review levels of industrial land release in other areas of the borough as the general approach raised no issues of conformity.

In relation to conformity, the Mayor's comments related only to the lack of SIL designation applied to the portion of OIS7 south of the Canal, and highlighted that in failing to correct this omission the borough would be inconsistent in its stated approach to management of designated employment land and with regional guidance on reconfiguration of a strategically important area of industrial and warehousing capacity.

In considering the Mayor's response to the publication DPD, the Council took into account the relative weight afforded to the Mayor's opinion in relation to soundness of the plan, as well as reviewing the allocation in the light of local circumstances and the relevant evidence. Of particular significance was the adoption of the Mayor's Land for Industry and Transport SPG in September 2012, which provided further guidance on the application of London Plan Policies 2.17 and 4.4 relating to borough-level industrial land supply.

1. Overall Reduction in Industrial Land Supply

- 1.1. The table below sets out the reduction in the borough's designated SIL/LSIS as a result of the allocations within *EDS2 Development Sites DPD with Minor Track Changes*, as well as the total industrial land release from both designated and non-designated sites; the latter is calculated from the data within the London Industrial Baseline (URS 2010).
- 1.2. Within the URS study, where a part of a designated site contained non-industrial uses this portion of the site was not factored into the overall supply side calculations which fed into the release benchmarks set out in the SPG. Annex 1 of the SPG updates and rolls forward the industrial land release benchmarks to 2031, with a benchmark of 24ha for Ealing.
- 1.3. The benchmark within the borough's ELR was based on a proportionate share of the West London release benchmark for 2006-2026 in the London Plan, and as set out in Policy 1.2(b) of the Development Strategy DPD, the limited transfer of 14ha refers to changes to the designated industrial land supply as opposed to the total industrial land release from both designated and non-designated sites.
- 1.4. In responding to the publication DPD, the GLA reviewed the overall change in the industrial land supply (whether designated or non-designated) as well as the change in designated SIL/LSIS (which may or may not be in 100 percent industrial use). In the case of OIS7 Greenford Green, although the area of designated SIL to the north of the canal was 9.13ha, only 5ha of this was identified in the URS study as being in industrial use and therefore the Mayor used the lower figure when determining the overall change in Ealing's industrial land supply.

Location/Publication DPD Reference	URS 2010 Reference	Industrial Land Release (ha)	Potential net SIL change (ha)	Potential net LSIS change (ha)	Potential net SIL/LSIS change (ha)
Colonial Drive ACT6	UDP406	-1.00	0.00	-1.00	-1.00
Acton Crossrail Station ACT7 – south of railway	UDP367	-0.90	0.00	0.00	0.00
Southall Crossrail Station SOU4	SIL8.3	-2.38	-2.38	0.00	-2.38
Southall East SOU6	SIL8.2 part	-7.52	-7.52	0.00	-7.52
Johnson Street Southall SOU10	UDP453.2	-2.89	0.00	-2.89	-2.89
Greenford Green OIS8 – north of canal	SIL9.6	-5.00	-9.13	0.00	-9.13
Greenford Green OIS8 – south of canal	3025	0.00	9.47	0.00	9.47
Atlas Road, Park Royal – new SIL	n/a	0.00	6.79	0.00	6.79
TOTAL QUANTUM OF RELEASE		-19.69	-2.77	-3.89	-6.66

