



Local Plan Partial Review – Draft Policies
Policy Formulation Report – October 2016
Climate Change



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

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1. INTRODUCTION

1.1 LOCAL PLAN PARTIAL REVIEW

- 1.1.1 The Council is undertaking a Partial Review of its existing Local Plan to ensure it is up-to-date and fit-for-purpose.
- 1.1.2 The Local Plan Partial Review covers the topics which have not already been subject to recent reviews since the existing Local Plan was adopted by the Council in 2010 (then known as the Core Strategy). As part of this, the topic of **climate change** and in particular **energy and water standards** relating to residential development needs reviewing.
- 1.1.3 This Policy Formulation Report has been written to explain the reasoning behind the topic of **climate change** of the Draft Policies consultation document to a level of detail which cannot be included in that document itself.

1.2 CLIMATE CHANGE

- 1.2.1 This topic of the Local Plan Partial Review relates primarily to the existing Local Plan Policy CE1 Climate Change of Chapter 36 Respecting Environmental Limits.
- 1.2.2 The issues which the Council considers the Local Plan Partial Review needs to address are set out in the following sections:
- **Issue 1:** Energy
 - **Issue 2:** Water

2. ISSUE 1: ENERGY

2.1 INTRODUCTION

- 2.1.1 The Government has taken steps to rationalise housing standards to simplify regulatory costs and burdens on development as part of a package of measures to help boost house building, known as the national 'Housing Standards Review'. The Government published a Written Ministerial Statement (WMS) in March 2015 which outlined policy and announced that Councils should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings over and above the national ones. In the WMS the Government also announced that the Code for Sustainable Homes had been withdrawn. These national changes affect those criteria of Policy CE1 Climate Change which set standards for housing.

2.2 LEGISLATION, POLICY AND GUIDANCE CONTEXT

NATIONAL

PLANNING AND ENERGY ACT 2008, THE DEREGULATION ACT 2015 AND THE HOUSING AND PLANNING ACT 2016

- 2.2.1 Section 43 of the Deregulation Act 2015¹ amends the Planning and Energy Act 2008². This amendment had not commenced at the time of writing this policy formulation report and was expected to commence in late 2016. When commenced the amendments will take away powers from local authorities to set in their development plan documents energy efficiency standards that exceed the energy requirements of Building Regulations. The requirement is in relation to construction or adaptation of buildings to provide dwellings or the carrying out of any work on dwellings. This provision is expected to commence in late 2016. Until the amendments commence it is still possible to include policies in the Local Plan that exceed the requirements in Building Regulations.
- 2.2.2 The Government has also made a commitment in section 165 of the Housing and Planning Act, May 2016 for the Secretary of State to carry out a review of any minimum energy performance requirements approved by the Secretary of State under Building Regulations in relation to dwellings in England.

WRITTEN MINISTERIAL STATEMENT, MARCH 2015

- 2.2.3 The Government published a Written Ministerial Statement (WMS)³ in March 2015 which outlined policy and announced that from the date the Deregulation Bill 2015⁴ is given Royal Assent local planning authorities should not set in their emerging Local Plans any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings over

¹ www.legislation.gov.uk/ukpga/2015/20/contents/enacted/data.htm

² www.legislation.gov.uk/ukpga/2008/21/section/1

³ www.gov.uk/government/speeches/planning-update-march-2015

⁴ <http://services.parliament.uk/bills/2014-15/deregulation.html>

and above the national ones. *“This includes any policy requiring any level of the Code for Sustainable Homes⁵ to be achieved by new development; the government has now withdrawn the code, aside from the management of legacy cases.”*

2.2.4 *“For the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008⁶ in the Deregulation Bill 2015.”*

FIXING THE FOUNDATIONS: CREATING A MORE PROSPEROUS NATION, HM TREASURY, JULY 2015

2.2.5 The Government published the ‘Productivity Plan’ Fixing the foundations: Creating a more prosperous nation (July 2015)⁷ which announced that the Government does not intend to introduce Zero Carbon Homes⁸.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

