

Item No. 5.1	Classification: Open	Date: 28 March 2012	Meeting Name: Council Assembly
Report title:		Canada Water Area Action Plan	
Ward(s) or groups affected:		Surrey Docks, Rotherhithe, Livesey	
From:		Cabinet	

RECOMMENDATIONS

That cabinet recommends council assembly to:

1. Consider the report of the Planning Inspector on the Canada Water Area Action Plan (Appendix 1).
2. Note the consultation report (Appendix 3), sustainability appraisal (Appendix 4) and equalities impact assessment (Appendix 5).
3. Adopt the Canada Water Area Action Plan (Appendix 2) incorporating the recommendations of the Inspector and the sustainability appraisal (Appendix 4).

BACKGROUND INFORMATION

4. The council is preparing an area action plan (AAP) for Canada Water and the surrounding area. The AAP will help shape the regeneration of Canada Water. Like the core strategy it must be a spatial plan and concentrate on how change will be managed and achieved. Once adopted by council assembly it will be a development plan in the council's local development framework (LDF) and will be used as the basis for determining planning applications in the area. Together with the core strategy and other local development framework documents, it will replace relevant parts of the Southwark Plan.
5. Work on the plan commenced in late 2007. Between November 2008 and February 2009, the council consulted on issues and options for the plan and this was followed by consultation on preferred options between July and October 2009. On 27 January 2010, council assembly determined to publish and submit the Canada Water publication draft to the Secretary of State for examination in public (EIP). The council invited representations as to soundness of the Canada Water publication/submission version between 29 January 2010 and 12 March 2010. The draft submission Canada Water AAP, together with a table of proposed minor changes was submitted to the Secretary of State at the end of March 2010.
6. On 28 January 2011 the council received the inspector's report on the core strategy. In the light of the report, it was resolved at council assembly on 6 April 2011 to invite comment on further changes to the AAP in respect of minimum dwelling sizes and three additional sites of importance for nature conservation. The council duly consulted over a 6 week period on the further changes and consultation closed on 2 June 2011.

7. The Secretary of State appointed a Planning Inspector to hold an EIP into the Canada Water AAP as required by the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning Local Development Regulations (England). Public hearings took place over 6 days between 2 August and 11 August 2011.
8. Under the terms of Section 20 (5) of the Planning and Compulsory Purchase Act 2004, the purpose of the EIP of a development plan document is to determine:
 - a. Whether it satisfies the requirements of s19 and s24 (1) of the 2004 Act, the regulations under section 17 (7) and any regulations under section 36 relating to the preparation of the document; and
 - b. Whether it is sound (in terms of paragraph 4.51-4.52 of Planning Policy Statement 12 – Local Spatial Planning (PPS12))
9. The Inspector issued his report on 22 November 2011. It contains an assessment of the AAP in terms of the above matters, along with recommendations and the reasons for them, as required by s20 (7) of the 2004 Act.
10. During the hearings the council proposed a number of minor amendments to the AAP which sought to overcome outstanding objections made by representors and to factually update the plan. In addition to the changes proposed by the council during the hearings, the inspector recommends two further changes: that the Quebec Industrial Estate, 24-28 Quebec Way and the vacant car park are taken out of the suburban density zone and located in the core area and that the area around Needleman Street is taken out of the suburban density zone and re-designated as an urban zone (these are shown on the map in Appendix 6 of this report).
11. The Inspector has concluded that with these minor changes the AAP can be considered sound, that it satisfies the requirements of s20 (5) of the Planning and Compulsory Purchase Act 2004 and that it accords with the advice in PPS12.
12. From January 2012, the Localism Act 2011 amends section 23 of the Planning and Compulsory Planning Act 2004 so that the council does not have to implement inspector's recommendations. It may make modifications, so long as these do not have any material impact on the policies in the plan.

CONSULTATION

13. Consultation has been carried out at all previous stages of preparing the AAP:
 - Sustainability appraisal scoping report (March 2008) – this was subject to a 6 week consultation from 14 March 2008 to 25 April 2008
 - An issues and options report– this was published in January 2009 and sets out a number of options for future development in the AAP area. This was subject to a 12 week consultation period. An interim sustainability appraisal and stage 1 equalities impact assessment were also published in January 2009 and subject to the same consultation period.
 - A preferred options report – this was published July 21 2009 and sets out the preferred option for future development in the AAP area. This was subject to a 15 week consultation period. Formal consultation took place from September 1 2009 to November 6 2009. A sustainability appraisal and

stage 2 equalities impact assessment were also published in July 2009 and subject to the same consultation period.

