

## **Legacy Development Corporation Local Plan and effects of Ministerial Statement of 25<sup>th</sup> March 2015**

On 25<sup>th</sup> March 2015 the Secretary of State for Communities and Local Government made a ministerial statement on Housing and Planning <https://www.gov.uk/government/speeches/planning-update-march-2015>. This has confirmed the Government approach that has been developed through its Housing Standards Review, some aspects of which have implications for planning and planning policy, including Local Plans. Some aspects also require legislative change which has been included within the Deregulation Act 2015. This received Royal Assent on 26<sup>th</sup> March 2015. <http://www.parliament.uk/business/news/2015/march/prorogation-end-of-session/>. This now confirms that these specific provisions will be brought into force during the remaining part of 2015.

On 27<sup>th</sup> March 2015 the Inspector requested clarification as to whether the Legacy Corporation considered the changes to have implications for the Legacy Corporation Local Plan. This note identifies where those changes are considered to have an impact and suggests modifications where these are considered to be necessary. It has been concluded that while there are several policies which do need modifications to specifically reflect the new approaches, that even those policies are essentially equivalent in their requirements and approach.

### **The National Changes**

In September 2014 the Department for Communities and Local Government published for consultation in September 2014, its Housing Standards Review Technical Consultation <https://www.gov.uk/government/consultations/housing-standards-review-consultation>. This introduces a rationalised approach to housing standards within planning policy to apply an optional set of national standards (in most cases over and above standards building regulations requirements). With each of these sets of standards it will be for the Local Planning Authority to decide whether they wish to include these within the relevant policies of their Local Plan. It will be necessary in doing so for the LPA to justify the inclusion of these standards and subject them to viability testing through the wider Local Plan viability testing process.

### **Effect on Legacy Corporation Local Plan**

The following policies are those which have been identified as being affected by the introduction of the changes resulting from the Housing Standards Review. The remainder of this paper sets out the updates to those policies that could be necessary in light of the proposed changes and these are also included within Document LD/31 Cumulative Table of Main and Minor Modifications.

- Policy H.1: Providing a mix of housing types
- Policy BN.4: Designing Residential Schemes
- Policy BN.5: Requiring Inclusive Design
- Policy S.4: Sustainable Design and Construction
- Policy S.5: Water Supply and Waste Water Disposal

## Policy H.1 Providing a mix of housing types

In order to be consistent with the changes identified as necessary to policies BN.4 and BN.5 below, it will be necessary to make an amendment to Policy H.1 (4) so that it reads as follows and consequently amend Paragraph 5.12 to ensure consistence within the Policy Application text:

### **Amend Policy H.1 (4) to read:**

Meet London Plan and applicable housing SPG design considerations, subject to Policy BN.4

### **Amend Paragraph 5.12 to read:**

The Legacy Corporation is directed by the London Plan on a range of housing policies which will be applied including: design and access, play space, residential amenity, daylight and sunlight, accessibility and space standard safety design principles, many of which are detailed within the Mayor's Housing SPG, including safety design principles Policies BN.4 and BN.5 set out how the Baseline Standards within the Mayor's Housing SPG will be applied alongside optional requirements of the Nationally Described Space Standards - Technical Requirements. in relation to space and accessibility standards.

## Policy BN.4: Designing Residential Schemes

The current policy wording requires that residential elements of development meet the "Baseline Quality and Design Standards outlined in within Annex 1 of the Mayor's Housing Supplementary Planning Guidance (November 2012). With this cross reference, it will be necessary to identify any elements of the baseline standards that are affected by the Housing Standards Review approach. In the case of space standards, the proposed Nationally Described Standards are equivalent to or slightly lower than the standards within the Mayor's Housing SPG, which are currently applied by Policy BN.4. It is proposed that the Nationally Described Space Standards are specifically required within the policy given that there will be no significant change to the policy requirement and no change in the conclusions of the Sustainability Appraisal or the Combined Policies Viability Study (Document LEB/14) as a result of this introduction.

Elements of Annex 1 of the Mayor's Housing SPG are also dealt specifically with by other policies within the Local Plan, specifically carbon emissions reduction (Policy S.2) and water use (Policy S.5). Policy BN.4 needs to be clear that these policies apply rather the SPG Annex 1 (although currently the requirements are essentially the same).