2.2.6 Section 10 of the NPPF is about meeting the challenge of climate change, flooding and coastal change. Of particular relevance is paragraph 95 which supports the move to a low carbon future and states that local planning authorities should:

- plan for new development in locations and ways which reduce greenhouse gas emissions;
- actively support energy efficiency improvements to existing buildings; and
- when setting any local requirement for a building’s sustainability, do so in a way consistent with the Government’s zero carbon buildings policy and adopt nationally described standards. (NB: The Government has since withdrawn the commitment to zero carbon homes, see paragraph 2.2.5 above)

NATIONAL PLANNING PRACTICE GUIDANCE (NPPG): CLIMATE CHANGE

2.2.7 The National Planning Practice Guidance (NPPG) on Climate Change paragraph 9 provides further guidance on paragraph 95 of the NPPF. It states that *“Local requirements should form part of a Local Plan following engagement with appropriate partners, and will need to be based on robust and credible evidence and pay careful attention to viability. In this respect, planning authorities will need to take account of Government decisions on the Housing Standards Review when considering a local requirement relating to new homes.”*

⁵ www.gov.uk/government/policies/improving-the-energy-efficiency-of-buildings-and-using-planning-to-protect-the-environment/supporting-pages/code-for-sustainable-homes

⁶ www.legislation.gov.uk/ukpga/2008/21/contents

⁷ www.gov.uk/government/publications/fixing-the-foundations-creating-a-more-prosperous-nation

⁸ The Government had previously intended to introduce ‘Zero Carbon Homes’ from late 2016 as a national requirement. This was to work alongside ‘Allowable Solutions’ where carbon emissions which cannot be cost-effectively reduced on-site can, once a minimum on-site carbon performance standard has been reached, be tackled through off-site measures

REGIONAL

THE LONDON PLAN

2.2.8 London Plan Policy 5.2: Minimising Carbon Dioxide Emissions requires development proposals to follow an energy hierarchy:

- Be lean: use less energy
- Be clean: supply energy efficiently
- Be green: use renewable energy

2.2.9 It further sets out targets for carbon dioxide emissions reduction for major developments both residential and non-residential. The latest targets for major residential developments are set out in the Mayor's Housing SPG, March 2016.

LONDON PLAN HOUSING SPG

2.2.10 Standard 35 of the Mayor's Housing SPG, March 2016 sets out the following standard for residential development:

Standard 35 (and Policy 5.2) – Development proposals should be designed in accordance with the LP energy hierarchy, and should meet the following minimum targets for carbon dioxide emissions reduction.

<u>Year</u>	<u>Improvement on 2013 Building Regulations</u>
2014 – 2016	35 per cent ¹
2016 – 2036	Zero carbon

¹ As set out in the Mayor's Sustainable Design and Construction SPG 2014 (paragraph 2.4.3) and the Energy Planning – GLA Guidance on preparing energy assessments

2.2.11 Further guidance on this standard is provided in paragraphs 2.3.51 to 2.3.66. In particular paragraph 2.3.57 explains that the London Plan 'zero carbon homes' target remains in place. The viability of delivering 'zero carbon homes' in London was "*tested through the needs and viability assessment*" for the Minor Alterations to the London Plan (MALP) which indicated that the standards would not compromise housing viability (although energy standards were withdrawn from the MALP due to changes in national policy). It further states that, "*This approach will also help ensure that the development industry in London is prepared for the introduction of 'Nearly Zero Energy Buildings' by 2020.* (As required by the European Energy Performance of Buildings Regulation which requires periodic review of Building Codes to ensure cost optimal review of energy efficiency standards and that all new buildings are 'nearly zero energy buildings' by 2020)."

2.2.12 Paragraph 2.3.58 of the Housing SPG, March 2016 defines 'zero carbon' homes as "Zero carbon' homes are homes forming part of major development applications where the residential element of the application achieves at least a 35 per cent reduction in regulated carbon dioxide emissions (beyond Part L 2013) on-site (in line with policy 2.5B). The remaining regulated carbon dioxide emissions, to 100

per cent, are to be off-set through a cash in lieu contribution to the relevant borough to be ring fenced to secure delivery of carbon dioxide savings elsewhere (in line with policy 5.2 E).”

