

Hearing Note

Matter 1: Legal Compliance

Conformity with the London Plan

1. The statutory requirement is of general conformity with the spatial development strategy, defined in section 334 of the Greater London Authority Act 1999, and known more generally as The London Plan.
2. I have made submissions in support of the argument that the Submission draft policy is so fundamentally anti-growth and that its likely effect on the Borough's role in meeting development needs is so considerable that it takes the Core Strategy out of general conformity with the London Plan. There is, not surprisingly, considerable overlap between this argument and that as to conflict with national policy: we argue that the policy is flawed from its conception, being designed to limit what is (or can be where properly regulated in the public interest) a much needed and beneficial form of sustainable development. In RBKC, and other Boroughs where above ground development is highly constrained, its role in meeting the development needs of London is inevitably and particularly important. This is so whether it is proposed as an extension to an existing property, or whether it forms part of a development proposal for a major development (such as the development of flats or a hotel – either of which may wish to use basement levels for car parking or for leisure facilities, or a retail / leisure regeneration scheme).
3. The point is, in summary, that the London Plan is fundamentally and essentially in favour of growth, in favour of sustainable development, subject to the need to respect legitimate planning and environmental constraints on growth; that in seeking to accommodate the local concern / political pressure to restrict and limit a particular form of development (underground) the policy goes well beyond what can be justified on the evidence, and that this takes the Core Strategy out of general conformity with the London Plan.
4. I rely on the submissions made at the hearing, the summary argument in the Hearing Statement for Matter 1, and paragraphs 11-19 of our original Representations on the Submission draft policy. In each of these we referred to particular examples of policies and text within the London Plan which are offended by the Council's draft policy. This note is not intended to elaborate upon those arguments (first made in August 2013) in which we have also explained why we do not – in this particular case – believe the GLA certificate is a sufficient answer to them. Instead I simply identify those paragraphs and policies of the London Plan which I recommend the Inspector consider when reaching a judgment.
5. I have referred to the 2011 version and have not referred to later modifications and proposed modifications since these are not thought to be relevant to the paragraphs and points I draw on.
6. The London Plan is divided into 8 Chapters and 6 Annexes with a Foreword by the Mayor Johnson. It is a coherent document to be read as a whole. However, to illustrate the points made about its encouragement of growth, the references I draw particular attention to follow.

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7. Foreword: *My vision for London embraces two objectives. London must retain and build upon its world city status as one of three business centres of global reach. It must be somewhere people and businesses want to locate, with places and spaces to meet their needs. This economic dynamism is vital [please read to end of paragraph]. London must also be among the best cities in the world to live, whatever your age and background.... These objectives are not opposites. We can't achieve one without the other. But there can be tensions between them, especially given the scale and scope of growth and change explained in this Plan – ..."*
8. Chapter 2, London's Places:
 - a. Paragraph 2.3 1st sentence,
 - b. Policy 2.1 paragraphs 2.7, 2.11 1st sentence,
 - c. RBKC is in the Central Sub-Region [Map 2.1] and most of it lies just outside the Central Activities Zone [Map 2.2].
 - d. Strategic policy for Inner London : Policy 2.9 paragraph 2.40.
 - e. Opportunity Areas : Policy 2.13 – Earls Court and West Kensington within Opportunity Area 8, and see paragraphs 2.58, 2.60, as well as Annex 1 which elaborates on the intentions for this area and refers to the preparation of a Planning Framework. It may be thought vital that such a document is not artificially constrained by a Core Strategy restriction on the extent of development below ground level.
 - f. The town centre network [map 2.6] and paragraph 2.70.
9. Chapter 3, London's People:
 - a. Increasing the supply of housing: Paragraphs 3.1 first bullet point, 3.13, 3.16-19 and policy 3.3. Note the roles of intensification and of sensitive renewal of residential areas within policy 3.3 E.
 - b. Optimising Housing potential : policy 3.4
10. Chapter 4, London's Economy:
 - a. Policy 4.1 and paragraphs 4.1-4.9
 - b. Policy 4.2 – offices – and paragraph 4.11.
 - c. Policy 4.5 – Visitor Infrastructure
 - d. Policies 4.7 and 4.8 – Retail and Town Centre development – a proactive approach by the Council to identifying need and bringing forward capacity.
11. Chapter 7, London's Living Places and Spaces:
 - a. This chapter contains much to commend basement development: for example, improvements to the public realm, the design of buildings, the importance of London's green and pleasant public spaces. Nowhere do its worthwhile objectives suggest that the temporary impact on the environment and its amenity which the

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construction period of development inevitably brings with it should be a consideration in restricting development and growth. Nowhere is there support for treating development below ground differently from that above ground. In fact, the constraints it identifies which do have a legitimate role in preventing or restricting beneficial development are all long term above ground planning and/or environmental impacts. They all reinforce our submission that there is no basis for resisting development under the ground which should play its part in meeting London's challenging development needs.

- END OF HEARING NOTE -