

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> December 15 2009	<b>Meeting Name:</b> Executive
<b>Report title:</b>		Canada Water Publication/Submission Summary Report	
<b>Ward(s) or groups affected:</b>		Rotherhithe, Surrey Docks	
<b>From:</b>		Strategic Director of Regeneration and Neighbourhoods	

## **RECOMMENDATION(S)**

That the Executive recommend Council Assembly to:

1. Consider the Canada Water AAP Publication/Submission Version (appendix A), the consultation plan (appendix B), the consultation report (appendix C), sustainability appraisal (appendix D) equality impact assessment (appendix E) and appropriate assessment (appendix F).
2. Agree to publish the Canada Water AAP Publication/Submission Version before submission to the Secretary of State.
3. Approve the Canada Water AAP Publication/Submission Version for submission to the Secretary of State for Communities and Local Government provided no substantive changes are necessary following consultation, and
4. Delegate the approval of any minor amendments resulting from its meeting or consultation to the Canada Water AAP Publication/Submission Version to the Director for Regeneration and Neighbourhoods in consultation with the Executive Member for Regeneration before submission to Secretary of State.

## **BACKGROUND INFORMATION**

5. The council is preparing an area action plan (AAP) for Canada Water and the surrounding area. The AAP is being prepared under the new planning system and will comprise localised policies which 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 the Southwark Plan.
6. We are currently at the final stage of preparing the AAP. The first stage involved consulting on an issues and options for the future growth of the area. Consultation on the issues and options report was completed in February 2009. The second stage involved consulting on the preferred options for the future growth of the area. Consultation on the preferred options was completed at the beginning of November 2009. The comments we received have informed the current stage which is the preparation of the publication/submission AAP to be submitted to the Secretary of State for independent examination.
7. The publication/submission will be accompanied by a sustainability appraisal, an equalities impact assessment, an appropriate assessment (under the Habitat Directive) and a consultation statement.

## **CONSULTATION**

8. The Planning and Compulsory Purchase Act 2004 (as amended by the Planning Act 2008) and the council's Statement of Community Involvement require consultation to be ongoing and informal to guide the overall approach to consultation on the core strategy. The council has prepared overarching consultation strategies for each of the documents. At each stage in preparing the documents, the council has prepared detailed consultation plans setting out how we will consult. Along with consultation reports as set out in appendix C setting out how we have consulted. These are available on the website and in the member's offices. These have been considered by members at each stage when they are adopting the Canada Water Area Action Plan for consultation.
9. It is important to recognise that a considerable amount of consultation has taken place over the last few years. This can be taken into account as part of the evidence for preparing the Canada Water Area Action Plan. We have taken previous comments into account to try and avoid consultation fatigue.
10. The council will publish the publication/submission to invite representations until March 2010 in line with statutory requirements and to reflect the intention of the requirements of the Statement of Community Involvement as set out in appendix B. The second half of this period will comprise a period of formal consultation. All documents will be available on the internet, in council offices, libraries and area housing offices. Adverts will also be placed in the press.
11. We received over 750 representations from 228 respondents to the consultation on the preferred options. A full table of officer comments on each representation is available on our website at <http://www.southwark.gov.uk/YourServices/planningandbuildingcontrol/planningpolicy/localdevelopmentframework/canadawaterareaactionplan.html> for both the questionnaire and written responses. We also received comments from the Government Office for London and the Greater London Authority on the draft Publication/submission version Canada Water Area Action Plan.
12. We have considered these comments along with the evidence and various assessments set out in this report to make changes to the preferred options when preparing the final Canada Water Area Action Plan vision, themes, objectives, strategy, policies, implementation and monitoring plans.
13. Significant representations along with our responses and any changes between the preferred option and publication/submission version are set out below.
14. Planning committee comments will be provided as an addendum as they are being considered on December 8 2009.