- 2.2.13 In terms of implementation, the Mayor’s Housing SPG, March 2016 requires ‘zero carbon’ homes for Stage 1 applications from 1 October 2016.

GREATER LONDON AUTHORITY HOUSING STANDARDS REVIEW: VIABILITY ASSESSMENT, MAY 2015

- 2.2.14 The viability study was commissioned by the GLA to establish the impact of the adoption of the Government’s new national housing standards within London Plan policy on the viability of development in London.
- 2.2.15 The broad findings of the study are; at borough-wide average house prices and build costs, development taking into account the impact of the proposed housing standards and zero carbon achieved land values in excess of a benchmark in 84% of cases. The viability study included sensitivity testing and at the worst case allowing for a 0.5% fall in values and an 8% increase in costs this fell to 72% of cases.
- 2.2.16 The viability study also found that the estimated cost impact of moving to zero carbon homes in 2016 represents circa an additional 1-1.4% of base build cost.
- 2.2.17 The overall outcome of the viability testing was that the introduction of the new Housing Standards, and the move to zero carbon homes in 2016, do not represent a significant determinant in the viability and the deliverability of housing development in London.
- 2.2.18 The study specifically explored the impact on lower value boroughs and commented on high value locations (the Royal Borough can safely be assumed to be such a location) that *“There are some very high value locations where viability is unlikely to be affected by any changes at the margins of development requirements. Those at the lower end of the spectrum are far more susceptible to marginal changes affecting viability and deliverability.”* (paragraph 4.34)

LOCAL

EXISTING LOCAL PLAN POLICY

- 2.2.19 The existing Local Plan policy is as set out below:

Policy CE1 Climate Change

The Council recognises the Government’s targets to reduce national carbon dioxide emissions by 26 per cent against 1990 levels by 2020 in order to meet a 60 per cent reduction by 2050 and will require development to make a significant contribution towards this target.

To deliver this the Council will:

- a. require an assessment to demonstrate that all new buildings and extensions of

- 800sq.m or more residential development or 1,000sq.m or more non-residential achieve the following Code for Sustainable Homes/BREEAM standards:
- i. residential development should meet Code for Sustainable Homes Level 4.
 - ii. non-residential development should meet BREEAM very good with 60 per cent of the unweighted credits available in the energy, water and materials sections.
- b. require an assessment to demonstrate that conversions and refurbishments of 800sq.m or more residential development or 1,000sq.m or more non-residential achieve the following relevant BREEAM standards:
- i. residential development: BREEAM excellent for domestic refurbishment including the following minimum standards:
 - (a) the minimum standards of excellent for energy;
 - (b) 80 per cent or more of the un-weighted credits in the waste category
 - ii. non-residential development should achieve BREEAM very good rating.
- c. require that carbon dioxide and other greenhouse gas emissions are reduced to meet the Code for Sustainable Homes and BREEAM standards in accordance with the following hierarchy:
- i. energy efficient building design, construction and materials, including the use of passive design, natural heating and natural ventilation;
 - ii. decentralised heating, cooling and energy supply, through Combined Cooling Heat and Power (CCHP) or similar, while ensuring that heat and energy production does not result in unacceptable levels of air pollution;
 - iii. on-site renewable and low-carbon energy sources;
- d. require the provision of a Combined Cooling, Heat and Power plant, or similar, which is of a suitable size to service the planned development and contribute as part of a district heat and energy network for:
- i. strategic site allocations at Kensal, Wornington Green, Kensington Leisure Centre and Earl's Court; and
 - ii. significant redevelopment and regeneration proposals at Notting Hill Gate and Latimer as set out in the places section of this document;
- e. require all CCHP plant or similar to connect to, or be able to connect to, other existing or planned CCHP plant or similar to form a district heat and energy network;
- f. require development to connect into any existing district heat and energy network, where the necessary service or utility infrastructure is accessible to that development;
- g. require development to incorporate measures that will contribute to on-site sustainable food production commensurate with the scale of development;
- h. require, in due course, development to further reduce carbon dioxide emissions and mitigate or adapt to climate change, especially from the existing building stock, through financial contributions, planning conditions and extending or raising the Code for Sustainable Homes and BREEAM standards for other types of development.