**Amend first paragraph of Policy BN.4 to read:**

“All residential development will be required as a minimum to meet the Nationally Described Space Standards - Technical Requirements. Proposals will be considered acceptable where residential elements meet the ‘Baseline’ Quality and Design Standards outlined with Annex 1 of the Mayor of London’s Housing Supplementary Planning Guidance (November 2012)(“Annex 1 Baseline Standards”), including any future revisions or superseding guidance save that the following elements of Annex 1 Baseline Standards shall not apply:

1. To any elements of the Annex 1 Baseline Standards that are addressed by the Nationally Described Space Standards – Technical Requirements unless they are equivalent.
2. Any elements of the Annex 1 Baseline Standards that are addressed by other policies in this Plan.

**Policy BN.5: Requiring Inclusive Design**

The current policy wording requires that proposals for development respond to the needs of all users, and provide an accessible and inclusive environment by incorporating all applicable elements of the Legacy Corporation’s Inclusive Design Standards (IDS).

The government has made it clear that they will limit planning authorities’ ability to impose technical standards beyond those within the housing standards. As the IDS go beyond the standards outlined within the Housing Standards Review an amendment to Policy BN.5 will be necessary.

Furthermore the elements of the Annex 1 Baseline Standards (see policy BN.4 above), that overlap with access related optional requirements will no longer be able to be applied unless they are equivalent. (e.g. Baseline Standards 3.1.2, 3.1.3, 3.1.4, 3.2.4, 3.2.6, 3.2.7, 3.2.8, 3.3.2, 3.3.4, 4.3.1, 4.3.2, 4.4.4, 4.4.5, 4.4.6, 4.5.3, 4.5.4, 4.6.2, 4.6.3, 4.6.4, 4.8.2, 4.9.1, and 4.10.2).

The Housing Standards Review (September 2014) states at paragraph 39 that the requirements of Category 2 dwellings are similar to current requirements for the Lifetime Home Standards. London Plan Policy 3.8 (B) (c) requires that all new housing is built to ‘The Lifetime Homes’ standards. As this was found sound as part of the London Plan examination process there is clearly a justifiable need for Category 2 equivalent dwellings within Greater London. Furthermore London Plan Policy 3.8 (B) (d) requires that ten per cent of new housing is designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users. If unsupported by evidence, Policy 3.8 has been found sound as part of the London Plan examination process, supported by appropriate evidence. Hence, it is considered that here is clearly a body of evidence at a regional scale to support the inclusion of both Category 2 and Category 3 equivalent policies within the Legacy Corporation Local Plan.

With regard to viability, development activity serves to illustrate that As development within the Legacy Corporation is already required to meet the requirements of London Plan Policy and this is considered to be equivalent to Category 2 and Category 3, it is not considered that there would be an effect the viability of housing development within the Legacy Corporation area by specifying this approach within the Local Plan. It should also be noted

that the requirement within the Policy BN.5 within the Publication Local Plan was more onerous than that sought through the application of Category 2 and 3 within the proposed revised policy wording and that this more onerous approach has been as part of the Combined Policies Viability Study which found that had no additional cost implications.

**Amend Policy BN.5 to read:**

Non-residential proposals will be considered acceptable where they respond to the needs of all users, and provide an accessible and inclusive environment by incorporating all applicable elements of the Legacy Corporation's Inclusive Design Standards.

Residential proposals will be considered acceptable where they respond to the needs of all users, and provide an accessible and inclusive environment by providing 90 % of dwellings in accordance with Optional Requirement M4 (2) Category 2 of Part M of the Building Regulations, and 10% of dwellings in accordance with Regulation 4 (3) 2 (b) of Optional Requirement M4 (3) Category 3 of Part M of the Building Regulations.

The relevant elements of the Mayor of London's Housing Supplementary Planning Guidance (November 2012)("Annex 1 Baseline Standards"), will only be applied where they are equivalent to the Optional Requirements in Part M of the Building Regulations(as applied by this policy).