## **KEY ISSUES FOR CONSIDERATION**

15. The Canada Water publication/submission Draft AAP is structured around eight key themes which are town centre/neighbourhood facilities, transport, leisure, places, homes, social and economic opportunities, guidance for individual sites and finally the delivery of the AAP. The focus of the AAP is a core area around the shopping centre, although it will also be important to ensure that impacts in the wider peninsula are addressed.

16. We received over 900 representations from 220 respondents. This included 96 responses from statutory consultees and members of the public along with an additional 124 questionnaire submitted from residents on the Hawkstone estate.

### GLA (and TfL)

- Evidence base needs to be substantively complete by submission stage
- The AAP does not address the key issue of where the town centre parking should be located in principle.
- The council should clarify, on the basis of its 2009 Retail Study, any planned expansion of convenience floorspace in the area.  
Correction - Information regarding East London Line (ELL):  
Upon reopening of the ELL in summer 2010:
  - trains will run from Dalston Junction in the north
  - 12 trains per hour (tph) in each direction through the core section (including Rotherhithe, Canada Water and Surrey Quays)
  - 4 tph will go to each of the southern termini (New Cross, Crystal Palace, West Croydon)
  - The north terminus should be extended to Highbury and Islington by 2011
  - Phase 2 has been funded and will add an additional southern terminus at Clapham Junction by summer 2012, served by 4tph in each direction. Service through the core section of the ELL will then be 16tph in each direction
- Omission - No mention is made of Crossrail, which is expected to provide a significant reduction in crowding levels on the Jubilee Line.
- concerns have been raised regarding the proposals for Lower Road
- an area-wide multi-modal trip generation analysis should be undertaken
- Omission - TfL considers that the AAP does not address the key issue of where the town centre parking should be located in principle
- TfL would like to see this section of the AAP offer a holistic design approach, developed in consultation with TfL and other key stakeholders
- the Council should note the Mayor's comments in respect of the housing policies in the Core Strategy and reflect these in the next version of the document.
- The next version of the document should include a target for the provision of new homes in the area and affordable housing requirements that are both consistent with those agreed in the final version of the Core Strategy, which should be in general conformity with the London Plan.
- The fact box on density is useful and the density ranges set out are potentially consistent with those in London Plan 3A.3 but the wording currently contains some inaccurate and inconsistent comments.
- No significant discussion about the Harmsworth Quay site has been presented in the AAP
- Site A (land north of Surrey Quays Road and Needleman Street) - TfL has strong concerns about the location for the bicycle station identified in the AAP.
- Decathlon Site - As these sites contain most of the existing car parking, TfL requests a particular focus on how and where shared town centre car parking should be bought forward.
- Omission - Given the relatively well-defined scope of intensification at Canada Water, TfL would welcome a strategic assessment of transport impacts across the whole study area.
- Omission - The AAP does not discuss any freight issues and would

become of more relevance if the retail offer is significantly expanded as part of the area's regeneration.

- Omission - There is a need to ensure the provision of sufficient land for the development of an expanded transport system.

### **Government Office for London**

- Greater local distinctiveness needed. Show how development will achieve aims of AAP, with timescales and quantum of development.
- Show through the evidence base that there is only one realistic option for each policy area. We must show that we haven't closed off possible other options for consultation
- Delivery and Implementation – More information in this section and the work that has already taken place
- Monitoring – detailed explanation for monitoring of the plans progress
- How is our evidence base progressing?

### **Thames Water**

- Concerned that there is no reference to water or sewerage infrastructure. Lists the sites in the area –concerns with Waster Water Services
- Thames Tunnel project. Possibility that construction sites may be required within the wider Area Action Plan area. Need for a supportive policy for the project within the Core Strategy and this should be referenced within the Canada Water Area Action Plan.

