

**WALTHAM FOREST LOCAL PLAN**  
**DEVELOPMENT MANAGEMENT POLICIES**  
**- EXAMINATION**

**Matters and Issues for Examination in Public:**

**Environmental Protection**  
**Policy DM25**

**Hearing Session – 28 May 2013**  
**Agenda Item 8**

## **1. Background**

- 1.1 Core Strategy Policy CS13 – Promoting Health and Well-Being sets a requirement that new developments meet appropriate environmental standards; in the interests of ensuring satisfactory amenity for future and surrounding occupiers.
- 1.2 To provide clarity to developers and development management officers, there is a need for the Development Management Policies DPD to clearly set out what environmental standards will be applied to development proposals when determining planning applications.
- 1.3 Upon review of the Development Management Policies DPD, the Inspector raised a number of queries regarding the policy DM25. The Council responded to these in document KE154 (Council Response to Inspector's Questions). The Council's responses included putting forward some modifications to policy and justification text and the Inspector has noted that he is largely happy with these modifications. Where issues have remained outstanding, the Inspector has put forward some further wording modifications for the Council's consideration.

## **2. Main Issues**

- i) The Council's overall view of, and response to, representations and Inspector's questions;
- ii) Policy DM25.

## **3. The Council's Position**

- 3.1 The Council's overall view of, and response to, representations and Inspector's questions
  - 3.1.1 Consultation on the Proposed Submission Development Management Policies resulted in representations from 5 organisations or individuals. These included support for the policy from the Environment Agency, Natural England, and Thames Water. Other responses were quite minor in nature – correcting typos and requesting better cross referencing to policy DM14 (Co-ordinating land use and transport). The Council's full response to these representations is set out in document SD17 [Summary of Representations and Council's Response – Regulation 22(1)(e)].
  - 3.1.2 In addition, the Inspector's questions on policy DM25 raised a number of issues in terms of the clarity of the policy; in terms of the practicalities of how the Council would judge if development proposals achieve satisfactory environmental standards. In response, the Council has put forward a number of wording modifications which are detailed in document KE154 (Council Response to Inspector's Questions). The Council is of the view that these proposed modifications result in greater transparency; offering clearer guidance to both developers and development management officers, of what standards will be applied to individual applications and the tools that will be

used to assess such standards. The Council has also sought to edit wording where possible in the interests of making the document more concise; which has resulted in revoking initial proposals to add additional cross referencing to other parts of the plan, set out in document SD17 [Summary of Representations and Council's Response – Regulation 22(1)(e)].

3.1.3 The Inspector has noted that he is largely happy with the responses set out in document KE154 (Council Response to Inspector's Questions). Where issues remain outstanding, these are discussed further below.

## 3.2 Policy DM25: Air quality

3.2.1 The Inspector has raised some concerns that the Council's proposed wording modifications as set out in response to question 177 (see document KE154) still reads as though Air Quality Assessments are a standalone requirement, rather than as a means to an end. Alternative wording has therefore been put forward by the Inspector for part (c) of policy DM25, as set out below:

*"New development should neither contribute to, nor suffer from unacceptable levels of air pollution, measured having regard to DEFRA's Local Air Quality Management Technical Guidance LAQMTG (09) and London Council's Air Quality and Planning Guidance or successor documents and taking into account any mitigation measures proposed. An Air Quality Assessment submitted with major applications may be taken by the Council as demonstrating compliance with this policy"*

3.2.2 The Council welcomes these suggestions, and accepts that its initial attempt to modify policy DM25c was unsatisfactory. Having reviewed the Inspector's proposed wording, the Council would like to suggest the following further modifications:

*"New development should neither contribute to, nor suffer from unacceptable levels of air pollution, measured having regard to DEFRA's Local Air Quality Management Technical Guidance LAQMTG (09) and London Council's Air Quality and Planning Guidance or successor documents. **On major applications this should be demonstrated through an**~~and taking into account any mitigation measures proposed. An Air Quality Assessment~~ **and if necessary, proposed mitigation measures.**~~submitted with major applications may be taken by the Council as demonstrating compliance with this policy"~~*

3.2.3 The Council is of the view that these further modifications would:

- Satisfy Inspector concerns that requirements for an Air Quality Assessment should not read as an end in itself (i.e. the main criticism of our original response to question 177);
- Clarify the role of Air Quality Assessments in demonstrating that new developments do not lead to unacceptable levels of air pollution, or place occupiers of new developments health at risk by exposing them to poor air quality; including informing the need for mitigation measures where necessary;

- Clarify that Air Quality Assessments will be necessary on major applications due to poor air quality in the borough (the entire borough is an Air Quality Management Area, and the Core Strategy sets out several areas where nitrogen dioxide and respirable particles are notably high);
- Ensure policy text is consistent with the justification and explanatory text the Council has proposed in response to question 183; where reference is made to poor air quality in the borough and the subsequent likely need for Air Quality Assessments in major applications.