**Amend Paragraph 6.19 to read:**

**Reasoned Justification:**

The Legacy Corporation is committed to continuing the significant accessibility and inclusive design work that was undertaken in delivering Queen Elizabeth Olympic Park and its legacy venues. The aim of this is to create wholly inclusive 'Lifetime' neighbourhoods that can be enjoyed by everyone, regardless of disability, age, gender, sexual orientation, race or faith. To help achieve this, the Legacy Corporation has developed its own standards that set a recognised benchmark for Inclusive Design. The Greater London Authority has identified these as a model of good practice that should be followed in all developments outside Queen Elizabeth Olympic Park.

**Move 4<sup>th</sup> and 5<sup>th</sup> sentences of 6.19 to 6.20, and amend to read:**

**Policy application:**

In order to promote the creation of inclusive places, developers will be encouraged to engage with the individuals who will use those places when designing their proposals. Applicants for non-residential development must therefore reference these standards the Legacy Corporation's Inclusive Design Standards within their Design and Access Statements in order to demonstrate how they have been met and incorporated within their proposals. Applicants for residential development must reference Category 2 and Category 3 Optional Requirements within their Design and Access statements in order to demonstrate how they have been met and incorporated, and are encouraged to also reference the Legacy Corporation's Inclusive Design Standard. This will help deliver the highest standards of inclusive design and more usable and openly accessible urban environments, both within and outside Queen Elizabeth Olympic Park.

**Policy S.4 Sustainable Design and Construction**

The Housing Standards Review consultation document makes it clear that should the proposed approach be introduced, the Code for Sustainable Homes will be wound down and that it will no longer be possible to make reference to the Code. The standards identified

within the Code that will be addressed by the Nationally Described Space Standards and Optional Requirements are dealt with directly within the other relevant policies of the Plan (Policies BN.4; BN.5 and S.5). It will, therefore, be appropriate to delete the reference to the Code from Policy S.4 leaving the policy to refer only to BREEAM requirements for non-residential development.

**Amend Policy S.4 to read:**

~~“Residential development proposals will be required to demonstrate that they will be capable of achieving at least a Code for Sustainable Homes Level 4 score (or any future nationally recognised equivalent). Non-domestic space within development will be required to demonstrate that it is capable of achieving a minimum of BREEAM 2011 Very Good, while achieving a maximum score for water use (or an equivalent in any future nationally recognised assessment scheme).”~~

**Policy S5: Water Supply and Waste Water Disposal**

The optional building regulations requirement proposed within the Housing Standards Review consultation is for a standard of 110 litres per person per day (including an allowance of 5 litres for external use), which is described as being equivalent to the Code for Sustainable Homes Level 3 requirement of 105 lppd, i.e. the equivalent of the current position within Policy S5. The change suggested below would therefore not materially change the policy approach or the standard required by the policy, but would conform with the revised national policy approach. Neither would there be any resultant change to the conclusions reached within the Sustainability Appraisal or the Combined Policies Viability Study (Document LEB/14).

**Excerpt from Housing Standards Review Consultation Document (September 2014)**

**The optional requirements**

93. Minimum water efficiency standards were introduced into the Building Regulations in 2010. The provisions require that all new homes are designed so that their calculated water use is no more than 125 litres per person per day. Water use is calculated by using the methodology set out in the *Water Efficiency Calculator for New Dwellings* (“the Water Calculator”).

94. The principal regulatory change to deliver the water efficiency element of the Housing Standards Review is to regulation 36 of the Building Regulations 2010. Regulation 36 currently requires that all new dwellings are designed so that their estimated average water consumption is no more than 125 litres per person per day. This will be amended to introduce an optional requirement of 110 litres per person per day. This will apply where planning permission is granted with a condition that the optional requirement must be complied with.

95. It should be noted that both of the requirements set out above include external water use (of five litres per person per day). Effectively, the optional requirement is therefore exactly the same as the previous Code for Sustainable Homes Level 3 requirement of 105 litres per person per day as this was a measure of internal water use only and did not include external water use in the calculation.

**Amend second paragraph of Policy S.5 to read:**

“Proposals for major development will be expected to demonstrate that they maximise opportunities to reduce water demand and use. Where feasible and viable, for domestic use it should be demonstrated that those measures are capable of achieving a design standard of water use of less than ~~405~~ 110 litres per person per day (including an external water use of 5 litres of water per person per day).