OTHER LOCAL POLICY

2.2.20 The Council's Air Quality and Climate Change Action Plan 2016-2021 sets out an

action for the Council to support the implementation of the government’s Housing Standards Review with regard to standards through alterations to the London Plan, revisions to the Local Plan, determination of planning applications and through Building Regulations.

SUMMARY

Date	Document	Organisation
Nov 2008	Planning and Energy Act 2008	HM Government
Mar 2012	National Planning Policy Framework (NPPF) Paragraphs 95, 174 and 177	DCLG
Mar 2015	Deregulation Act 2015	HM Government
Mar 2015	Written Ministerial Statement: Planning Update	DCLG
Mar 2015	National Planning Practice Guidance (NPPG): Climate Change	DCLG
Mar 2016	The London Plan (as amended)	Mayor of London
Mar 2016	Housing SPG	Mayor of London
May 2015	Housing Standards Review: Viability Assessment	David Lock Associates et al for Mayor of London
May 2015	Housing Standards Review: Evidence of Need	David Lock Associates et al for Mayor of London
2016	Air Quality and Climate Change Action Plan 2016-2021	RBKC

2.3 EVIDENCE BASE

- 2.3.1 The key changes to the policy are to delete references to the withdrawn Code for Sustainable Homes standard and the BREEAM standard for domestic refurbishment ahead of the proposed amendments to the Planning and Energy Act 2008 (expected to commence in late 2016). These changes are in-line with national policy as set out in the Written Ministerial Statement of March 2015.
- 2.3.2 The amended policy text is referring to London Plan policy on energy which is already part of the Council’s development plan. As such there is no further evidence required to make the changes to Policy CE1. It is simply making the policy up to date with national policy and is in conformity with the London Plan.
- 2.3.3 The supporting evidence to the London Plan Policy 5.2 is summarised in paragraphs 2.2.21 to 2.2.25 above.

2.4 OPTIONS, CONSULTATION AND INTEGRATED IMPACT ASSESSMENT (IIA)

2.4.1 The Issues and Options consultation document⁹ published in December 2015 sets out the questions and options consulted on at that stage. The comments made as part of the public consultation can be found in two documents relating to this topic area:

- **Consultation Schedule** – a table setting out all of the consultation comments and the Council’s response to each comment
- **Consultation Summary** – a summary of the consultation comments

2.4.2 Further options and alternatives arising from the Issues and Options consultation have been considered in the Integrated Impact Assessment (IIA) and are all summarised below.

2.4.3 The Council has considered the options particularly in light of the ‘tests of soundness’ which are set out in the NPPF:

- **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.
(paragraph 182)

2.4.4 There were no other reasonable policy options. The Council could not continue to keep references to standards such as the Code for Sustainable Homes that had been withdrawn by the Government.

2.4.5 The London Plan is part of the Council’s development plan and the key changes in the policy text are to provide the reference for applicants to the London Plan policy on energy relating to major residential development.