### **English Heritage**

- Support plans to improve the public realm,
- Welcomes the focus on supporting arts, culture and tourism in the area and reference to specific historic assets and museums in Rotherhithe
- Welcomes commitment to raising design standards and creating more distinctive places in the AAP is also welcomed
- Encourage consideration of the English Heritage and CABI joint Guidance on Tall Buildings (July, 2007). It is evident in figure 8 that the two locations for tall buildings are not within the viewing corridor to St Paul's Cathedral; however the impact on the setting of Southwark Park (Grade II Registered Historic Park and Garden) may need careful consideration in the Surrey Quays tall building location. Currently there is no recognition of Southwark Park's historic status as a Registered Historic Park and Garden in the open space network paragraph 3.4.3.
- Would be helpful to outline what historic assets are still remaining in the AAP area today.

### **Environment Agency**

- Concern that there is no mention of flood risk management. Suggest updating P4 in the Objectives section with the underlined text below:

P4: To reduce the impact of development on the environment and help tackle climate change, flood risk, surface water flooding, pollution and waste.

- AAP could promote the River Thames further. Update Figure 5 and 6 to include existing river boat piers and discuss with TfL / Port of London Authority possible new piers and ways to promote use of the river to

transport construction and demolition materials from the Canada Water area.

### **Simon Hughes MP**

- Employment and economic opportunities\_River should be used as much as possible in all business and economic plans. I could not see any direct reference to this in the preferred options paper. This area could be a real hub for the boat repair industry and it seems to me that this should be really clear in our vision for the area.
- New School\_Rotherhithe Primary School site. Given it is so close to the Lewisham border it is important that the issues of catchment area are resolved before the decision is made. A new school in Southwark needs to benefit Southwark children. Clear consideration of the two sites owned by the borough should be carried out. This comparison should include the size of possible schools, the environmental impact and the number of people who live nearby who would be adversely affected.
- Affordable Homes\_Emphasise the need for affordable family sized homes. Concern no mention of ensuring that disability adapted homes are built. Ensure that providing homes for disabled people is part of the Area Action Plan.
- Leisure I am persuaded that the majority of local people would rather see the current Seven Islands Leisure Centre refurbished. I understand that no funds are currently available for a lido, but I am really clear that building work should be done in a way which leaves this option open. It seems to me that the pool could be built in a way that allowed it to extend to an open air section in the park and I am sure that this is possible.
- Shopping Support for Baltic and Scandinavian theme around Albion Street. However, it is not clear from the preferred options that this vision has the enthusiasm which it should given the fascinating Baltic and Scandinavian history of the area. Please ensure that this option is pursued energetically and with vision.
- Transport I am very pleased to see that making Lower Road two way is a preferred option and I strongly support this proposal. The importance of resolving the Jamaica Road congestion to our community cannot be underestimated.

### **Cllr Livingstone**

- Create mini- Green Chain that the main chain could link into at a later date. With the riverside, Southwark Park, Russia Dock Woodland, the docks and routes created by the LDDC such as Albion Channel, there appear to be a lot of the elements needed already in place. It would be useful if the final CWAAP tried to join these together more effectively – for example, this might include proposals that could be considered for the community project bank and future CGS rounds to better link Southwark Park to the waterfront areas.

## **Cllr Colley**

- Include of Albion Street in the core area
- To take Woodlands Crescent and Water gardens out of the core area

## **OTHER COMMENTS**

### **A Significant Number of Comments were Received Relating to**

- Support for the creation of a town centre
- Need a new leisure centre, Seven Islands is not fit for purpose
- A split between concern over tall buildings in the area and support of tall buildings in the area
- Concern over the transport impacts of new development
- Enough car parking should be provided to avoid overspill onto the streets
- Need more youth facilities in the area
- There is a need for more affordable/council housing
- More family housing in the area
- Concern that Albion Street may suffer and is already in decline
- Concern about the loss of green spaces throughout the area.