- Publication/submission AAP: This was published in December 2009. Formal consultation commenced on 29 January 2010 for six weeks. The equalities impact assessment and the sustainability appraisal were updated to reflect any changes.
- Further changes: The council invited the public to make representations to the Inspector on the Further changes to the Canada Water AAP (Dwelling sizes and sites of importance for nature conservation) in March 2011. Formal consultation commenced on Friday 22 April 2011 and closed on Thursday 2 June 2011.

14. All consultation was carried out in accordance with the consultation strategy for Canada Water and our statement of community involvement. Methods of consultation included press notices, notification letters sent to around 3000 contacts on the planning policy team's database, presentations and workshops at Rotherhithe community council, exhibitions and focus groups. Further information is available in the consultation report in Appendix 3 of this report.

ADOPTION PROCESS

15. The final version of the Area Action Plan with the Inspector's recommended changes went to cabinet on 24 January 2012 and to planning committee on 28 February 2012. The cabinet has recommended the document for adoption.

KEY ISSUES FOR CONSIDERATION

Key principles in the AAP

16. The purpose of the AAP is to set out a vision and policy framework to guide development over the next 15 years. The main issues addressed in the AAP are set out below.
17. Town centre: Canada Water has around 40,000 sqm of shopping floorspace. The AAP promotes the reconfiguration or redevelopment of key sites, including the shopping centre, the Surrey Quays Leisure Park and the Decathlon Site to increase the amount of shopping space by around 35,000 sqm. Southwark's 2008 retail study suggested that the majority of expenditure which is generated in the borough and which is spent on comparison goods (clothes, footwear, music, books etc) is spent outside the borough. The study suggests that around 30,000sqm of new comparison goods floorspace could be provided at Canada Water, without harming neighbouring centres, including Elephant and Castle and Peckham.
18. Places: The town centre is currently characterised by bland and lifeless architecture. A key objective of the AAP is to create a centre which is more distinctive with the Canada Water basin as its focus. The AAP seeks to ensure that a range of heights are provided in the core area, generally up to 10 storeys. The exception to this includes a building of comparable height to the Canada estate towers on Site A, and a building of around 10-15 storeys on the south-west corner of the shopping centre. The tall buildings would act as landmarks in the area and help mark the town centre and key locations such as the new plaza and the tube stations. They can variety to the character of an area and help make the skyline more interesting. It is very important that they are of the highest architectural quality and that they are designed carefully to avoid overshadowing

or wind tunnel effects.

19. Better homes: The London Plan and emerging core strategy require the provision of at least 2,500 new homes in the Canada Water core area in the period between 2011 and 2026. The AAP shows how this target will be met by estimating the capacities of all sites. Over the AAP area as a whole, more than 3,000 new units will be provided. The majority of the AAP area would be designated as a suburban density zone, with densities generally up to 350 habitable rooms per hectare allowed. Within the core area around the town centre, densities generally up to 700 habitable rooms per hectare would be allowed. Higher densities would be permitted where development demonstrates an exemplary standard of design and accommodation.
20. 30% of new homes in the wider peninsula and 20% of new homes in the action area core should be family homes with 3 or more bedrooms. In line with the core strategy, 35% of new homes should be affordable.
21. Social and community infrastructure: The AAP promotes a cluster of businesses uses around Harmsworth Quays printworks. This would equate to around 12,000sqm of new office/studio space. The AAP requires also provision of health uses on the shopping centre and overflow car park site and will continue to work with NHS Southwark on this aspect of the plan.
22. Over the lifetime of the plan, increases in population may mean that primary school provision needs to expand. Albion Street Primary School, which is currently single form of entry, is identified as a school which could expand to accommodate two forms of entry.
23. Rotherhithe Primary School is identified as a potential site for a new secondary school if needed. Southwark's current Pupil Place Planning concludes that new Year 7 places will be required borough wide from September 2016, with 5 forms of entry, or 750 places, required by 2019/20 – that represents 150 additional Year 7 places.
24. It is considered by the council that these places should be provided in SE16 to respond to and support the ongoing regeneration in the area. In October 2011 the Department for Education (DfE) advised that a 700 place University Technical College (UTC) for 14-19 year olds based at Southwark College's Bermondsey site will proceed to the pre-opening stage of the UTC development process with a view to it being open in September 2012. The DfE further advised that a Compass Free School application for a 500 place mixed 11-16 secondary school, with the potential for a future sixth form offer, will also proceed to the next stage of the free schools process.
25. Neither proposal individually or combined fully responds to the identified need for additional places with a shortfall of places still anticipated towards 2019. The DfE have accepted that a further 100 places will be required and have proposed that these be met through an expansion of an existing school or of the proposed Compass Free School.
26. Improved transport links: Lower Road is very congested at peak times when there is a conflict between local and through traffic. The traffic gyratory around Lower Road, Bush Road, Rotherhithe Old Road and Rotherhithe New Road creates a poor environment for residents who live around it and the town centre area is poorly connected to the wider peninsula. The AAP is proposing a number