3.2.4 In addition, the Council would like to take this opportunity to put forward some further alterations to the justification and explanatory text to this part of the policy, beyond those already suggested in response to the Inspector's questions (i.e. in document KE154: Council Response to Inspector Questions).

3.2.5 Paragraph 26.8 of the Proposed Submission version of the Development Management Policies points developers to circumstances where strict mitigation measures are likely to be necessary, including areas of the borough outlined in the Core Strategy as having notably high NO<sub>2</sub> and PM<sub>10</sub> levels. This has been retained in the revisions to this paragraph set out in response to Inspectors question 183 (see document KE154). Latest air quality monitoring in the borough has indicated areas beyond those set out in the Core Strategy where air quality is poor. The Council would therefore like to take this opportunity to also draw attention to the likely need for strict mitigation measures in areas of the borough where air quality levels fall above the Air Quality Objectives set out in the Air Quality Regulations 2000 (England). It is therefore suggested that an additional bullet point is added as set out below:

- *"Developments in areas where NO<sub>2</sub> and PM<sub>10</sub> levels are notably high (see Core Strategy Policy CS13: Promoting Health and Wellbeing)*
- ***Developments where air quality levels fall above the Air Quality Objectives set out in the Air Quality Regulations 2000 (England)***
- *Developments that propose biomass or Combined Heat and Power as their form of renewable energy."*

3.2.6 In the section referring to mitigation measures (i.e. paragraph 26.9 of the Proposed Submission version of the document), the Council would also like to put forward some minor amendments, as set out below:

*"Where mitigation measures are proposed, they may take a number of forms. These could include:*

- *Use of passive or active air ~~conditioning~~**ventilation***
- *Use of acoustic ventilators*
- *Altering layouts ~~sof~~ habitable rooms, or even the footprint of buildings, are away from the source of poor air quality*
- *Non residential uses of lower floors*

- *Having non opening windows”*

### 3.3 Policy DM25: Water Quality

3.3.1 In responding to Inspector’s question 180 (see document KE154: Council Response to Inspector’s Questions), the Council offered some examples of the types of developments where it anticipates harm to water quality could be caused. The Inspector has since noted that this is a telling point of the justification of the policy, and has therefore invited the Council to consider its inclusion within the Development Management Policies DPD. The Council is happy to include such a reference in the interest of providing greater justification to the policy, and as such puts forward the following modification to paragraph 26.16:

*“The Environment Agency is the competent authority for the implementation of the Water Framework Directive and advises and regulates to ensure the protection and enhancement of waterbodies. In line with the multiple agency approach of the Water Framework Directive, the Council will therefore work with the Environment Agency to ensure their technical advice is duly considered where development proposals may pose a risk to water quality. **Examples of developments that cause deterioration to water quality include those proposing infiltration drainage through contaminated land, or failing to include oil interceptors to prevent polluted runoff from a car park entering a watercourse.** The objectives and actions of the Thames River Basin Management Plan for individual waterbodies in Waltham Forest should be considered for any developments that could potentially impact on the water quality.”*

### 3.4 Response to the Representations received

3.4.1 With regard to the representations received on policy DM25, the Council’s responses are set out in document SD17 - Summary of Representations and the Council’s Response.

3.4.2 It important to also mention that the policy is supported by organisations the Council has a duty to cooperate with including the Environment Agency, Thames Water and Natural England.

### 3.5 Response to the Inspectors Questions

With regard to matters raised by the Inspector, these have been addressed in document KE154: Council Response to Inspector’s Questions. A summary is provided in paragraph 3.1.2 above

## 4. Conclusion

The Council is of the view that the further modifications to policy DM25(c) and its accompanying text set out in italics in paragraphs 3.2.2, 3.2.5, 3.2.6 and 3.3.1 above would satisfy all outstanding issues with the Environmental Protection chapter of the Development Management Policies DPD.