2. Supplementary Review of Evidence Base and Analysis

- 2.1. The locations of SIL are shown symbolically on the Development Strategy DPD Key Diagram and in Map 2.7 of the London Plan 2011; as set out in paragraph 2.83 of the London Plan, the boundaries of SILs should be defined in LDFs. Where changes have occurred to the boundaries of the borough's LSIS/SIL as a result of the managed release of employment sites through the Development Sites DPD, these changes will be reflected on the Policies Map.
- 2.2. In setting SIL boundaries, the borough is therefore limited to the SIL locations identified in the London Plan to ensure that any retention/release creates a balanced strategic and local industrial land portfolio. Industrial sites (SIL and LSIS) are designated precisely to separate classic bad neighbour uses from potentially sensitive uses and are currently managed at the London level, through the London Plan 2011 and the Land for Industry and Transport SPG, according to policies that restrict any contradictory use.
- 2.3. Ealing's strategy for managing employment land set out in Policy 1.2(b) is based on the evidence of the ELR (2010), with the policy allowing for limited transfer of 14ha of industrial land to mixed use development, coordinated through the Development Sites DPD and OAPFs for Park Royal and Southall. The ELR was undertaken in parallel to the SHLAA, as advised by the NPPF (paragraph 161). The land uses map included at Appendix B (GLA 2010) shows the distribution of industrial uses (brown; offices shown as dark purple) within the Park Royal/A40 property market area as described in Annex 4 of the SPG.
- 2.4. All of the industrial areas identified as Strategic Industrial Locations (SIL) or Locally Significant Industrial Estates (LSIS) in the Local Plan form part of the minimum baseline of projected demand for industrial uses in the borough, and relate to the borough's realistic share of London's industrial needs. Understanding of these sites should not be disaggregated as the loss or erosion of any land below the market baseline will adversely affect the economics of the whole market for this type of use. Current occupation levels (refer to London Industrial Baseline 2010) and evidence of renewal on safeguarded sites indicates that there is a reasonable prospect of the safeguarded land being used for industrial purposes.

- 2.5. The component areas of OIS7 have been subject to several historical designations in the UDP, including Major Employment Location, Special Opportunity Site and Development Site. With the adoption of the Development Strategy DPD, UDP Policy 6.1 *Supply of Land & Property for Business Use* expired, replaced by London Plan Policy 4.4 and Development Strategy Policy 1.2(b).
- 2.6. The boundaries of existing Major Employment Locations, and which of these are also identified as Strategic Employment Areas by the GLA (now known as SIL in the London Plan 2011), are set out in Schedule 10.14/Map Sheet 1 of the UDP. The portion of OIS7 to the north of the canal and the Hovis Bakery is identified as MEL/SIL (refer to map extract in Appendix 1).
- 2.7. UDP Policy 2.2 Regeneration of Special Opportunity Sites also expired with the adoption of the Development Strategy DPD, with guidance for those sites which have not been built out contained within Schedule 10.21/Map Sheet 15 of the UDP, and the related site-specific SPGs.
- 2.8. The Butler's Wharf Site portion of OIS7 (refer to map extract in Appendix 1) is identified as Development Site 80 in Schedule 10.21, with the preferred use identified as employment. The related Site 80 SPG sets out the preferred uses as general /light industrial uses and warehousing, with complementary amenities for employees, while identifying potential for some high density mixed uses in the south of the site.
- 2.9. Although the West London Sub-Regional Development Framework (GLA 2006) does identify indicative boundaries of the Strategic Employment Locations (now SIL) within Ealing at Map 3 of Annex 2, the UDP does not differentiate between those Major Employment Locations that are of regional importance other than symbolically.
- 2.10. OIS7 is therefore formalising an indicative SIL boundary, and reflects Ealing's identification in the London Plan as a 'limited transfer' borough and the corresponding benchmark for release of industrial land. As set out in paragraph 3.27 of the Mayor's Land for Industry and Transport SPG, when identifying a new portfolio of sites to retain in industrial use or the release of surplus sites to other uses, it must be borne in mind that the release benchmarks apply to all sites, whether designated in DPDs or not.
- 2.11. The Development Strategy DPD deals with OIS7 at Policy 3.2, 3.6 and Policy 4.2; as set out in the supporting text of Policies 3.6 and 4.2, delivery of proposals for the area will be facilitated by the Development Sites DPD and a separate SPD. Policy 4.2 refers to the promotion of regeneration proposals on key sites, including Butlers Wharf, for 'appropriate mixed use development', and that 'the retention of employment on this site will be strongly encouraged'. Policy 3.2 is explicit that a sufficient supply of industrial land (SIL) will be retained along the A40 corridor.
- 2.12. In assessing OIS7, the Employment Land Review concludes that overall the existing employment uses should be retained, with consideration being given to the redevelopment opportunity in the northern section of the site should. The ELR raises the possibility of new offices in the northern area of the site, but cautions that deliverability would likely be marginal due to the difficulty of achieving office rental values to support redevelopment.
- 2.13. In considering the appropriate mix of uses across OIS7, and proposing the release of the northern section of the site from SIL designation, the Council has taken into account the relevant regional level guidance applicable to Ealing's categorisation as a 'limited transfer' borough for release of industrial land (whether designated or not), as well as existing uses/site constraints.