of measures to help improve the situation and also to accommodate growth. These measures include the reintroduction of two-way traffic movement on Lower Road, the introduction of a right-hand turn into Surrey Quays Road off Lower Road and the signalisation of the roundabout at the entrance to Rotherhithe Tunnel. The council is working with TfL and Lewisham to ensure that these proposals can be delivered. It is anticipated that the cost of these improvements would need to be raised through s106 or community infrastructure levy (CIL). Improvements will also be sought for improvements to public realm and walking/cycling facilities.

27. Green infrastructure: The AAP proposes new open spaces in the core area, including the plaza outside the new library. In addition, the AAP proposes converting the Former Nursery into a public open space. St Paul's Sports Ground is allocated as open space and possibly a community use. The AAP designates three additional sites of importance for nature conservation: King's Stairs Gardens, Deal Porter's Walk and Durands Wharf. The AAP envisages that s106 funding or the CIL will be likely to come forward for open space improvements within the plan period.

Changes proposed by the council during the hearings

28. During the hearings the council proposed a number of minor amendments to the AAP which sought to overcome outstanding objections made by representors and factually update the plan. The main changes are set out below.
29. Harmsworth Quays: During the EiP, the Daily Mail group confirmed its intention to vacate the Harmsworth Quays print works by 2014. The plan has been amended to make this explicit. It also clarifies that the council will review elements of the plan post-adoption. Informal consultation on issues and options will take place over spring and summer 2012 and the council envisages consulting on a preferred option in autumn 2012. The publication version would be subject to consultation in 2013 and subsequently submitted to the Secretary of State for a formal examination-in-public. Adoption of the changes would be anticipated in 2014.
30. Density: Minor amendments were proposed to the policy on density which confirm the key criteria to identify the core area are: capacity for growth, accessibility to public transport and the character of the area.
31. Transport: The words "road network" in AAP policy 33 on s106 were substituted for "surface transport network". This change was agreed with TfL prior to the hearings. This meets the GLA's concern that the wording of the policy did not give sufficient priority to public transport improvements. It also enables Southwark to continue to prioritise improvements to the highway network around Lower Road.
32. Status of diagrams: Surrey Quays Ltd (SQL) sought clarification in the AAP that the figures in the plan are indicative. Minor amendments were proposed to confirm this.
33. Parking: SQL also raised a concern about parking policies in the plan. SQL indicated that policy 9 on parking should recognise London Plan policy 6.13 which suggests that parking policy may be flexed where it can be demonstrated that this is needed to support the vitality and viability of the centre. A change was proposed to the AAP which cross refers back to the London Plan.

34. Leisure and schools: Factual updates were made regarding investment in the 7 Islands leisure centre and with regard to pupil planning and funding for schools.
35. Open spaces: An amendment was proposed to policy 18 on open spaces to refer to a commitment to maintain park provision of at least 1.22ha per 1000 population. This was a key finding of the draft open spaces strategy. It would not entail the provision of new space, but would focus on improving the quality of existing spaces. This approach is considered to be reasonable given the quantity and quality of existing spaces in the area.
36. These changes are minor in nature and are not considered to change the substance of the AAP.