### **Comments also Included**

- Criteria based policy for tall buildings needed – AAP should not be too prescriptive on height
- Site E should be a new leisure centre
- Quebec Way industrial estate should be a new secondary school
- Support for more shops provided there is the demand
- Need to support local small businesses
- Support for more River transport
- Need to make clear throughout the document that make clear that planning obligations must be both directly related to the proposed development and fairly and reasonably related in scale and kind to the proposed development
- Should discourage car use and car ownership in the area
- Should become a model for green urban living
- The outer peninsula should stay suburban
- Stronger commitment to independent shops and cafes
- Need for more community facilities in the area
- There should a strong focus on improving sports facilities in the area
- The AAP should only cover the core area

### **Digital Response Received from Residents of the Hawkstone Estate**

This representation made comments on;

- Would like to see Southwark park and Hawkstone Estate excluded from the AAP boundary
- Disagree with the vision as it needs to include homes for local people, elderly people and less pollution
- Objectives should include reducing traffic, pollution
- Support for shopping and the creation of a town centre
- disagree with parking standards as residents need cars, should be at least 1 space per home

- No MUGA's in Southwark Park
  - No coaches in Hawkstone Road
  - No neighbour support for projects
  - More flats would be overdevelopment of the area
  - Need to be more specific about design and energy efficiency standards
  - Disagree with the proposed school on Rotherhithe Primary School site
  - Need more health facilities in the area
  - Infrastructure residents want is not being paid for
17. The purpose of the publication/submission is to formalise this approach into a planning vision, strategy, objectives and policies with an implementation and monitoring plan. We have set out the main issues that we are taking forward as the publication/submission below. These address the comments, proposed changes to the London plan and the publication of the Core Strategy.
18. Town centre: Canada Water has around 40,000 sqm of shopping floorspace and is a district town centre in the London Plan. 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. This would mean that a much greater range of shops could be provided, including a new department store. As a result of changes proposed in the AAP, it would move up the London Plan hierarchy to become a major centre.
19. 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. Increasing the amount of comparison goods retail floorspace at Canada Water would help claw back some of this leakage, reducing the need for longer trips, providing residents with more choice and boosting the local economy. The council is continuing to involve key landowners in the preparation of AAP policy to ensure that development will be delivered.
20. Leisure: The peninsula has the potential to become a great leisure destination. New leisure facilities will be provided in Southwark Park and as part of the new secondary school (see below). The AAP also states that the council will refurbish the Seven islands Leisure Centre. The council has committed £150k through the capital refresh programme and has made a bid for £500k from the Department for Culture Media and Sport. The £650K scheme will improve wet-side changing facilities and bring the training pool back into use.
21. 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 below 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.

22. The AAP proposes new open spaces in the core area, including the plaza outside the new library. In addition, the AAP proposes converting the Fish Farm into a public open space. St Paul's Sports Ground is allocated as open space and possibly a community use. The AAP will need to set out s106 funding likely to come forward for open space improvements within the plan period.
23. The AAP seeks to generate more activity around Greenland and South Docks. St George's Wharf (the boatyard) is identified as having the potential to provide a mix of uses, including boatyard and possibly hotel or residential use.
24. The AAP will designate a Strategic District Housing Area (SDHA). All development built within the SDHA must be designed to ensure that they are capable of future connection to a district heating network. Moreover, in the period 2010-2013, all major developments should reduce emissions by 44% (Code for Sustainable Homes level 4). Higher targets will be triggered at 2013 and 2016, in anticipation of government policy to achieve carbon zero homes by 2016.
25. It is anticipated that developments in the SDHA will connect to SELCHP in the future. Consultants commissioned by the council to provide an energy strategy consider that the costs of provision of energy infrastructure could be financed by heat sales and that therefore s106 contributions to deliver this will not be required.
26. 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 will show how this target will be met by estimating the capacities of all sites. Over the AAP area as a whole, more than 2,000 new units will be provided.
27. There will be 30% family homes in the wider peninsula and 20% in the action area core.
28. The Emerging Core Strategy seeks to ensure that 875 affordable homes are provided in the Canada Water core area. This equates to around 35% of all new homes. The AAP will reiterate the affordable homes target for Canada Water and specify that 35% of new homes should be affordable.
29. Enhanced social and economic opportunities: The AAP promotes a cluster of businesses uses around Harmsworth Quays printworks. This would equate to around 12,000sqm of new office/studio space.
30. 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. Together with school governors, the council is in the process of commissioning an architectural feasibility assessment, to explore opportunities on the site. The AAP will need to specify how expansion may be funded. It is likely that expansion will need to be cost neutral to the council and officers are exploring the extent to which s106 could be used to fund development.