- 2.14. The 'limited transfer' categorisation required a consideration of local variations of demand in the borough, with a view to reconfiguring the borough's portfolio of industrial land to safeguard the best quality sites and phasing release to reduce vacancy rates towards the 'frictional rate'. Frictional vacancy is required to enable the industrial land market to operate smoothly by allowing for some vacant land at any given time.
- 2.15. As advised in paragraph 3.7 of the Land for Industry and Transport SPG, boroughs with an industrial land vacancy rate of less than 5 percent should make an allowance in DPDs for the frictional vacancy rate to remain the same over the plan period; according to the 2010 London Industrial Baseline, the vacancy rate across Ealing is 4 percent. In view of the evidence base and the corresponding guidance in paragraphs 3.27-3.29 of the Mayor's SPG, Ealing's borough-wide approach to managing the industrial land portfolio has been to adopt a planned, as opposed to development management led, approach.
- 2.16. The portion of OIS7 to the north of the canal is not in active industrial use, nor has it been within the last five years. Despite a historical designation as SIL, the portion of the site to the north of the canal is comprised of a mix of modern and old office accommodation (largely vacant), including a Grade II Listed Building. The site allocation therefore serves to manage the transfer of this poor quality site through identifying priority uses for the site in line with SPG Policy SPG3.
- 2.17. The portion of the site south of the canal to Rockware Avenue is in active industrial use. No compelling evidence has been provided throughout the plan production process to support the site's release from its existing industrial use, in contrast to the recommendations of the ELR, in terms of the supply/demand balance of industrial land; the achievement of any other planning objectives; or any indication that the majority occupiers intend to vacate in the near future. The site allocation therefore serves to retain this site in active industrial use, recognising its functional relationship with the existing SIL to the west.

3. Consistency of Approach

- 3.1. Within the publication DPD, OIS7 was the exception in that the allocation did not also reference a LSIS/SIL designation where industrial uses were identified as an appropriate use. Although the Council proposed that this inconsistency may be rectified through designation as an LSIS (as set out in Appendix B of ED5), the Mayor's response considered this insufficient from a strategic perspective as the site is immediately adjacent to an existing SIL (indeed the publication version of the site allocation referenced a functional relationship with the existing SIL to the west) and based on site characteristics is assessed as a high quality, strategic site.

4. Justification

- 4.1. The Mayor's justification for his comments relating to OIS7 are summarised in paragraph 11 of his consultation response. In considering these comments, the Council took into account that although the majority of the area south of the canal was not previously identified as MEL/SIL a portion of the site did have a SIL designation which the site allocation in the publication DPD removed; it has been consistently allocated for industrial use throughout the Development Sites DPD production process and historically in the UDP; and it has been and continues to be occupied for industrial uses.
- 4.2. In light of site circumstances and the SIL locations identified in the London Plan, the Council considered that the Mayor's reasoning behind his opinion is appropriately justified by the relevant evidence base which includes (as referenced in the Mayor's response) Ealing's Employment Land Review 2010; the London Industrial Land Baseline 2010; the borough's 'Limited Transfer' classification for transfer of industrial land to other uses; and the qualitative

site appraisal criteria at paragraphs 4.14 to 4.16 and Annex 3 of the SPG which formed the basis for a more detailed review of the site.

- 4.3. The Council therefore concurs with the Mayor's view that the lack of SIL designation for the land south of the canal in the publication DPD was not justified by the evidence base and was inconsistent with the Council's general approach to the retention/release of SIL/LSIS across the borough (as set out in the remainder of the site allocations) and regional level guidance on the same.

Appendix A

3 September 2012

Ealing Pre Submission , Development Sites, Development Management DPDs and the Policies Map

(Ealing Council Local Development Framework)

Consultation on Pre-Submission Document

Town & Country Planning Act 1990 (as amended) (TCPA); Greater London Authority Acts 1999 and 2007 (“GLA Act”); Planning and Compulsory Purchase Act 2004 (as amended) (“PCPA”); Town and Country Planning (Local Development) (England) Regulations 2012 (“the Regulations”).