Additional changes recommended by the inspector

37. The Inspector recommends two further changes: that the Quebec Industrial Estate, 24-28 Quebec Way and the vacant car park to the north of 24-28 Quebec Way are taken out of the suburban density zone and located in the Core Area and that the area around Needleman Street is taken out of the suburban density zone and redesignated as an urban zone. This recommendation potentially increases the density which can be achieved by developments on sites in these areas.
38. The council argued during the hearings that these areas, due to their relationship with Russia Dock Woodland and their existing character, should be included in the suburban zone. The inspector however took the view that given the level of opportunity on the Quebec Way sites, their existing uses and relationship with Harmsworth Quays and other large development sites that they should be in the core area. As is noted above, this allows densities up to 700 habitable rooms per hectare. It is important to note however that the inspector states that "It must be reiterated that such a change does not equate to an unwarranted high density of redevelopment given their more peripheral location and close proximity to the important MOL of Russia Dock Woodland" (paragraph 28).
39. The Inspector also concludes that the area around Needleman Street should be located in an urban zone (with densities also up to 700 habitable rooms per hectare). The impact of this is expected to be limited as there are currently no development sites in this area.
40. While it is disappointing that the inspector recommended the change to the core area boundary, this should not deter the council from adopting the AAP. Overall, the AAP provides a strong basis for making planning decisions and will ensure that the necessary infrastructure, including improvements to the highway network, can be put in place to accommodate growth.

Community impact statement

41. The purpose of the AAP is to facilitate regeneration and deliver the vision of Southwark 2016 in a sustainable manner ensuring that community impacts are taken into account.
42. In preparing the AAP, the council completed equalities impact assessment (EqIA) report (Appendix 4). This highlighted the AAP would have a number of beneficial impacts. It noted with regard to transport that the AAP approach in

principle would benefit all members of the community. Car ownership levels tend to be lower among the young and elderly. Therefore a policy which seeks to promote walking and cycling, creating routes which are safe from conflict with vehicles, which prioritises non-car users, and which also maximizes opportunities to use public transport should benefit these groups in particular, promoting inclusivity and equality of access to jobs and services.

43. The approach to jobs and business would have positive impacts by creating local jobs which all members of the community will be able to access. Focusing on office and light industrial space instead of larger industrial units will provide more of a wide range of jobs for different equalities groups such as young people, women and disabled people who may be more likely to pursue jobs in office environments. Employment and training opportunities created by new development will be targeted at local people. This will have a particularly positive effect on young people, particularly school leavers who live in the area and want to work locally.
44. The aim of the AAP to provide facilities to support the growing population. This includes new health facilities, a new school, improved sports provision, leisure facilities and the protection of existing leisure facilities, youth provision and new community facilities. This approach will have a positive impact on all members of the community as access to local services help to create good community relations and improve satisfaction with the local area. Locating new community facilities together will have a positive impact on young people, the elderly and disabled people who may be less likely to have access to a car to get to different facilities.
45. The equalities impact assessment was updated in March 2011 to take into account the further changes (Dwelling sizes and sites of importance for nature conservation) which the council consulted on in 2010. The EqIA found that the minimum dwelling size standards would benefit all residents, in terms of the quality of accommodation provided, but in particular those with protected characteristics.
46. Maintaining a network of well used, high quality open spaces will benefit all residents including those with protected characteristics by ensuring everyone has access to outdoor space. The designation of sites as sites of importance for nature conservation will raise the profile of these areas in terms of their contribution to biodiversity and role as an ecological resource.
47. The EqIA has been finalised to take into account the changes recommended by the inspector. Because these are very minor in nature their impact on groups with protected characteristics is expected to be negligible. The impact of the changes to the boundaries of the density zone would be broadly neutral. It would potentially result in more homes being provided which would help meet housing need. This would be balanced the additional pressure which could be placed on social and community infrastructure. However, the plan will be monitored to ensure that needs for social and community infrastructure are kept under review.

Sustainability appraisal

48. A sustainability appraisal (Appendix 5) has been prepared to ensure the wider impacts of development are addressed. The sustainability appraisal has informed the decision making process to facilitate the evaluation of alternatives and has helped to demonstrate that the plan is the most appropriate given the reasonable

alternatives. At each stage of plan preparation the council appraised the options to ensure that the approach taken forward has the most positive impact; environmentally, socially and economically. The final approach taken forward through the area action plan is considered to be the most effective at achieving sustainable development.