31. The AAP will require provision of health uses on the shopping centre and overflow car park site and will continue to work with the PCT on this aspect of the plan.
32. In respect of other community facilities, the AAP acknowledges the new library which is currently under construction which will replace the current Rotherhithe Library.
33. Rotherhithe Primary School is identified as the preferred location for a new secondary school in the area. This option could streamline resources for both Rotherhithe Primary School and new secondary school and provide students with access to a greater range of facilities than they could access in a single school. Both schools would work in a complementary way with the sports facilities in Southwark Park.
34. 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. Improvements will also be sought for improvements to public realm and walking/cycling facilities.
35. The town centre currently has a large amount of surface car parking spaces which are not used efficiently. The AAP requires all new parking for retail and leisure uses to be provided as shared car parking. The AAP preferred options report did not set out maximum standards for town centre parking as these are prescribed in the London Plan and borough-wide development plans (the Southwark Plan and future Development Management development plan document).
36. Site guidance and delivery: These sections of the report sets out requirements for individual sites and describes how policies in the report will be implemented. For each of the projects set out in the AAP, the council will need to identify costs, sources of funding and phasing. The AAP will also set out a s106 policy, outlining those elements where requirements will differ from the borough-wide policy set out in the s105 Planning Contributions SPD.

### **Community Impact Statement**

37. There have been an equalities impact assessment and sustainability appraisal. These set out the positive changes brought by the area action plan.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Strategic Director of Communities, Law & Governance**

38. The purpose of this section of the report is to set out the legal considerations for the planning committee to enable it to make comments before Executive

approval of the Canada Water Area Action Plan Publication/Submission Report and accompanying background documents for publication and thereafter submission to the Secretary of State.

### **Function of Planning Committee**

39. Under Part 3F, paragraph 7 of the Constitution, Planning Committee's has the function of commenting on successive drafts of the local development framework and make recommendations to the executive as appropriate. Accordingly, members of committee are requested to consider the Canada Water AAP Publication/Submission Version and provide any comments before proceeding to publication and submission..

### **Functions of Executive and Council Assembly**

40. Under Part 3B of the Constitution, the Executive has responsibility for formulating the council's policy objectives and making recommendations to Council Assembly. More specifically, the function of approving the Publication/Submission version of DPDs (including AAPs) is reserved to full Executive (Para 20, Part 3C).
41. The Canada Water AAP Publication/Submission Version is at the stage of publication / submission phase. By virtue of Regulation 4, paragraph 3(c) 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 development plan document for submission to the Secretary of State for independent examination is a shared responsibility with Council Assembly and cannot be the sole responsibility of the Executive.
42. Accordingly, members of Executive are requested to consider the Canada Water AAP Publication./Submission Version and accompanying documents, and recommend to Council Assembly its approval for consultation and submission for examination in public by the Secretary of State provided that no substantive representations are received during consultation on a publication document.
43. Under Part 3A, paragraph 9 the function of agreeing development plan documents is reserved to Council Assembly.
44. The principal planning and legal implications are set out in the body of the report. This section will remind Members of; the procedure and process for adopting the AAP, the consultation requirements, the soundness test that the Secretary of State will undertake, sustainability appraisal, equalities impact assessment and human rights considerations.

### **Procedure for adoption of the Canada Water AAP**

45. Regulation 7 of the Town and Country Planning (Local Development) (England) Regulations 2004 ('The Regulations') provides that Area Action Plans must be development plan documents (DPDs). This means that the Canada Water AAP will form part of the statutory development plan once adopted.