Strategic issues

In relation to Greenford Green Strategic Industrial Land (SIL), it would be more appropriate from a strategic perspective to designate land to the south of the canal as SIL (in the terms of London Plan policy 2.17) rather than a Locally Significant Industrial Site LSIS.

Recommendation

That the Mayor agrees to submit the comments set out in this report and in the attached appendix to Ealing Council as the formal response to the Pre-Submission consultation, and that Council be advised that the proposed Submission Documents are in general conformity with the London Plan provided that above strategic issue is addressed.

Context

1. On 4 July 2012, Ealing Council consulted the Mayor of London on the above Document. This report sets out information for the Mayor’s use in deciding what comments to make. The consultation period ends on 24th August 2012 but has been extended until 5th September for the GLA due to the holiday season.
2. The local development framework together with the London Plan and the National Planning Policy Framework (NPPF) provide the essential framework for planning at the borough level. The “development plan” in London for the purposes of section 38(6) of the PCPA is:
 - The London Plan (2011), and
 - Development plan documents produced by borough councils (and saved unitary development plan policies in transitional period).
3. There are three types of local development documents: development plan documents (DPDs); supplementary planning documents (SPDs); and statements of community

involvement. All of the documents now being consulted on are DPDs with development plan status, which will be subject to an examination to test the ‘soundness’ of the plans.

4. The NPPF states that a plan is “sound” where it is positively prepared, justified, effective and consistent with national policy.

The Mayor’s role

5 All development plan documents must be in general conformity with the London Plan, in accordance with Section 24(1) (b) of the PCPA. Section 24(4) of the PCPA requires boroughs prior to submitting it to the Secretary of State to request the opinion in writing of the Mayor of London as to the general conformity of a development plan document with the London Plan and advises that they may request the opinion in writing of the Mayor as to the general conformity of any other local development documents. The Mayor issues this opinion on DPD general conformity in accordance with Section 24(5) of the PCPA. . Further to this Regulation 19 requires general consultation at the pre-submission stage. By virtue of Regulation 21(2) of the Regulations the Mayor has 6 weeks from the date of the request to provide his opinion on whether the DPDs are in general conformity with the London Plan

6 Mayor of London’s comments will be made available on the GLA website www.london.gov.uk.

Previous representations

7 The GLA made representations on the proposals consultation stage of the plan preparation process on 30th November 2010. A number of the issues that were raised at that stage have been satisfactorily resolved.

Proposed representations

8 The Ealing Local Development Framework will replace the adopted 2002 Unitary Development Plan. It will set the Council’s approach to the planning of the borough up to 2026 and will consist of the Core Strategy (adopted April 2012), Policies Map, Development Management DPD and Development Sites DPD and a number of supplementary planning documents.

The Development Management DPD formatting

9 The Ealing Development Management DPD contains policies relating to the assessment of planning applications. There are two types of polices included in the DMDPD, local Variations and Local Policies. Local Variations are additions to London Plan policies which are used to adapt it for use in Ealing by making it locally specific or adding additional detail. Local Policies are new policies that are specific to Ealing.

10 The adopted version of the DM DPD will be a composite document which reproduces all of the London Plan policies alongside the new Ealing Local Policies and Local Variations. The Council intends that this will make it much easier to use these two documents and result in better

decisions on planning applications. This novel approach which combines the London Plan and the Local Policies is welcomed and supported by the GLA.

Strategic Issues

Greenford Green SIL

11 There is a loss of SIL of 9.13 ha and an increase in LSIS of 9.47 ha south of the canal proposed in the site allocation. The loss of 9.13 ha SIL to the north of the canal is acceptable in principle subject to the compensatory designation of land to the south of the canal as SIL as part of a wider reconfiguration of this strategically important area of industrial and warehousing capacity. Taking into account criteria for designation of SILs in the Mayor's Land for Industry and Transport SPG; the scale and quality of the land and associated industrial and warehousing uses on site (as evidenced in a recent local Employment Land Review); and given that the land is immediately adjacent to the existing SIL, it would be more appropriate from a strategic perspective to designate land to the south of the canal as SIL (in the terms of London Plan policy 2.17) rather than LSIS.