49. The results of the SA show that the overall impact is predominantly positive. Some minor negative impacts have been identified particularly in relation to sustainable development objective (SDO) objectives relating to climate change, air quality, waste and vulnerability to flooding.
50. The negative impacts largely relate to the environmental impact as a result of the quantum of new development. Mitigation measures have been identified, which will need to be put in place to minimise the impacts. With regard to flood risk, a large proportion of the AAP area falls within the flood zone but it is recognised that it is necessary to develop here as there is a lack of developable land that is not within the flood zone. Flood risk assessments and flood resilient design will need to be proposed as part of the planning applications.
51. The SA has been finalised to take into account changes recommended by the inspector. These are minor in nature and have little impact on the overall sustainability of the plan. As in the case of the EqIA, the recommended changes to the density zone boundaries have a largely neutral impact. There are no development sites in the new urban zone and therefore this change is likely to have little impact on the sustainability of the plan. There are three sites within the extension to the core area. Two of the sites are identified in the plan and have mixed use allocations in the AAP. The third site will be released as a result of the Harmsworth Quays move. The core area designation may result in an uplift in density on the sites. The capacity estimate in the AAP for the Quebec Industrial Estate, the largest site, is for approximately 250 homes (389 habitable rooms per hectare). The council is currently considering a planning application proposal for 366 homes (517 habitable rooms per hectare), representing an uplift of 116 homes. The core area density policy allows for densities between 350 habitable rooms per hectare and 700 habitable rooms per hectare and therefore it is difficult to say with certainty what the eventual uplift across the three sites will be. The change would have a benefit to SDO 15 which relates to housing and is counterbalanced by the potential to harm SDO 11 which relates to the quality of landscape and townscape. Overall, in view of the fact that there are only three development sites in the density zones which are subject to change and in a context in which over 3,400 new homes will be provided across the AAP area, the overall impact on the plan would be small, particularly given that there are strong design policies in the core strategy which ensure that development must respect the character of surrounding areas.

Financial implications

52. This report is seeking council assembly to consider the binding report of the planning inspector on the Canada Water Area Action Plan (Appendix 1); adopt the Canada Water Area Action Plan (Appendix 2) incorporating the binding recommendations of the Inspector and note the consultation report (Appendix 3), sustainability appraisal (Appendix 4) and equalities impact assessment (Appendix 5).
53. There are no immediate financial implications arising from:

- Consideration of the planning inspector's binding report and other amendments to the original planning policy document;
 - The adoption of the Canada Water Area Action Plan in its current amended form; and
 - Noting the consultation and other supporting reports.
54. All the background work that has fed into the amendment has been completed by existing establishment staff and resources within the planning policy team. Any additional work required to finalise the policy document or in response to additional queries will be done by the policy team without call on additional funding or resources.
55. Any potential additional costs from any specific proposals emerging from the adoption of the plan to the document or any queries thereof shall be submitted as separate reports for consideration in line with the appropriate protocols.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

Functions and responsibilities

56. On 28 February 2012, in accordance with Part 3F, paragraph 1 of the Southwark Constitution, planning committee commented on the adoption of the CWAAP which is to form part of the local development framework documents (LDFs).
57. Under Part 3B of the constitution, cabinet has responsibility for formulating the council's policy objectives and making recommendations to council assembly. More specifically, the function of approving preferred options of DPDs, which form part of the LDF, is reserved to cabinet (Para 20, Part 3C).
58. The Canada Water AAP is now at the adoption stage. By virtue of Regulation 4(1), paragraph 3(d) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ("the 2000 Regulations") (as amended by the Local Authorities (Functions and Responsibilities) (Amendment) (No 2) (England) Regulations 2005 - Regulation 2, paragraph (4) the approval of a DPD is a shared responsibility with council assembly and cannot be the sole responsibility of cabinet.
59. Accordingly, on 24 January 2012 members of cabinet considered the content and recommendations of the Inspector's Report in respect of the adoption of the CWAAP and accompanying documents, and recommend to council assembly that the CWAAP be adopted together with the accompanying sustainability appraisal and with the Inspector's recommended changes.
60. Under Part 3A, paragraph 10 the function of adopting development plan documents is reserved to council assembly. Accordingly, council assembly will upon recommendations from planning committee and cabinet be requested to adopt the AAP with the Inspector's binding recommendations. Notably the Inspector endorses the CWAAP as sound with two key recommended changes: -
- That the Quebec Industrial Estate, 24-28 Quebec Way and the vacant car park to the north be taken out of the **suburban area** and located in the **core area**;

- That the area around Needleman Street is removed from the **suburban zone** and re-designated as an **urban zone**.