46. The status of the Canada Water AAP as a DPD also means that the legislative processes for the preparation of DPDs must be followed. The preparation process is divided into four stages:
- Pre-production – survey and evidence gathering leading to decision to include the Canada Water AAP in the Local Development Scheme;
  - Production – preparation of preferred options in consultation with the community, formal participation on these, and preparation and submission of the Canada Water AAP in light of the representations on the preferred options;
  - Examination – the independent examination into the soundness of the Canada Water AAP; and
  - Adoption – the binding report and adoption.
47. In preparing the Canada Water AAP the council must have regard to:
- National policies and guidance;
  - The London Plan;
  - Southwark 2016, the sustainable community strategy;
  - Any other DPDs adopted by the council or in the process of being adopted; and
  - The resources likely to be available for implementing the proposals in the Canada Water AAP.

## **CONSULTATION REQUIREMENTS**

### **Prior to Publication**

48. Regulations 24 and 25 of the Regulations require the council to consult with the community and stakeholders during the preparation of the preferred options and publish an initial sustainability report. Regulation 26 and Section 19(3) of the Planning and Compulsory Act 2004 (“the Act”) specifically require local planning authorities to comply with their adopted SCI. In so far as the SCI exceeds the consultation requirements of the Regulations, it must be complied with. This process of consultation in accordance with Regulation 25 (the statutory consultation period of 6 weeks) and the Council’s adopted SCI (including 6 weeks of informal and 6 weeks of statutory formal consultation) occurred between October 2008 and February 2009 and culminated in the Preferred Options Report July 2009. Extensive consultation took place on the Council’s preferred options on the AAP with the public, statutory bodies and other stakeholders between July 21 and October 13. Details of the consultation are set out in the Consultation Plan appended to this report.

### **Publication & Submission**

49. The Canada Water AAP is now at the formal stage of publication before submission to the Secretary of State. The council is required to make available for public inspection in person and on its website the proposals for the DPD, the supporting documents (contained in the appendices) and details of how to make representations as to the soundness of the document. Representations can be made within a six-week period (Regulation 27(2)). This process is distinguished from a participation or consultation process and simply allows an opportunity for representations as to the soundness of the document. Nonetheless, in line with its usual practices about public engagement under the

SCI, the council intends to informally publicise the Canada Water AAP for an additional period of 6 weeks.

50. The Canada Water AAP will then be sent to the Secretary of State for examination in public as required by section 20(1) of the Planning and Compulsory Planning Act. This will be accompanied by all the supporting documents including the sustainability appraisal report, the SCI and statements setting out the main issues raised and how these have been addressed in the AAP and any supporting documents (Regulation 28(1)).
51. On the Executive's recommendations, members of the council assembly will be requested to simultaneously approve the Canada Water AAP publication / submission version for publication and subsequent submission to the Secretary of State. This approach is acceptable provided that representations made do not raise doubt as to soundness or necessitate substantive changes to the Canada Water AAP before submission. In the event that substantive changes to the Publication/submission version of the Canada Water AAP are necessary following publication, the document cannot be submitted to the Secretary of State without Council Assembly making a fresh determination in light of the representations.

### **Soundness**

52. Under the Planning and Compulsory Purchase Act 2004 S 20(5)(a) an Inspector is charged with firstly checking that the plan has complied with legislation and is otherwise sound. Section 20(5)(b) of the Act requires the Inspector to determine whether the plan is 'sound'. The 'soundness test' includes in particular ensuring that the plan:
  - (i) has been prepared in accordance with the Local Development Scheme
  - (ii) is in compliance with the Statement of Community Involvement and the Regulations;
  - (ii) has been subject to Sustainability Appraisal;
  - (iii) has regard to and is consistent with national policy;
  - (iii) conforms generally to the Spatial Development Strategy, namely the London Plan;
  - (iv) has regard to other relevant plans, policies and strategies such as other DPDs which have been adopted or are being produced by the Council;
  - (v) has regard to any sustainable community strategy for its area; and
  - (vi) has policies, strategies and objectives which are coherent, justified, consistent and effective.
53. 'Justified' means that the document must be founded on a robust and credible evidence base and that it must be the most appropriate strategy when considered against reasonable alternatives. 'Effective' means that the document must be deliverable, flexible and able to be monitored. These are the overarching principles that should be in members' minds when providing comments on the documents before them.