⁹ <https://planningconsult.rbkc.gov.uk/consult/ti/LPPR/consultationHome>

Option		Status	Reason
1	The Council should <u>delete</u> references to the Code for Sustainable Homes and any other standard such as BREEAM related to residential development from Local Plan policy.	Preferred option for Draft Policies	<p>Positively prepared – the changes will contribute to sustainable development by seeking a reduction in carbon emissions in line with the London Plan policy.</p> <p>Justified – The changes are justified as the Code for Sustainable Homes has been withdrawn and in light of the proposed amendments to the Planning and Energy Act 2008, BREEAM for domestic refurbishment may not be applicable by the time the policy is adopted.</p> <p>Effective – the London Plan policy is part of the Council’s development plan and evidence for the London Plan policy 5.2 demonstrates that it is viable to deliver the energy targets across London.</p> <p>Consistent with national policy – the proposed changes delete the references to the withdrawn Code for Sustainable Homes and BREEAM for domestic refurbishment which is in-line with national policy and the proposed amendments to the Planning and Energy Act 2008.</p>
2	The Council should <u>keep</u> references to the Code for Sustainable Homes and any other standard such as BREEAM related to residential development in Local Plan policy.	Not a reasonable alternative	Such an approach would not be consistent with national policy and therefore would not be positively prepared, effective or justified.

Option	Status	Reason
3 The Council should remove references to BREEAM standards for commercial developments as well.	Not a reasonable alternative	The changes to the policy are being made to respond to the Government's Housing Standards Review. The standards relating to non-residential development are not within the scope of the Local Plan Partial Review as they have already recently been reviewed.

2.5 DRAFT POLICY

DRAFT POLICY

- 2.5.1 Following consideration of the above options and alternatives, the existing Local Plan policy is proposed to be amended as follows (replicated from the Draft Policies consultation document):

Policy CE1 Climate Change

The Council recognises the Government's targets to reduce national carbon dioxide emissions by ~~26-34~~ per cent against 1990 levels by 2020 in order to meet a ~~80~~ ~~60~~ per cent reduction by 2050 and will require development to make a significant contribution towards this target.

To deliver this the Council will:

- a. require an assessment to demonstrate that ~~all new buildings and extensions of or more major residential development meets the carbon reduction requirements set out in the London Plan. or 1,000sq.m or more non-residential achieve the following Code for Sustainable Homes/BREEAM standards:~~
 - i. ~~residential development should meet Code for Sustainable Homes Level 4.~~
 - ii. ~~non-residential development should meet BREEAM very good with 60 per cent of the unweighted credits available in the energy, water and materials sections.~~
- b. require an assessment to demonstrate that ~~non-residential development of 1,000 sq m or more meets BREEAM very good with 60 per cent of the unweighted credits available in the energy, water and materials sections and conversions and refurbishments of 800sq.m or more residential development or 1,000sq.m or more non-residential development achieve BREEAM very good rating. the following relevant BREEAM standards:~~
 - i. ~~residential development: BREEAM excellent for domestic refurbishment including the following minimum standards:~~
 - (a) ~~the minimum standards of excellent for energy;~~
 - (b) ~~80 per cent or more of the un-weighted credits in the waste category~~
 - ii. ~~non-residential development should achieve BREEAM very good rating.~~

- c. require that carbon dioxide and other greenhouse gas emissions are reduced ~~to meet the Code for Sustainable Homes and BREEAM standards~~ in accordance with the following hierarchy:
 - i. energy efficient building design, construction and materials, including the use of passive design, natural heating and natural ventilation;
 - ii. decentralised heating, cooling and energy supply, through Combined Cooling Heat and Power (CCHP) or similar, while ensuring that heat and energy production does not result in unacceptable levels of air pollution in particular on site allocations such as Kensal, Wornington Green, Latimer and Earl's Court;
 - iii. on-site renewable and low-carbon energy sources;
- ~~d. require the provision of a Combined Cooling, Heat and Power plant, or similar, which is of a suitable size to service the planned development and contribute as part of a district heat and energy network for:~~
 - ~~i. strategic site allocations at Kensal, Wornington Green, Kensington Leisure Centre and Earl's Court; and~~
 - ~~ii. significant redevelopment and regeneration proposals at Notting Hill Gate and Latimer as set out in the places section of this document;~~
- ~~ed.~~ require all CCHP plant or similar to connect to, or be able to connect to, other existing or planned CCHP plant or similar to form a district heat and energy network;
- ~~fe.~~ require development to connect into any existing district heat and energy network, where the necessary service or utility infrastructure is accessible to that development;
- ~~gf.~~ require development to incorporate measures that will contribute to on-site sustainable food production commensurate with the scale of development;
- ~~h. require, in due course, development to further reduce carbon dioxide emissions and mitigate or adapt to climate change, especially from the existing building stock, through financial contributions, and planning conditions, and extending or raising the Code for Sustainable Homes and BREEAM standards for other types of development.~~