61. From 15 January 2012, section 112 of the Localism Act 2011 amends section 23 of the Planning and Compulsory Planning Act 2004 so that the council does not have to implement Inspector's recommendations. The council will still only be able to adopt a development plan document if the Inspector has recommended adoption, as is the case with the CWAAP. The council will also be able to make non-material modifications that taken together do not materially affect the policies set out in the CWAAP before adoption. Section 112(6) of the Localism Act 2011 specifies that these amendments to the Planning and Compulsory Purchase Act 2004 apply to all adoptions of DPDs that take place after coming into force of section 112, including an adoption where steps in relation to the document have taken place before then. The CWAAP falls into the latter category and could be adopted by members as recommended by the Inspector and / or with non-material modifications.

Examination in public

62. Regulation 7 of the Town and Country Planning (Local Development) (England) Regulations 2004 ('the Regulations') provides that an area action plan must be a development plan document ("DPD"). The CWAAP is identified as a DPD in the council's revised local development scheme, which came into effect in June 2011.

63. As set out in the report, the CWAAP was subject to an examination in public (EIP) by a planning inspector appointed by the Secretary of the State in August 2011.

64. The purpose of the independent examination is set out in section 20(5) of the 2004 Act. This is required to determine whether the submitted DPD has been prepared in accordance with:

- Certain statutory requirements under s19 (as to preparation) & s24(1) (as to conformity with regional / London Plan policies) of the 2004 Act and
- The associated regulations (*The Town and Country Planning (Local Development) (England) Regulations 2004; SI.2004 No. 2204*); and whether it is sound.

65. In making an assessment of soundness, the CWAAP was examined against the requirements set out in Planning Policy Statement 12 – Local Spatial Planning (PPS 12) – namely as to whether it is justified, effective and consistent with national policy.

66. The Inspector concluded in his decision dated 22 November 2011 that the CWAAP is considered to be sound subject to his recommended amendments set out in his report. Members can adopt the CWAAP as recommended by the Inspector or with modifications that (taken together) do not materially affect the policies set out in the AAP under section 23(2) Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011.

Sustainability appraisal

67. Section 19(5) of the Planning and Compulsory Purchase Act 2004 requires sustainability appraisal of the economic, social and environmental sustainability

of plans in DPDs. Accordingly, a sustainability appraisal was prepared to ensure the wider impacts of the CWAAP policies are addressed. The sustainability appraisal provides a sound evidence base for the plan and forms an integrated part of the plan preparation process. The iterative sustainability appraisal in respect of the CWAAP has informed the evaluation of reasonable alternatives. The Inspector concluded that the iterative SA process “has been consistently undertaken from initial issues and options through to submitted AAP and... included the pre-examination changes proposed...”

68. The iterative sustainability appraisal has fully informed the preparation of the CWAAP and is recommended for adoption by Members. The SA should be expressly adopted along with the CWAAP and must have a separate adoption statement pursuant to Environmental Assessment of Plans and Programmes Regulations 2004, regulation 16 (3) and (4) which summarises “...*how environmental considerations have been integrated into the plan or programme... the reasons for choosing the plan or programme as adopted, in light of other reasonable alternatives dealt with, and the measures decided that are taken to monitor the significant environmental effects...*” .

Equalities

69. The Equality Act 2010 brought together the numerous acts and regulations that formed the basis of anti-discrimination law in the UK. It provides for the following “protected characteristics”: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Most of the provisions of the new Equality Act 2010 came into force in October 2010 (“the 2010 Act”).
70. In April 2011 a single “general duty” was introduced namely the Public Sector Equality Duty (PSED). Merging the existing race, sex and disability public sector equality duties and extending the duty to cover the other protected characteristics namely age, gender reassignment, pregnancy and maternity, religion or belief and sexual orientation, (including marriage and civil partnership).
71. The single public sector equality duty requires all public bodies to “eliminate unlawful discrimination, harassment and victimisation”, “advance equality of opportunity between different groups” and “foster good relations between different groups”.
72. Disability equality duties were introduced by the Disability Discrimination Act 2005 which amended the Disability Act 1995. The general duties in summary require local authorities to carry out their functions with due regard to the need to:
- (a) Promote equal opportunities between disabled persons and other persons;
 - (b) Eliminate discrimination that is unlawful under the Act
 - (c) Eliminate harassment of disabled persons that is related to their disabilities;
 - (d) Promote a positive attitude towards disabled persons
 - (e) Encourage participation by disabled persons in public life; and
 - (f) Take steps to take account of disabled person’s disabilities even where that involves treating disabled persons more favourably than other persons”
73. The production and examination of the CWAAP has straddled this process. However, the council’s approach to equalities has always been broader than that

required under previous legislation by protecting the now extended 'protected characteristics'. Therefore in terms of approach the Equality Act 2010 does not represent a significant change.