## GENERAL CONFORMITY OF CANADA WATER AAP

### Legal Provisions

54. Section 24(1)(b) of the Act requires that local development documents (LDDs) issued by the Council, such as this AAP, must be in general conformity with the spatial development strategy, namely the London Plan (consolidated with alterations since 2004). On submission of the final draft of the AAP to the Secretary of State for independent examination, the council will be required to simultaneously seek the Mayor's opinion in writing as to whether the AAP is in general conformity (Reg 30, the Regulations). The purpose of the independent examination is to ensure legal compliance with the legislative framework, including consultation and soundness of the AAP (Section 20(5)(b) of the Act). General conformity must be determined as a matter of law and policy practice. This issue was considered at the Preferred Options Stage in July 2009 and in light of the revisions to housing in the revised Preferred Options Report has been considered afresh.
55. General conformity is not a defined term anywhere within the legislative framework. However, the Court of Appeal decision of *Persimmon Homes (Thames Valley) Ltd & Oths v Stevenage Borough Council* [2005] EWCA 1365 considered the judicial construction of the term and contains authoritative guidance. The term is to be given its ordinary meaning and take into account the practicalities of planning control and policy, namely the long lead times for the implementation of planning policy and the exigencies of good planning policy which are liable to change. The 'general conformity requirement must accommodate these factors and in its true construction allow a 'balanced approach' favouring 'considerable room for manouvre within the local plan (the Southwark Plan 2004 and in future the Local Development Framework) in the measures taken to implement the structure plan (the London Plan) so as to meet the changing contingencies that arise. In other words the word general is designed to allow a degree of flexibility in meeting London Plan objectives within the local development plan. The fact that the statutory regime makes provision for the possibility of conflict in the London Plan and local plan to be resolved in favour of the latter subject to general conformity envisages that 'general conformity' allows for flexibility at local level and not strict compliance with every aspect of the London Plan (Section 46(10) of the 1990 Act as substituted by the Act) provided that the effectiveness of the London Plan strategic objectives on housing are not compromised and there is local justification for any departure.

### Sustainability Appraisal

56. The European Directive 2001/42/EC requires an 'environmental assessment' of plans and programmes prepared by public authorities that are likely to have a significant effect upon the environment. This process is referred to commonly as 'Strategic Environmental Assessment' (SEA) and has been given effect in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regs).
57. The Planning and Compulsory Purchase Act 2004 also requires sustainability appraisal (SA) of all emerging DPDs and therefore the Canada Water AAP too. SA and SEA are similar and to some extent overlapping processes that involve a comparable series of steps. If there is a difference between them, it lies in the fact that SEA focuses on environmental effects whereas SA is concerned with

the full range of environmental, social and economic matters. It is acceptable for the same SA document to deal with both SA and SEA aspects providing that there is a clear and substantive audit trail of compliance with both.