KEY DIAGRAM AND PROPOSALS MAP

2.5.2 No changes are required to be made to the Key Diagram or the Proposals Map.

2.6 DUTY TO COOPERATE AND STRATEGIC ISSUES

2.6.1 The legal obligation of the 'duty to cooperate' requires the Council to "engage constructively, actively and on an ongoing basis" and have "regard to activities" (i.e. strategies, plans, policies) of other bodies in the preparation of Local Plans "so far as relating to a strategic matter". This includes "considering whether to consult on and prepare... agreements or joint approaches"¹⁰.

2.6.2 A "strategic matter" relates to "sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in

¹⁰ Section 33A of the Planning and Compulsory Purchase Act 2004, as inserted by Section 110 of the Localism Act 2010

particular)... in connection with infrastructure that is strategic”¹¹. Strategic matters are further defined in paragraph 156 of the NPPF¹² and paragraph 013 of the NPPG on the duty to cooperate¹³.

2.6.3 Figure 2.1 shows that the energy aspects of the climate change policy are not considered a strategic issue. Nevertheless Figure 1 sets out the relevant prescribed bodies, the actions the Council has taken with regard to the duty and the strategies, plans and policies of those prescribed bodies which the Council has had regard to.

Strategic issue	Relevant prescribed bodies ¹⁴	Council actions Prescribed bodies’ strategies, plans and policies which the Council has had regard to
Although climate change is clearly a strategic issue, the Local Plan policies for energy are not considered a strategic issue.	Environment Agency	All prescribed bodies were consulted as part of the Issues and Options consultation
	Historic England	
	Natural England	
	Mayor of London/HCA	Only the Mayor of London responded with specific reference to energy and water aspects of Policy CE1: Climate Change and others responded with reference to other topics (including the Impact Assessments – see separate section)
	Civil Aviation Authority	
	West London Clinical Commissioning Group	
	NHS England	
	Office of Rail Regulation	
	Transport for London	
	Integrated Transport Authorities	
	Highway Authorities	
	Marine Management Organisation	
	London Enterprise Panel	
	Local Nature Partnership (London Wildlife Trust)	
	City of Westminster	
London Borough of Hammersmith and Fulham		
London Borough of Wandsworth		

¹¹ Section 33A(4) of the Planning and Compulsory Purchase Act 2004, as inserted by Section 110 of the Localism Act 2010

¹² <http://planningguidance.communities.gov.uk/blog/policy/>

¹³ <http://planningguidance.communities.gov.uk/blog/guidance/duty-to-cooperate/>

¹⁴ Regulation 4 of The Town and Country Planning (Local Planning) (England) Regulations 2012

Strategic issue	Relevant prescribed bodies ¹⁴	Council actions Prescribed bodies' strategies, plans and policies which the Council has had regard to
	London Borough of Brent	
	Other London Boroughs	

Figure 2.1: Duty to cooperate strategic issues, prescribed bodies and Council actions

3. ISSUE 2: WATER

3.1 INTRODUCTION

- 3.1.1 The Government has taken steps to rationalise housing standards to simplify regulatory costs and burdens on development as part of a package of measures to help boost house building, known as the national 'Housing Standards Review'. The Government published a Written Ministerial Statement (WMS) in March 2015 which outlined policy and announced that Councils should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings over and above the national ones.

3.2 LEGISLATION, POLICY AND GUIDANCE CONTEXT

NATIONAL

WRITTEN MINISTERIAL STATEMENT AND BUILDING REGULATIONS

- 3.2.1 The Government introduced an 'optional' housing standard related to water consumption in Building Regulations Part G which requires the consumption of wholesome water in a new dwelling not to exceed 110 litres per person per day. The Council has been requiring this level of water consumption by using the Code for Sustainable Homes Level 4.
- 3.2.2 The 'optional' element would need to be adopted by local planning authorities in their development plan and would be triggered by a planning condition.