74. Throughout the production process of the CWAAP from issues and options, preferred options to a publication / submission, the council has undertaken thorough iterative equalities impact assessment (EqIA) involving the council's equality and diversity panel including assessment of borough's demographics and the potential impacts of the plan on its diverse communities with particular regard to its equalities duties. The council's EqIA processes extend beyond its current statutory equalities duties to incorporate religion/belief, sexual orientation and age. It is notable that the Inspector's report deemed the council's iterative equalities assessment evidence to be adequate.

General conformity of the CWAAP

75. Section 24(1)(b) of the Planning and Compulsory Purchase Act 2004 requires that local development documents (LDDs) issued by the council, such as the CWAAP, must be in general conformity with the spatial development strategy, namely the London Plan 2011. On submission of the final draft of the CWAAP to the Secretary of State for independent examination, the council sought the Mayor's opinion in writing as to whether the CWAAP was in general conformity (Reg 30, the Regulations). Accordingly the Mayor and the Inspector following examination have both confirmed that the CWAAP is in general conformity with the London Plan.

Soundness of the CWAAP

76. Under the Planning and Compulsory Purchase Act 2004 S 20(5)(a) the Inspector has examined the CWAAP on behalf of the Secretary of State to ensure that the plan complies with the legislative framework and is otherwise sound. Section 20(5)(b) of the Act requires the Inspector to determine whether the plan is 'sound' and:
- a. Has been prepared in accordance with the local development scheme;
 - b. Is in compliance with the statement of community involvement and the Regulations;
 - c. Has been subject to sustainability appraisal;
 - d. Has regard to and is consistent with national policy;
 - e. conforms generally to the London Plan;
 - f. Has regard to other relevant plans, policies and strategies such as other DPDs which have been adopted or are being produced by the council;
 - g. Has been subject to an Appropriate Assessment pursuant to the Habitats Directive to ensure that the CWAAP or any of its policies are not likely to have any significant discernible impacts on European protected species;
 - h. Has regard to any sustainable community strategy for its area; and
 - i. Has policies, strategies and objectives which are coherent, justified, consistent and effective.
77. Subject to his recommendations and amendments, the Inspector was satisfied that the CWAAP is sound and complies with statutory requirements.

Human rights considerations

78. The decision to adopt the CWAAP potentially engages certain human rights

under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant. In the case of the CWAAP, a number of rights may be engaged: -

- **The right to a fair trial (Article 6)** – giving rise to the need to ensure proper consultation and effective engagement of the public in the process;
- **The right to respect for private and family life (Article 8)** – for instance the CWAAP has opted for a combined growth 'core areas' and housing growth approach which impacts on housing provision, re-provision or potential loss property / homes. Other considerations may include impacts on amenities or the quality of life of individuals;
- **Article 1, Protocol 1 (Protection of Property)** – this right prohibits interference with individuals' right to peaceful enjoyment of existing and future property / homes. It could be engaged, for instance, if the delivery of any plan necessitates CPOs or results in blight or loss of businesses/homes;
- **Part II Protocol 1 Article 2 Right to Education** – this is an absolute right enshrining the rights of parents' to ensure that their children are not denied suitable education. This is a relevant consideration in terms of strategies in the plan which impact on education provision.

79. It is important to note that few rights are absolute in the sense that they cannot be interfered with under any circumstances. 'Qualified' rights, including the Article 6, Article 8 and Protocol 1 rights, can be interfered with or limited in certain circumstances. The extent of legitimate interference is subject to the principle of proportionality whereby a balance must be struck between the legitimate aims to be achieved by a local planning authority in the policy making process against potential interference with individual human rights. Public bodies have a wide margin of appreciation in striking a fair balance between competing rights in making these decisions.

80. This approach has been endorsed by *Lough v First Secretary of State* [2004] 1 WLR 2557. The case emphasised that human rights considerations are material considerations in the planning arena which must be given proper consideration and weight. However, it is acceptable to strike a balance between the legitimate aims of making development plans for the benefit of the community as a whole against potential interference with some individual rights.

81. Public bodies have a wide margin of appreciation in striking a fair balance between competing rights in making these decisions. The approach and balance between individual and community rights set out in the publication/submission is within justifiable margins of appreciation.

