

Appendix D – Consideration of draft NDP against the basic conditions

Legislation	Basic condition	Met?	Officer comment
Paragraph 8(2)(a) of Schedule 4B to the 1990 Act	Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood development plan (NDP).	Yes.	<p>Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the draft NDP, with the modifications set out in Appendix C. In particular:</p> <ul style="list-style-type: none"> • Proposed modifications to policies P7, P8 and P9 ensure the draft NDP has regard to the approach to affordable housing set out in the National Planning Policy Framework (NPPF). • Proposed modifications to the supporting text of policy P12 in relation to affordable retail ensure the draft NDP has regard to the NPPF, which makes clear that plans should be deliverable and sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened and is supported by evidence. • Proposed modifications to delete policy P20 ensure the draft NDP has regard to the approach to neighbourhood CIL set out in the NPPF and Planning Practice Guidance when read in the context of local authorities' broader obligations regarding the exercise of their discretion.

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<p>Paragraph 8(2)(d) of Schedule 4B to the 1990 Act</p>	<p>The making of the NDP contributes to the achievement of sustainable development.</p>	<p>Yes.</p>	<p>SoWN’s Basic Conditions Statement contains an assessment of each draft NDP against the economic, social and environmental principles of sustainable development. The making of the draft NDP, with the modifications set out in Appendix C, contributes to the achievement of sustainable development. In particular:</p> <ul style="list-style-type: none"> • Proposed modifications to policy P1 of the draft NDP ensure the draft NDP makes a positive contribution to the environmental principle of sustainable development by resisting the loss of open space more generally and not just publicly accessible open space. • Proposed modifications to policy P3 ensure the draft NDP makes a positive contribute to the environmental principle of sustainable development by requiring the assessment of the impacts on built form, safety and amenity when considering green roofs. • Proposed modifications to policy P4e) ensure the draft NDP makes a positive contribution to the environmental principle of sustainable development by modifying a policy that could have had the effect of trees being lost for their ‘monetary value’ to be spent on other green infrastructure. • Proposed deletions of policies P7 and P8 ensure the draft NDP makes a positive contribution to the social principle of sustainable development by deleting policies that could have potentially introduced restrictions on the supply of affordable housing required to meet the needs of present and future generations. • Proposed modifications to policy P14 ensure the draft NDP makes a positive contribution to the economic principle of sustainable development by modifying the policy to remove potential restrictions on the location of new offices in the neighbourhood area.
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<p>Paragraph 8(2)(e) of Schedule 4B to the 1990 Act</p>	<p>The making of the NDP 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).</p>	<p>Yes.</p>	<p>The making of the draft NDP as proposed to be modified is in general conformity with the strategic policies contained in the Southwark Core Strategy 2011 and the emerging New Southwark Plan and the London Plan 2016. In particular:</p> <ul style="list-style-type: none"> • Proposed modifications to policy P3 ensure the draft NDP is in general conformity with strategic policies by ensuring the impact of green roofs on safety, amenity and surrounding built form is considered. • Proposed modifications to policy P4e) ensure the draft NDP is in general conformity with the approach to retaining trees in both the Local Plan and London Plan. • Proposed modifications to delete policies P7 and P8 ensure the draft NDP is in general conformity with the strategic policy approach to affordable housing which seeks to meet housing need at a borough-wide level and does not ring-fence access to affordable housing. • Proposed modifications to policy P9 ensure the draft NDP is in general conformity with the strategic policy approach to off-site affordable housing by modifying the policy to make clear off-site affordable is only permitted in exceptional circumstances. • Proposed modifications to modify policy P15 to remove potential restrictions on the location of new offices in the neighbourhood area ensure the draft NDP is in general conformity with strategic policies, particularly given the neighbourhood area’s location in the Central Activities Zone.
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<p>Paragraph 8(2)(f) of Schedule 4B to the 1990 Act</p>	<p>The making of the NDP does not breach, and is otherwise compatible with EU obligations. Potentially relevant EU obligations are:</p> <p>Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (often referred to as the Strategic Environmental Assessment (SEA Directive)).</p> <p>Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively).</p> <p>Other European directives, such as the Waste Framework Directive (2008/98/EC), Air Quality Directive (2008/50/EC) or the Water Framework Directive may apply to the particular circumstance of a draft neighbourhood plan (Planning Practice Guidance Paragraph: 078 Reference ID: 41-078-20140306).</p> <p>Note: compatibility with the ECHR is considered separately in the body of the report.</p>	<p>Yes.</p>	<p>The making of the draft NDP as proposed to be modified does not breach and is otherwise compatible with EU obligations.</p> <p>An SEA screening report has been prepared which concluded that, following consultation with Natural England, Historic England and Environment Agency, the draft NDP (as at August 2017) would not have significant environmental effects and therefore does not require a Strategic Environmental Assessment. It is considered that due to the nature of the modifications proposed, the draft NDP as modified will not have significant environmental effects.</p> <p>There are no European sites in either Lambeth or Southwark. European sites that are within 10km of Southwark and Lambeth (or at least partially within either borough) are: Wimbledon Common (SAC), Richmond Park (SAC), Lee Valley (SAC) and Epping Forest (SAC) (the main Epping Forest site is more than 15km away from Lambeth). The Habitats Regulations Screening Assessment of the draft NDP has not identified any likely significant effective or impact on the integrity of any European site. The Screening Assessment found that the draft NDP is unlikely to have adverse effects on the European sites and effects on the European sites and will not result in an adverse impact on the integrity of four sites. It concluded that the Appropriate Assessment stage is not required. The Examiner’s report notes that the assessment was made without taking into account potential mitigation and therefore remains valid in the light of recent Court decisions on this topic. It is not considered that the proposed modifications to the draft NDP alter the position in relation to any European sites or the Screening Assessment previously carried out.</p> <p>The draft NDP does not include any policies in relation to the management of waste, nor does the area include a waste management site. The draft NDP includes an air quality policy. It is not considered that the policies in the draft NDP breaches the Air Quality Directive. The draft NDP does not include any policies in relation to water or water quality.</p> <p>Officers have not identified any other EU directives that are relevant.</p>
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<p>Paragraph 8(2)(g) of Schedule 4B to the 1990 Act</p>	<p>Prescribed conditions are met in relation to the NDP and prescribed matters have been complied with in connection with the proposal for the NDP.</p> <p>Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 set out two additional basic conditions to those set out in the primary legislation.</p> <p>Regulation 32 applies to neighbourhood plans: The making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007) (either alone or in combination with other plans or projects)</p> <p>Regulation 33 does not apply here as it is concerned with proposals for a neighbourhood development order relating to Environmental Impact Assessment development.</p>	<p>As set out above, the Habitats Regulations Screening Assessment found that the draft NDP is unlikely to have adverse effects on the European sites and effects on the European sites and will not result in an adverse impact on the integrity of four sites. It concluded that the Appropriate Assessment stage is not required. The Examiner's report notes the assessment was made without taking in account potential mitigation and therefore remains valid in the light of recent Court decisions on this topic. As noted above it is considered that the HR Screening Assessment remains valid in the light of the proposed modifications to the draft NDP.</p>
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