Total industrial land supply (designated and non-designated sites)

12 Overall the proposed total reduction in industrial land supply is 19 hectares. This is acceptable in principle in line with Ealing's 'limited' categorisation for release of surplus industrial sites to other uses (as defined in London Plan policy 4.4 and Map 4.1). However, caution is raised as the level of release accounted for in site allocations may leave limited scope for further releases that may come about through the development management process over the plan period.

Great Western - London Plan SIL 23

13 The DPD proposes the de-designation of part of this London Plan SIL. When considered against the criteria for SILs in the London Plan and associated SPG the proposed de-designation of a part of this SIL is acceptable in principle. The de-designations will support regeneration in the immediate vicinity of the new Crossrail station. The re-designation of part of the SIL as locally significant industrial site (LSIS) between Bridge Road and Glade Lane (as indicated in Map 6) is supported in principle.

Transport

14 Transport for London has no strategic comments to make.

Legal considerations

15 All local development documents must be in general conformity with the London Plan in accordance with Section 24(1) (b) of the Act. This is a key test of the soundness of

plans. The Mayor's representations made at this stage will go forward to the examination in public and must include an opinion regarding general conformity with the London Plan.

16 The fact that a development plan document is inconsistent with one or more policies in the London Plan, either directly or through the omission of a policy or proposal, does not, by itself, mean that the document is not in general conformity. Rather, the test is how significant the inconsistency is from the point of view of delivery of the London Plan.

17 Any expression of opinion from the Mayor that the development plan document is not in general conformity will be treated as a representation to be dealt with by the Inspector at the examination. The Planning Inspectorate has stated that the view of the Mayor's opinion "*will be given considerable weight*"¹ and that a lack of general conformity with the London Plan will need to be fully justified on the basis of local circumstances, based on relevant evidence.

18 The Mayor must also state why the policy is not in general conformity and his reasoning behind that opinion. The Inspector will determine whether he or she supports the opinion and recommend accordingly. The Mayor should provide the Inspector conducting the examination with any necessary additional information as appropriate, either through a representative or in writing according to the requirements of the Inspector. The examinations in the present cases are due to be held in early 2013.

Conclusion

19 The three Ealing DPDs are considered to be in general conformity with the LP provided that Strategic Industrial Land designation is applied to the Greenford Green site south of the Canal rather than the proposed designation as a Local Strategic Industrial Site.

For further information, contact the Planning Decisions Unit

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¹ Development Plans Examination – A Guide to the Process of Assessing the Soundness of Development Plan Documents (The Planning Inspectorate, 2005), paragraph 1.2.6

GREATER LONDON AUTHORITY
Development, Enterprise and Environment

Karen Montgomerie
Planning Policy
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W5 2HL

Our ref: DP/LDF10/
LDD06
Date: 24 May 2013

Dear Ms Montgomerie,

**Planning and Compulsory Purchase Act 2004;
Town and Country Planning (Local Planning) (England) Regulations 2012
Ealing Council Development Sites DPD: Greenford Green**

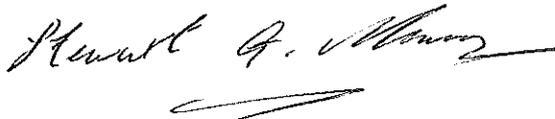
The Mayor has afforded me delegated authority to make comments on his behalf on the revised Development Sites DPD that will be examined at the hearing on 4 June 2013.

The GLA welcomes the amendments made to the draft DPD in light of the representation made by the Mayor on 3 September 2012. I can now confirm that the proposed changes to OIS7 Greenford Green in *site allocation OIS7 Greenford Green (formerly OIS8) within submission document EDS2 Development Sites DPD with Minor Track Changes*, which identify the land south of the canal as SIL, are in general conformity with the London Plan.

These comments are officer level only and do not preclude any further comment the Mayor may make on future consultation phases of the Council's Local Development Framework.

If you would like to discuss the matters further please contact Hermine Sanson on 0207 983 4290.

Yours sincerely,



Stewart Murray
Assistant Director – Planning

Appendix B

