

**The Highams Park
Neighbourhood Plan 2017**

**Submission Draft 5
5th February 2018**

HEALTH CHECK REPORT

by

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Independent Examiner

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Introduction

1. This Report follows my Health Check Review of the Regulation 14 Submission Draft 5 of the Highams Park Neighbourhood Plan 2017. The Plan (NP) has been prepared by the Highams Park Planning Group, the Qualifying Body (QB).
2. In undertaking the Review I have had close regard to the NPIERS Template for Health Check Reviews, but have not followed it slavishly.
3. I had a very useful conducted tour of the area on 15 March 2018.
4. The main documents with which I have been supplied and have considered are:

The NP.

The Basic Conditions Statement February 2018.

Annex 1 – Aspirations Projects and Actions.

Annex 2 – Local Area Profile.

Annex 3 – Explanatory Notes and Developer Guidance for Policies SUS1 and SUS2.

Character Assessments for areas 1-7 and 9.

Notes of a meeting held with officers of the local planning authority, the London Borough of Waltham Forest.

I have also considered the relevant policies of the adopted Local Plan, namely the Core Strategy March 2012 and the Development Management Policies October 2013, as well as relevant policies of the London Plan.

Overview

5. I commend the HPPG on the level of research, evidence gathering and consultation that has been carried out, and the resulting quality of the NP. The purpose of this report is to indicate areas where there can be further improvements, and better alignment with the relevant statutory requirements.
6. In accordance with good practice, this Report is likely to be supplied to the Examiner appointed to carry out the examination of the NP in due course. I stress that this Report is merely a health check. The views expressed are my own. The Examiner will have duties to form his/her own view on the statutory tests, and will not be bound in any way by any expression of opinion in this Report.

Formal matters

7. It appears that the necessary statutory requirements in relation to the designation of the neighbourhood area have been met. I think it would be helpful if there were some more detailed explanation for the definition of the boundaries, especially to the north and west (these were explained to me on my tour). This could be either in the NP or by way of amendment to the Basic Conditions Statement.
8. I have no reason to doubt that the statutory requirements have been met in terms of the designation of the QB.
9. The NP has been the subject of extensive consultation. I have been supplied with a draft (2 February 2018) Consultation Statement, which is work in progress. The level of consultation to date has been impressive, easily meeting statutory requirements.

10. As appears from the Vision, the aims of the NP and the seven Objectives on pages 11-12, the essential aim of the NP is to seek to protect and enhance the character and appearance of the area. That being so, it would appear to me highly unlikely that the NP would require SEA or HRA. A screening opinion is being sought from qualified consultants.
11. The NP generally complies with section 38A(2) of the Planning and Compulsory Purchase Act 2004, i.e. that it is a plan "...which sets out policies...in relation to the development and use of land...". There are exceptions to this, which I indicate below.
12. The NP does not relate to more than one neighbourhood area. There are no other neighbourhood plans in place within the neighbourhood area.
13. The policies in the NP do not relate to excluded development.
14. Page 5 of the Basic Conditions Statement states that the period of the NP is to be from a date in 2018 and ending on 31st December 2033. This should be specified on the front cover of the NP.

Clarity of presentation

15. One of my few significant criticisms of the NP is the lack of clear distinction between policy and supporting justification/text. The terms of policies should be expressed in bold type, or against a coloured background. Supporting justification/text could be headed as such, and should probably follow the relevant policy.
16. Following on from the above, several policies or elements of policies appear to have no justification. This should be supplied, even if concisely.

17. Paragraphs of supporting text should have sub-paragraph numbers.
18. A check should be carried out to ensure that, where possible, policies are positively expressed, and with clarity and consistency. Expressions such as “development shall aim to” should generally be replaced by, for example, “Proposals for development [in a specified location or of a specified type] will be encouraged to...” etc.
19. The development plan context, and the NPPF context, should be clearly set out, towards the beginning of the NP. Section 7 is in quite the wrong place, and should be relocated before Section 3.
20. Consideration should be given to the status and content of emerging development plans, both at the London Plan and Local Plan levels. If, as I understand it, these are at an early stage, a brief reference to this status may suffice.

The Basic Conditions Statement

21. There are some quite important errors in approach which should be corrected, and equally important that the NP (for example page 6) is reviewed in this context.
22. Basic Condition (a) is: “Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan”. Page 6 does not express this. Further, it is not a requirement that the NP “conforms specifically to the NPPF”: page 7.

23. Basic Condition (e) is that: “The making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)”. Again, the requirement is not to “conform specifically”.
24. Page 14 states that Table 2.2 states whether the development plan policies are “strategic policies”. It does not do so, and it should do so.