REGIONAL

MINOR ALTERATIONS TO THE LONDON PLAN (MALP), MARCH 2016

- 3.2.3 Policy 5.15 B. in the MALP states -

...designing residential development so that mains water consumption would meet a target of 105 litres or less per head per day²⁴

Footnote 24: Excluding an allowance of 5 litres or less per head per day for external water consumption

- 3.2.4 Paragraph 5.61 of the MALP refers to the 'optional requirements' set out in part G of the Building Regulations. It cites the evidence for this:

As all water companies that serve London are located in areas classified as seriously water stressed²⁷, the 'optional requirement' should be applied across London. A fittings-based approach should be used to determine the water consumption of a development²⁸. This approach is transparent and compatible with developers' procurement and the emerging Water Label, which Government and the water companies serving London are supporting.

- 3.2.5 The MALP were adopted by the Mayor of London in March 2016 and are part of

the Council's development plan.

LOCAL

EXISTING LOCAL PLAN POLICY

- 3.2.6 Policy CE1: Climate Change had required the 'optional' level of water consumption by using the Code for Sustainable Homes Level 4.

SUMMARY

Date	Document	Organisation
Mar 2015	Written Ministerial Statement: Planning Update	DCLG
Mar 2016	The London Plan (as amended)	Mayor of London

3.3 EVIDENCE BASE

- 3.3.1 No change to Policy CE1 is proposed in this regard. The reference to the MALP Policy 5.15 is incorporated in the reasoned justification to the policy. Since the 'optional' standard is already adopted in the London Plan and the Council is merely cross referencing to the policy for ease of reference no further evidence is required.

3.4 OPTIONS, CONSULTATION AND INTEGRATED IMPACT ASSESSMENT (IIA)

- 3.4.1 The Issues and Options consultation document¹⁵ published in December 2015 sets out the questions and options consulted on at that stage. The comments made as part of the public consultation can be found in two documents relating to this topic area:

- **Consultation Schedule** – a table setting out all of the consultation comments and the Council's response to each comment
- **Consultation Summary** – a summary of the consultation comments

- 3.4.2 Further options and alternatives arising from the Issues and Options consultation have been considered in the Integrated Impact Assessment (IIA) and are all summarised below.

- 3.4.3 The Council has considered the options particularly in light of the 'tests of soundness' which are set out in the NPPF:

- **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable

¹⁵ <https://planningconsult.rbkc.gov.uk/consult.ti/LPPR/consultationHome>

development;

- **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.
(paragraph 182)

STRATEGIC OBJECTIVES AND POLICIES

3.4.4 The options and alternatives considered are:

Option	Status	Reason
1 The Council should <u>not</u> include a specific policy on water consumption in new dwellings in the Local Plan	Reasonable alternative	This is a reasonable alternative as a policy was already being progressed in the London Plan through MALP.
2 The Council should <u>include</u> a specific policy on water consumption in new dwellings in the Local Plan.	Reasonable alternative	This is a reasonable alternative as the Council had required the standard equivalent to the 'optional' Building Regulations by requiring Code for Sustainable Homes Level 4.
3. The Council will be using MALP (when adopted) as this will become part of the Council's development plan to condition the optional Building Regulations requiring a maximum of 110 litres of water consumption per person per day. As such there will be no specific policy within the Local Plan Partial Review on water consumption for new dwellings.	Preferred option for Draft Policies	Using the London Plan policy would ensure consistency and avoid duplication of a policy that is already a part of the Council's development plan. The standard adopted in the London Plan is equivalent to the standard required by the Council in the existing Policy CE1 by requiring Code for Sustainable Homes Level 4.