### **Equality Impact Assessment (EqIAs)**

58. The Race Relations (Amendment) Act 2000 places a duty on local authorities to promote race equality in their policy-making, service delivery, regulation, enforcement and employment. This includes three overlapping areas of responsibility:
  - To eliminate unlawful discrimination (direct or indirect)
  - To promote equality of opportunity
  - To promote good community relations
59. During the policy and decision making process, The Disability Discrimination Act 2006 and Sex Discrimination Act 1976 places a similar positive duty on local authorities to have regard to the promotion of equality for disabled groups and individuals. This is in addition to the duty to eliminate or prevent unlawful discrimination (whether direct or indirect).
60. To meet these responsibilities, Southwark published its Equality Scheme 2005-2008 approved by the Executive in October 2005. This sets out our overall policy for addressing equality, diversity and social cohesion in the borough. This policy recognises that people may face discrimination, or experience adverse impact on their lives as a result of age, disability, ethnicity, faith, gender or sexuality.
61. The preparation of equality impact assessments (EqIA) is part of Southwark's wider commitment to equalities, which is set out on the Corporate Equalities Action Plan 2003-2006. EqIAs examine the aims, implementation and effects of policies, practices and services to ensure that (i) no groups are receiving or are likely to receive less favourable treatment or outcomes that are discriminatory or unfair in nature (whether directly or indirectly) and (ii) regard is had to the need to promote equality among such groups.
62. The EqIA ensures and records that individuals and teams have thought carefully about the likely impact of their work on the residents of Southwark and take action to improve the policies, practices or services being delivered. Throughout the process of developing the Canada Water AAP and the associated Sustainability Appraisal, the Council has had regard to equalities issues by producing and updating its EqIAs in light of revisions to the AAP. The revised EqIA annexed to this report has been updated in light of the revised Preferred Options for the Canada Water AAP. The revisions respond to previous consultation replies. Taken together with the EqIA, the revised Preferred Options are therefore likely to diminish the risk of the AAP having unforeseen direct or indirect discriminatory effects on groups or individuals in the community and promote equality. Members should note that planning decisions and policies are not required to ensure absolute equality but to have regard to the need and mechanisms for promoting equality (R (on the application of Baker) v Secretary of State for Communities and Local Government [2008] EWCA Civ 141).

## Human Rights Implications

63. The policy making process for the Canada Water AAP 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 Canada Water AAP, a number of rights are potentially engaged. These may include the following examples, which are not intended to be exhaustive:
- i. **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;
  - ii. **The right to respect for private and family life (Article 8)** – the Canada Water AAP proposes to develop land alongside existing homes, which may alter the manner in which those homes are enjoyed; and
  - iii. **Article 1, Protocol 1 (Protection of Property)** – this raises the potential for interference with individuals’ right to peaceful enjoyment of existing and future homes upon adoption or implementation of the AAP.
64. It is important to note that not all rights operate in the same way. There are very few rights are absolute and cannot be interfered with under any circumstances. Other ‘qualified’ rights, including the aforementioned 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 an LPA in the policy making process, such as improving communities and regeneration 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. This approach has been endorsed by *Lough v First Secretary of State* [2004] 1 WLR 2557 and clearly shows that human rights considerations are also material considerations in the planning arena which must be given proper consideration and weight. It is acceptable for the Council to strike a balance between the legitimate aim of regeneration for the benefit of the community as a whole against potential interference with some individual rights.
65. The approach and balance between Individual and community rights and objectives set out in the Canada Water AAP is considered to be within the justifiable margins of appreciation.

## Finance Director / Departmental Finance Manager

66. There are no specific financial implications associated with this paper. The financial implications of any particular policy or strategy should be addressed as part of any specific proposal.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Canada Water Preferred Option	Planning and Transport	Julie Seymour
Core Strategy publication/submission (available on request)	Planning and Transport	Julie Seymour

## APPENDICES

No.	Title
Appendix A	Canada Water publication/submission (available with report)
Appendix B	Canada Water publication/submission consultation plan (available on the internet)
Appendix C	Canada Water publication/submission consultation report (available on the internet)
Appendix D	Canada Water publication/submission interim sustainability appraisal (available on the internet)
Appendix E	Canada Water publication/submission equalities impact assessment (available on the internet)
Appendix F	Canada Water publication/submission appropriate assessment (available on the internet)

## AUDIT TRAIL

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<b>Report Author</b>	Julie Seymour, Head of Planning Policy	
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Departmental Finance Manager	Yes	Yes
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