

SEGRO Comments ED77 & 82

6th August 2103

On 17th June the Inspector issued questions to the LPA (ED77). On 5th July the LPA responded (ED82). SEGRO has not been formally invited to comment.

On 25th June, the LPA published both Main (ED78) and Minor (ED80) Modifications to the Sites DPD. SEGRO have submitted only brief comments on both as neither address SEGRO's objections. As neither ED78 nor 80 raise matters addressed in the Council's 'answers' to the Inspector's questions, SEGRO has no formal opportunity to comment on ED82.

As we outline below, the Council's responses in ED82 somewhat unhelpfully do not respond directly to the Inspector's questions and in the main, seek to introduce new evidence not previously submitted ahead of the EIP or expand on their EIP evidence.

SEGRO are concerned that their position would be prejudiced if they are not afforded the opportunity to respond to ED82.

Inspector's Question

The Inspector's questions were set against the context that the GLA / LPA's reasons for now proposing to designate SEGRO's land as SIL, were solely based upon a reaction to the overall level of designated industrial land release. More specifically, the Inspector identifies the need to understand that the LPA's decision making between September 2012 and the 2013 Submission draft were properly considered and justified.

"I need to be sure that the approach taken was justified and supported by analysis/ evidence, and would request the following information:

In the very simplest sense, as evidenced both by the LPA's responses to the Inspector's questions and its case at the EIP, the late decision to allocate the site as SIL was not based upon a considered approach, but a knee-jerk reaction; a response that regrettably was neither tested nor justified.

The LPA's Response

The LPA's introduction asserts that considerable weight should be attached to the GLA's opinion and of the need for conformity with the London Plan. However, the first four Paragraphs serve to confirm that the LPA simply took the GLA's comments at face value and did not test the need for SIL against any due

process. In terms of conformity with the London Plan, there is no acknowledgment that the site's mixed-use designation within the CS is considered to be in conformity with the London Plan

Q1 - Confirmation of the overall extent of reduction in industrial land over the plan period.

At 1.4 the Council suggest that following the publication draft Sites DPD, the GLA re-assessed the changes in industrial supply. However, no evidence was put ahead of or during the EIP to present any such analysis of data. No such study was on the ED list or evidence base; nor anything presented to the Inspector during the EIP.

Equally, no such document was referred to in the Council's reasons for changing the site designation between September 2012 and the 2013 Submission.

We note that the LPA suggests in their response / accompanying table, that only 5ha of the GSK site was originally suggested as being industrial / released from industrial use. If this were correct, there would be no justification within the ELS evidence base to replace the loss of 5ha at GSK with almost twice the figure, 9ha, on SEGRO's land.

A more balanced approach, say identifying the requirement to reserve a significant element, but not all of SEGRO's land for industrial purposes, would be consistent with the balanced approach that SEGRO has advocated.

Table

The table on page 2 is said to present a total release for both designated land (column 6) and a combination of designated and non-designated land (column3).

In the overall industrial land release column (column3), only 5ha of GSK is counted, but in the remaining columns (4, 5 and 6), the full 9.13ha is counted, even though the LPA suggests that the ELS (the only published evidence relied upon) assumed a net loss of industrial land of 5ha.

If the third column is meant to be the total of allocated and non-allocated land change, the loss of 19.69 ha should be balanced by (ignoring OIS7 for now) the 6.79 proposed to be designated at Atlas Road (penultimate row). Therefore the net change without including any SEGRO land would be 12.9ha, which is within the 14ha benchmark and well within the 2031 'rolled forward' benchmark.

The LPA stated at the EIP that the 14ha benchmark related only to designated industrial land, thus:

Excluding Segro land, net the release of SIL and LSIS would be as follows (again assuming a net gain at Atlas Road but ignoring SEGRO land).

- -16.13ha = Net loss of designated land (assuming GSK is designated)

On this basis, it would not be necessary to designate the full 9.47 ha of land at SEGRO to mitigate a relatively minor breach of the 14ha benchmark, which after all is no more than a benchmark. Further, considering the increased 24ha benchmark to 2031, the small breach would be manageable.

However, if it is accepted that the GSK site had in effect been removed from designated employment land through the CS and is designated as mixed use, then the net loss of designated land is not 16.13ha, but only 7ha.

On this basis no mitigation would be required.

Q2. Whether the Council carried out any further analysis on receipt of the GLA's response to the publication DPDs, such as looking at releasing less industrial land rather than allocating new SIL. I am interested in the consistency of approach to the allocation/de-allocation of SIL across the Borough.