3.5 DRAFT POLICY

DRAFT POLICY

- 3.5.1 Following consideration of the above options and alternatives, the existing Local Plan policy has not been amended with regard to water consumption. Instead the reasoned justification has been amended to refer to the MALP Policy 5.15: Water Use and Supplies as follows:

36.3.9 The borough currently consumes an average of 159 litres of water per person per day, which is greater than the average for England and Wales (149 litres per person per day) but less than the London average (162 litres per person per day)¹⁶. The London Plan Policy 5.15: Water Use and Supplies requires designing residential development so that mains water consumption would meet a target of 105 litres or less per head per day¹⁷. This reflects the 'optional requirement' set out in Part G of the Building Regulations¹⁸. Since the London Plan is part of the Council's development plan, the 'optional' requirement applies to new residential development in the Royal Borough. Therefore, planning conditions should trigger the 'optional requirement' in Part G of the Building Regulations.

KEY DIAGRAM AND PROPOSALS MAP

- 3.5.2 No changes are required to be made to the Key Diagram or the Proposals Map:

3.6 DUTY TO COOPERATE AND STRATEGIC ISSUES

- 3.6.1 The legal obligation of the 'duty to cooperate' requires the Council to "engage constructively, actively and on an ongoing basis" and have "regard to activities" (i.e. strategies, plans, policies) of other bodies in the preparation of Local Plans "so far as relating to a strategic matter". This includes "considering whether to consult on and prepare... agreements or joint approaches"¹⁹.
- 3.6.2 A "strategic matter" relates to "sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular)... in connection with infrastructure that is strategic"²⁰. Strategic matters are further defined in paragraph 156 of the NPPF²¹ and paragraph 013 of the NPPG on the duty to cooperate²².
- 3.6.3 Figure 3.1 shows that the water aspects of the climate change policy are not considered a strategic issue relevant to this topic area. Nevertheless Figure 1 sets out the relevant prescribed bodies, the actions the Council has taken with regard

¹⁶ Environment Agency, RBKC Fact Sheet, prepared as part of the Environment Agency's State of the Environment - London.

¹⁷ Excluding an allowance of 5 litres or less per head per day for external water consumption.

¹⁸ Requirement G2 of Schedule 1 to the Building Regulations 2010. HM Government 2015.

¹⁹ Section 33A of the Planning and Compulsory Purchase Act 2004, as inserted by Section 110 of the Localism Act 2010

²⁰ Section 33A(4) of the Planning and Compulsory Purchase Act 2004, as inserted by Section 110 of the Localism Act 2010

²¹ <http://planningguidance.communities.gov.uk/blog/policy/>

²² <http://planningguidance.communities.gov.uk/blog/guidance/duty-to-cooperate/>

to the duty and the strategies, plans and policies of those prescribed bodies which the Council has had regard to.

Strategic issue	Relevant prescribed bodies ²³	Council actions Prescribed bodies' strategies, plans and policies which the Council has had regard to
<p>Although climate change is clearly a strategic issue, the Local Plan policies for water consumption are not considered a strategic issue.</p>	Environment Agency	<p>All prescribed bodies were consulted as part of the Issues and Options consultation</p>
	Historic England	
	Natural England	<p>Only the Mayor of London responded with specific reference to the water aspect of Policy CE1 and stated that the borough should adopt the higher optional water standard, or refer to emerging London Plan policy 5.15B.</p>
	Mayor of London/HCA	
	Civil Aviation Authority	
	West London Clinical Commissioning Group	
	NHS England	
	Office of Rail Regulation	
	Transport for London	
	Integrated Transport Authorities	
	Highway Authorities	
	Marine Management Organisation	
	London Enterprise Panel	
	Local Nature Partnership (London Wildlife Trust)	
	City of Westminster	
	London Borough of Hammersmith and Fulham	
London Borough of Wandsworth		
London Borough of Brent		
Other London Boroughs		

Figure 3.1: Duty to cooperate strategic issues, prescribed bodies and Council actions

²³ Regulation 4 of The Town and Country Planning (Local Planning) (England) Regulations 2012



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