82. The council has undertaken robust public participation, iterative sustainability and equalities assessments throughout the production of the CWAAP as well as engaging with the issue of human rights at each decision making process. Therefore the CWAAP is not deemed to interfere with any human rights which may be engaged and strikes the appropriate balance between making strategic policies for its communities against any potential interference. In deciding upon the adoption of the CWAAP, members are reminded to have regard to human rights considerations and strive to strike a fair balance between the legitimate aims of making development plans for the benefit of the community against potential interference with individual rights.

Adoption process – Procedural requirements

83. Members' are advised that should the CWAAP be adopted by council assembly, following the recommendation of cabinet, a number of statutory requirements will need to be complied with by the council. These requirements are set out in Regulations 35 and 36 Town and Country Planning (Local Development)(England) Regulations 2004 (as amended by the 2008 Regulations) and must be complied with as soon as reasonably practicable after the date of adoption.
84. In summary, Regulation 35(1) requires that the council complies with section 20(8)of the Planning and Compulsory Purchase Act 2004 to publish the Inspector's recommendations and reasons as follows :
- (a) That the recommendations of the Inspector's report be deposited for the purposes of public inspection at the same venue that the pre-submission proposal documents were deposited;
 - (i) That Inspector's recommendations be published upon the council's web-site; and
 - (ii) That notification of publication be provided to those persons who requested to be notified of the recommendations publications.
85. Regulation 36 further provides that the council make available for inspection the following documents at the same place where the pre-submission documents were deposited:
- a) The CWAAP;
 - b) An adoption statement, and
 - c) The sustainability appraisal report
 - d) Publish the adoption statement on the council's web-site;
 - e) Give notice by local advertisement of the adoption statement and details of where it can be inspected
 - f) Send the adoption statement to any person who has asked to be notified of the adoption of the CWAAP; and
 - g) Send the CWAAP and adoption statement to the Secretary of State.

Application to the High Court

86. The CWAAP has been prepared in accordance with the relevant legislation and regulations. If adopted this final version will establish the strategic planning policy framework for Southwark. Under Section 113 of the 2004 Act, any party aggrieved by the adoption of the CWAAP may make an application to the High Court within 6 weeks of the publication of the adoption statement. Such applications may only be made on limited grounds namely that: -
- a) The document is not within the appropriate power; and / or
 - b) That a procedural requirement has not been complied with
87. Officers believe such risk is minimal. The Inspector has concluded the CWAAP has been prepared in accordance with the relevant regulations and guidance and due process has been followed.

Saved UDP policies

88. If this CWAAP is not adopted planning applications in the council's area will continue to be assessed against saved policies of the unitary development plan, namely the Southwark Plan 2007, the core strategy, such other specific DPDs that have been adopted by the council.

Finance Director

89. This report recommends that cabinet consider the report of the planning inspector on the Canada Water Area Action Plan, recommend that council assembly adopt the Canada Water Area Action Plan and note the consultation report, sustainability appraisal and equalities impact assessment.
90. The DFM notes that there are no immediate financial implications arising from the report but should subsequent costs arise, they will be the subject of a further report. Officer time to effect the recommendations will be contained within existing budgeted revenue resources.

BACKGROUND DOCUMENTS

Background paper	Held at	Contact
Core strategy April 2011	160 Tooley Street, London SE1 2QH	Sandra Warren 020 7525 5471
London Plan 2011	160 Tooley Street, London SE1 2QH	Sandra Warren 020 7525 5471
Cabinet - 24 January 2012 - agenda and minutes	160 Tooley Street, London SE1 2QH	Paula Thornton 020 7525 4395
Planning committee - 28 February 2012 - agenda	160 Tooley Street, London SE1 2QH	Kenny Uzodike 020 7525 7236

APPENDICES

No.	Title
Appendix 1	Inspector's report on the Canada Water AAP (Appendices A and B of the inspector's report are available on the website)
Appendix 2	Proposed final version of the Canada Water AAP (circulated separately to all councillors)
Appendix 3	Consultation statement (available on the website)
Appendix 4	Equalities Impact Assessment (available on the website)
Appendix 5	Sustainability Appraisal (available on the website)
Appendix 6	Sustainability appraisal adoption statement (available on the website)

AUDIT TRAIL

Lead Officer	Eleanor Kelly, Deputy Chief Executive	
Report Author	Tim Cutts, Acting Head of Planning Policy	
Version	Final	
Dated	15 March 2012	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Departmental Finance Manager	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	15 March 2012	