As there was no evidence of any analysis between the receipt of the GLA comments in September 2012 and Submission in 2013, we can only conclude that the GLA's advice to replace the perceived loss of 9.13ha at GSK by 9.47ha at SEGRO was simply not tested.

On this basis the simple answer to the first part of the Inspector's question would of course be 'NO', as their own submission documents confirm that the LPA simply did as asked and there is no evidence to suggest that other alternatives were looked at.

In terms of the second part of the question, there is no evidence to suggest that before allocating SEGRO's land, the LPA paused and looked at all other SIL, LSIL or non-designated industrial releases and took a comprehensive approach to the relative merit of each.

In terms of the LPA's response, to the Inspector's question, they appear to change the question to 'Supplementary Review of Evidence Base'. This the remainder of Section 2 does not go anywhere close to answering the Inspector's question about alternatives and specifically 'post the GLA response in Sept '12 what alternatives had been considered' to the designation of Segro land? However, so far as it may warrant a response, we raise the following points:

The Borough's answer to its own question then goes on to the subject of what they assumed to be SIL.

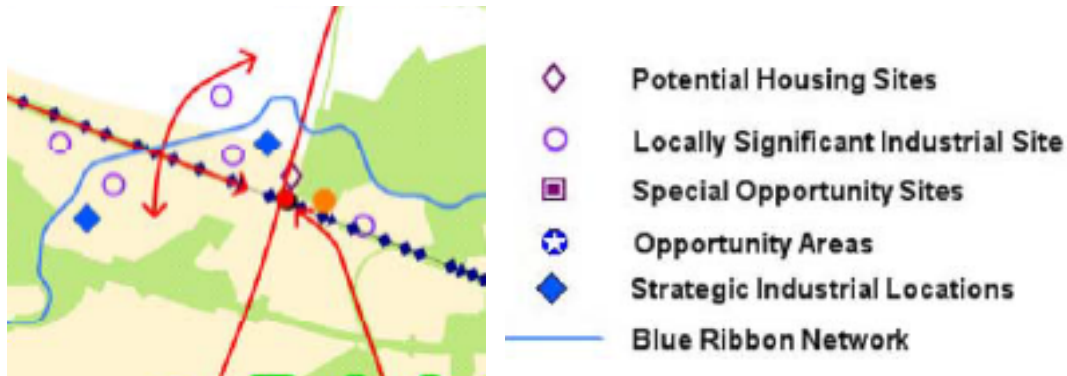
2.1 suggests that the release of SIL will be through the development plan process. However, at no stage of the EIP process has the LPA been able to demonstrate that it balanced all potential releases, considering them against each other. As such, the late reaction to the GLA's comments means that the allocation of SEGRO's site as SIL would not represent a balanced or fair consideration.

At 2.2 the LPA get a little closer to answering the Inspector's question, suggesting that they could not look at defining SIL (and thus we assume alternative compensatory industrial designations) outside of the GLA's indicative SIL annotations. Which they refer to as being shown on the CS key diagram and in the London Plan.

If this assumption is correct does either plan allow SEGRO's site to be included as an alternative to lost SIL if it was not MEL or SIL before?

The key diagram (map 2 page 10 of the CS)

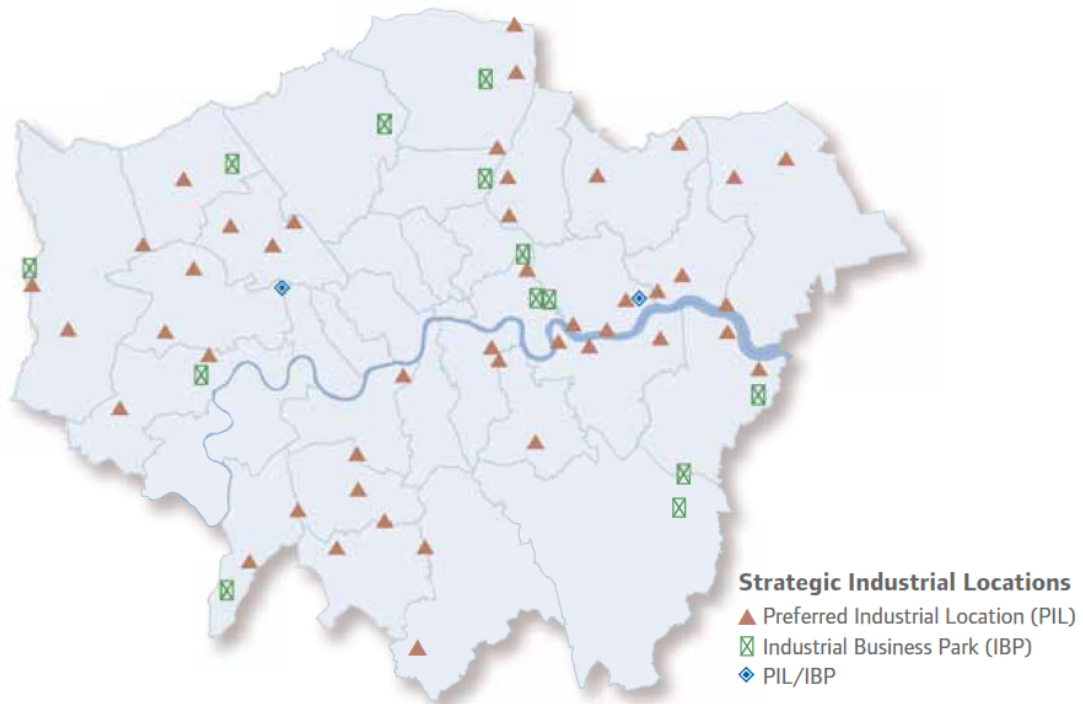
http://www.ealing.gov.uk/downloads/download/1322/adoption_of_the_development_or_core_strategy