## Extract from the Mayor's Housing SPG – Annex 1

(Provided for information purposes)

<b>3.5</b>	<b>Refuse, post and deliveries</b>		
3.5.1	Communal refuse and recycling containers, communal bin enclosures and refuse stores should be accessible to all residents including children and wheelchair users, and located on a hard, level surface. The location should satisfy local requirements for waste collection and should achieve full credits under the Code for Sustainable Homes Technical Guide. Refuse stores within buildings should be located to limit the nuisance caused by noise and smells and provided with means for cleaning.	Baseline	LP Policy 5.17 and Code for Sustainable Homes
3.5.2	Storage facilities for waste and recycling containers should be provided in accordance with the Code for Sustainable Homes Technical Guide and local authority requirements.	Baseline	LP Policy 5.17 and Code for Sustainable Homes
<b>4.0</b>	<b>Dwelling Space Standards</b>		
4.1	Internal floor area		

4.1.1	<p>All developments should meet the following minimum space standards (as set out in Table 3.3 of the replacement LP):</p> <table border="1" data-bbox="335 353 989 1120"> <thead> <tr> <th></th> <th>Dwelling type (bedroom/ persons)</th> <th>Essential GIA (sq.m)</th> </tr> </thead> <tbody> <tr> <td rowspan="10">Flats</td> <td>1p</td> <td>37</td> </tr> <tr> <td>1b2p</td> <td>50</td> </tr> <tr> <td>2b3p</td> <td>61</td> </tr> <tr> <td>2b4p</td> <td>70</td> </tr> <tr> <td>3b4p</td> <td>74</td> </tr> <tr> <td>3b5p</td> <td>86</td> </tr> <tr> <td>3b6p</td> <td>95</td> </tr> <tr> <td>4b5p</td> <td>90</td> </tr> <tr> <td>4b6p</td> <td>99</td> </tr> <tr> <td rowspan="4">Two Storey Houses</td> <td>2b4p</td> <td>83</td> </tr> <tr> <td>3b5p</td> <td>96</td> </tr> <tr> <td>4b5p</td> <td>100</td> </tr> <tr> <td>4b6p</td> <td>107</td> </tr> <tr> <td rowspan="3">Three Storey Houses</td> <td>3b5p</td> <td>102</td> </tr> <tr> <td>4b5p</td> <td>106</td> </tr> <tr> <td>4b6p</td> <td>113</td> </tr> </tbody> </table> <p>For dwellings designed for more than 6 people, at least 10sq.m gross internal area should be added for each additional person.</p>		Dwelling type (bedroom/ persons)	Essential GIA (sq.m)	Flats	1p	37	1b2p	50	2b3p	61	2b4p	70	3b4p	74	3b5p	86	3b6p	95	4b5p	90	4b6p	99	Two Storey Houses	2b4p	83	3b5p	96	4b5p	100	4b6p	107	Three Storey Houses	3b5p	102	4b5p	106	4b6p	113	Baseline	LP Policy 3.5 and proposed HCA standards
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<b>4.7</b>	<b>Storage and utility</b>		
4.7.1	<p>In dwellings supported by the LDA or receiving public subsidy, built-in general internal storage space free of hot water cylinders and other obstructions, with a minimum internal height of 2m and a minimum area of 1.5 sq m should be provided for 1 and 2 person dwellings, in addition to storage provided by furniture in habitable rooms. For each additional occupant an additional 0.5 sq.m of storage space is required.</p> <p>Private sector dwellings should ensure this minimum area (1.5 sq m) either within the dwelling itself or elsewhere within its curtilage provided minimum internal provision includes storage space free of hot water cylinders and other obstructions with a minimum internal height of 2m and a minimum area of 0.8 sq.m for 1 and 2 person dwellings, in addition to storage provided by furniture in habitable rooms. For each additional occupant an additional 0.5 sq m of storage space is required.</p>	Baseline	HCA Housing Quality Indicator standards

6.4.1	New dwellings should be designed to ensure that a maximum of 105 litres of water is consumed per person per day.	Baseline	LP Policy 5.15
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