My review of the NP

25. I have generally made comments only where necessary.
26. I make the following general comment. There are many instances where it appears that the interest concerned (for example, the protection of community facilities, the approach to retail and other uses etc.) is adequately covered by the Local Plan. I have no concern in the NP providing specific elaboration of policy to reflect concerns at the neighbourhood level – that is its job. But I have two concerns: (1) mere duplication should be avoided and (2) great care should be taken that the NP is not (at least in most cases) in conflict with the relevant element of the Local Plan (leading to confusion in the reader) but rather develops the Local Plan to deal with specific local circumstances. Examples of conflict/confusion could arise, in particular, in relation to BED2 and DM25.

Section 1

27. I refer to paragraphs 21-24 above. The second paragraph on page 7 should reflect the fact that the NP is part of the development plan as a whole.

Section 4

28. Policy GNE1 designates as Local Green Space all the areas shown in the table and maps in Appendix 2. There are two concerns with this policy, of which the first is more important. The designation of local green space must be specifically justified in accordance with the strict criteria in paragraph 77 of the NPPF. I have seen no evidence of such justification in any instance. It is not enough that these spaces were simply put forward by interested parties during the consultations. Some of the proposed areas are clearly “extensive tracks of land”. Others are fully protected at present, e.g. MOL. Each LGS should therefore be justified, with appropriate justification duly written up. It is likely that some of the presently designated spaces will not be justified under paragraph 77. Second, the policy appears to permit only “ancillary use” of the land for recreational purposes. This is at odds with paragraph 76 of the NPPF.
29. Policy GNE2 – what is the justification for 20%? The cross-reference in the Basic Conditions Statement to Policies DM5 and DM7 is not understood.
30. Policy PCF1 – an explanation is needed as to why DM17 is not adequate.
31. I make the same comment in relation to PCF2.
32. Policy PCF3 – why is this necessary? See policies CS3, DM17 with paragraph 18.8, and section 15 of the Neighbourhood Planning Act 2017.
33. Policy PCF4 – same comment as paragraphs 29 and 30 above.
34. Policy PCF5 – as above. Further, this policy – if it is necessary – should relate to the needs of the development (CIL Regulations, reg. 122).

35. With reference to the BED policies generally, there needs to be more clarity as to where sites are “designated for business use”. What is the definition of “business use” (B Class?) and does it differ from “employment”?
36. I raise two points on policy BED1. First, what is the relationship to DM18-20? Second, what are “existing business sites in the Area”? Does this denote any site currently in business use? Is there a case for splitting the policy between (i) BEA13 and (ii) other sites/areas?
37. Policy BED2 is a very difficult policy which needs substantial attention. Policies DM23 and 25 are very detailed. The comments of the planning officers (which I appreciate precede the current draft) still seem well made. The question should be – what elements of DM25 need supplementing to cater for specific local circumstances? There is a case for BED2 being a significantly shorter policy. In relation to criterion (viii), why can there not be reliance on DM23?
38. With reference to Policy TPR2, it seems that the comments of the planning officers have not been adequately reflected, for example, the reference to the Core Strategy as opposed to Appendix 4 of the DM. What does “car free development will be considered” mean? Does it mean that development will/may be required to be designed and operated as car free?
39. Is Policy TPR3 needed in the light of the Local Plan?
40. On page 25, it would be preferable if all references to Annex 1 are contained in Annex 1, and not in the NP.

41. What is the justification for Policy HDA2? There should be no need for this in relation to development that is policy compliant (including in relation to affordable housing). See, for example, Policy HDA1(iii). I do not think that the comments on page 10 of the Basic Conditions Statement are a sufficient reason for policy HDA2.
42. Policy HDA3 seems to be locally justified. The Basic Conditions Statement refers to policies CS2 and DM2 where I cannot find the topic of sub-division dealt with.
43. I have some minor comments on the CDP policies. With reference to Policy CDP1, this refers to development that “enhances and preserves” conservation areas etc. The statutory test for conservation areas is “or” rather than “and”, and this is reflected in DM28. There is a minor point on the second paragraph of the supporting text. The first sentence cannot be correct, since development over the last 70 years post-dates the formal planning system.
44. Policy CDP2 seems to be locally justified.
45. Policy CDP3 is not truly a policy, and should be relegated to text.
46. With reference to Policy SUS1 and SUS2, I would suggest that a specific exercise be done (it may already have been done) to check as to which elements are not covered in the London Plan, and also whether (as the planning officers suggested) some of the requirements are over-prescriptive. Overall, I suggest that there should be critical examination as to whether these policies are justified.

47. With reference to Policy PSD1, the blurred distinction referred to above between policy and text is acute here. I am unclear as to the status of this policy. The eleven sites are not allocations, and yet the title refers to “Development Sites”. Would this be better placed in an Annex to the NP?
48. Policy PSD2 seems to be completely unnecessary.
49. Section 5—DCO—should be transferred to Annex 1.
50. Section 6 should likewise be transferred to Annex 1.

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