The Key Diagram above is so indicative that it is difficult to conclude, but with the help of an equivalent aerial extract from GoogleEarth; other than that the reference to SIL appears to be to the west, the only 'annotation' that clearly correlates to the Segro site identifies it as a 'potential housing site'. Notably there is no indicative SIL annotation north of the canal, thus supporting our case that GSK was not SIL in the CS.

London Plan Map 2.7

Map 2.7 London's strategic Industrial locations



Source GLA: © Crown copyright. All rights reserved. Greater London Authority 100032216 (2011)

It is not possible to take any guidance from this map, but if the LPA's / GLA's case is that the LPA wishes to flip SIL to SEGRO's land; if it were not MEL/SIL before, which is fully accepted by the LPA, it could not have been assumed to have been within an indicative location and thus would not be eligible for consideration with any future SIL boundaries.

At 2.3 the LPA implies that the 2010 Employment Land Review (ELR) was undertaken in parallel with their SHLAA "...as advised by the NPPF..." The reason for this statement is not clear, but in any case the NPPF did not exist in 2010? Further, offers no evidence to show that the LPA reviewed the land release issue after the GLA's comments in Sept 2012.

At 2.3 the LPA also refer to the CS industrial land release strategy being one that should be informed by the ELS and managed through the Sites DPD. The ELS in fact informed the mixed-use CS designation and there was no suggestion at the CS stage that any potential loss of industrial capacity at either SEGRO or GSK would need to be compensated for.

The net effect is that the LPA proposes that land which was not previously designated as MEL or SIL must in effect take the pain for (i) the LPA's failure to have regard to the wider site release process 'in the round' and (ii) a misunderstanding as to what level of mitigation, if any, was required.

The LPA also refer to CS policy 1.2 (b) reads:

Employment land will be categorised for short, medium or long-term protection.

The supporting text reads:

Managed release of employment sites will involve categorising employment sites into three broad categories:

- *Long-term protection – Strategic Industrial Locations (SILs) and Locally Significant Industrial Sites (LSISs) comprise the borough’s strategic employment land and are the primary focus for general industrial and warehousing land. Where appropriate, these sites may also accommodate office development. Proactive management of these areas will involve the limited transfer of 14 hectares to mixed use development over the plan period, coordinated through the Development Sites DPD and the Opportunity Area Planning Frameworks for Park Royal and Southall.*

SEGRO’s land does not meet the definition for long-term protection, in that it is neither MEL, SIL nor LSIL and was already identified as a mixed-use site in the CS. On this basis, even if site allocations were to be treated at part of the benchmark, any significant MEL / SIL or LSIL releases to be promoted by the Council should not have taken place until sites such as SEGRO’s, which were identified in the CS for mixed-use, were considered first? At the very least, any release of MEL/SIL/LSIL that would have breached the benchmark, should not have been promoted where the objectives of say mixed-use development could have been achieved through a site identified in the adopted CS.

Again, in any respect, the LPA’s case here does not represent an answer to the Inspector’s question as to what happened **after the GLA Comments** in September 2012.

Paragraph 2.4 to 2.8 seek to provide new written evidence on general policy issues and the historical policy position to the site. Paragraph 2.4, for example, states that all SIL / LSIL forms the minimum baseline and should not be eroded. The difficulty here is that the LPA’s own evidence in the table suggests that they ignored this position until they were (miss) advised by the GLA, but again, this fails to answer the Inspector’s question as to what they did or didn’t do post the GLA Comments in Sept 12.

Paragraphs 2.5 to 2.9 refer to historic policy in an attempt to justify why SEGRO’s land could be considered as SIL but yet again they do not support any suggestion that after September 2012 the LPA specifically undertook any fresh assessment of sites as a whole. If anything in missing the point of the Inspector’s question and going off track, the LPA’s response should reinforce the view that the process is flawed.

Paragraph 2.10 can only be described as nonsense. It claims that the Submission Stage OIS7 proposals for SEGRO's land simply formalise boundaries, when the LPA's own evidence actually identifies that it is solely to mitigate what they mistakenly believe to be a loss of SIL to the north. The LPA cannot have it both ways – if they now suggesting that it isn't mitigation, but definition of previously indicative boundaries to include SEGRO's land, then this is a fundamental shift from any evidence previously available to the EIP.

Earlier in their note, the LPA has already accepted that SEGRO's land is not MEL, SIL or LSIL, therefore any sound process of drawing detailed boundaries cannot include this site.

2.12 refers to the ELR of 2010 – clearly not a post Sept 12 document.

2.13 to 2.15 claim that the release of GSK is within the 'limited transfer' approach, but identified earlier, the LPA does not appear to have considered site releases as a whole against the benchmarks.

Paragraphs 2.16 and 2.17 rely upon a selective interpretation of the ELR, which clearly refers to the SEGRO land being poor quality in relation to GSK.

Notably there has never been any evidence to suggest that the LPA sought to identify whether the GSK site could be developed in-part for significant modern industrial purposes.

LPA Answer 3 "Consistency of Approach"

This issue is actually part of the Inspector's second (and 4th) questions.

At 3.1 the LPA refer to considerations of LSIL v's SIL on the SEGRO site, but as SEGRO's written submissions ahead of the EIP highlight, there has never been any published evidence to show that the Council had either an SIL or an LSIL designation in mind for the SEGRO site until the GLA intervened. It is not clear where the GLA assumed that the site would be LSIL and they have never come forward to explain the inconsistency between their thinking and the published consultation documents.

In essence the process that the LPA is describing appears to be:

- *Having considered our ELS, the CS and benchmark targets, we did not see the need to allocate SEGRO's site as LSIL (nor SIL) in the 2012 draft.*
- *We were thinking about LSIL, but have no published material to demonstrate this.*
- *Even though an LSIL designation on SEGRO's land wasn't in the consultation draft, the GLA thought it was, advised that it was inadequate and in order to allow GSK to be released, SEGRO should be SIL instead.*

- *We simply did as they asked and designated it as SIL*
- *We cannot offer any evidence either from ourselves or the GLA to demonstrate that there was any detailed consideration behind this approach*

If the LPA were less unhelpful, their response to the Inspector might be:

- *No, we don't have any evidence to show that following the GLA's comments, we reviewed the wider DPD portfolio of industrial releases against each other and the adopted CS and the benchmarks to assess whether the GLA's advice was correct or whether issues raised could be addressed in a different way.*

Q3 - The ELR advises that the site OIS7 (formerly OIS8) is retained as an employment site, considering mixed use. What evidence base and analysis do the GLA rely on to make their comments about the SIL designation at site OIS7.

The question appears to be ignored by the LPA, presumably confirming that there was no analysis by the GLA.

Q4 – Where is the specific justification for including part of OIS7 in SIL in preference to sites in other areas in the Borough. Again, was the approach to allocation/de-allocation justified and consistent?"

Again the LPA appear to 'evade' the question put to them.

The question is clearly about how the decision (taken between the GLA's Sept 12 comments and the Feb 13 Submission) can be justified, for example, by evidence that at the time there was an assessment or comparison of SEGRO's land to other sites and an assessment as to whether the site allocation would accord with the adopted CS.

In paragraphs 4.1 and 4.3 the LPA say little more suggest that they simply did as the GLA asked and didn't ask questions either of the GLA or themselves.

4.2 refers to 2010 evidence base, which was available when the CS designated SEGRO's land as mixed use.

At paragraph 4.3 the LPA seeks to imply that the GLA were advising that SEGRO's land should be allocated on merit, but that is clearly not what the GLA said; the sole reason stated in the evidence to the EIP was for mitigation of other assumed SIL losses, specifically at GSK
