



Examination into London Borough of Barnet Local Plan

Stage 1 (Matters 1 – 7)

Matter 2

Representations on behalf of
DTZ Investors UK Ltd (on behalf of Strathclyde Pension Fund)

(Respondent reference number 41)



MATTER 2: SPATIAL STRATEGY AND STRATEGIC POLICIES

MATTER STATEMENT – MATTER 2

1. These Representations are made on behalf of our client, “DTZ Investors UK Ltd” (“DTZ”), in response to the Inspectors’ Matters, Issues and Questions published on 12 July 2022. DTZ submitted written representations to the Regulation 19 Consultation of the Barnet Draft Local Plan in August 2021, in relation to the effective use of land and housing delivery.
2. The points raised in this Statement principally relate to Question 6. Because of this, and to avoid repetition, we have taken it out of sequence and deal with it first. The subsequent questions are then dealt with in numerical order.

MIQ 2.6 Is the approach of strategic policies relating to the spatial distribution of development, positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan? In those respects:

a) What is the basis for the calculation and identified distribution of housing and employment growth as set out in Policy GSS01 in terms of Growth Areas (Policies GSS02 to GSS07), District Town Centres (Policy GSS08), areas of Existing and Major New Public Transport Infrastructure (Policy GSS09), areas of Estate Renewal and Infill (Policy GSS10), Major thoroughfares (Policy GSS11) and Redevelopment of Car Parks (Policy GSS12)?

What particular part of the Plan is not legally compliant and/or unsound and why does it fail?

3. The basis for the calculation of the NSOA housing and jobs provision appears to have been linked to Cross Rail 2, as emerging plan policy GGS09 is drafted.

What legal compliance issue or soundness test(s) does it fail and why does it fail?

4. First, it is not clear whether the assessment of local needs assumes Cross Rail 2 will happen or that the need will be less if it does not and so it is not positively prepared.
5. Second, linking the NSOA to Cross Rail 2 is not effective as it raises considerable uncertainty about how much if any housing should be delivered in the area.
6. It is uncertain whether the minimum of 250 units to be provided by LB Barnet’s portion of the NSOA reflects the good PTAL provided by New Southgate overground station or whether it is a capped provision to reflect uncertainty over whether Cross Rail 2 will be coming forward. This lack of certainty over timing and level of provision for houses and jobs is unsound.
7. In addition, the status of Cross Rail 2 adds significant uncertainty¹. At present therefore there is no reasonable prospect of Cross Rail 2 coming forward in any predictable timescale, and this makes policy GSS09 uncertain. J

How could the Plan be made legally compliant or sound?

¹ Currently, the Crossrail 2 website states that ‘Given TfL’s current finances and the lack of a viable funding package for the scheme at the moment, we are not in a position to confirm when our work on seeking consent can restart’ Source: <https://crossrail2.co.uk/discover/history/>

8. The NSOA needs to be de-linked from Cross Rail 2 and also needs to be taken out of an Infrastructure policy and dealt with in a specific strategic policy of its own². The NSOA needs to be considered in the context of a "With Crossrail 2 Scenario" and a "Without Cross Rail 2 Scenario" to provide flexibility to deal with this uncertainty to ensure its potential can be optimized and secured.

Precise Change Sought

9. A draft additional policy is set out below:

POLICY GSS0X New Southgate Opportunity Area

The New Southgate Opportunity Areas is designated within the London Plan as one the capital's principal opportunities for accommodating large scale development. The New Southgate Opportunity Area provides an opportunity for regeneration and intensification, supported by high existing PTALs and potential future transport infrastructure improvements, along with the availability of substantial underused sites. The Council will support planning proposals that optimise residential and employment density, including co-location, on suitable sites while delivering improvements to the amenity of the area.

To deliver growth and regeneration at New Southgate, the Council will seek the following from development within the part of the Opportunity Area which lies within LB Barnet:

- *Up to 1,000 new homes throughout the Plan period, with the potential to increase further upon delivery of public transit infrastructure improvements;*
- *Up to 1,000 new jobs throughout the Plan period, across a range of employment uses including distribution and logistics, and retail; and*
- *Appropriate levels of floorspace for community, leisure, and commercial uses.*

The Council will seek to prepare a more detailed planning framework for this area, such as through an Area Action Plan or Supplementary Planning Document, working with LB Haringey and LB Enfield to achieve a comprehensive approach.

b) Is such an approach in seeking to guide and deliver development to the aforementioned areas, appropriate and justified?

10. The classifications are helpful at an early stage of plan making in that they help identify areas of search for housing types. It enables the search to be methodical to ensure a balance is maintained between different sources of housing site to maintain the diversity of the urban area.
11. However, there is a potential that sites are prevented from coming forward because of a perceived "oversupply" of town centre sites for instance or a "shortage" of Major Thoroughfare sites. This would be an issue for two reasons.
12. First, residential provision should be assessed against the Borough-wide target not sub-targets which will add a secondary additional criterion to meet.

² As LB Enfield have done in Policy SP PL7 Enfield Local Plan, Main issues and preferred approaches June 2021, pp66-9

13. Second, these classifications are not a recognised benchmark for provision.
14. If the policies were to act as a drag on housing provision, and an extra hurdle to be passed, it will prevent the right development being approved in the right location as it will seek perfect housing in the perfect location. The policies as drafted could make it harder to meet assessed needs for housing and employment schemes and this would make not make them effective, and not make them sound.

How Could the Plan be Made Sound?

15. The policy should make clear that these categories are not designations and have no site allocating or application determining function.

Precise Change Sought

16. A draft additional policy has been prepared and is set out above.

c) To what extent is the development sought in the strategic policies consistent with the allocations in Annex 1?

What particular part of the Plan is not legally compliant and/or unsound?

17. In the case of NSOA there are currently no relevant site allocations in Annex 1 that would also fall within the broad location of the NSOA boundary as it is currently shown on the Key Diagram. To be able to confidently leave the detailed work of planning for the NSOA to the future it is important at this stage to quantify the development provision that it is expected to yield. This could be done either through a series of site allocations, or by defining the boundary or by having a specified Strategic Policy that deals exclusively with the NSOA.
18. Unfortunately, at present none of these options have been followed with the result that the development potential of the NSOA is untested. In addition, it seems that the minimum housing figure of 250 units that has been attached to the LB Barnet portion of the NSOA is a significant underestimate of the probable capacity which the London Plan sets at 2,500 units³
19. This set of factors looks likely to combine to prevent the potential of the NSOA being achieved. The detailed planning for the NSOA is to take place after the adoption of the Local Plan, but the Local Plan at present may not provide strong enough guidance to direct that future plan making exercise with consistency or confidence. There is a chance therefore that it will be a case of bolting the stable door after the horse has bolted as the development potential of the NSOA will not be realised in the future because it is not being identified robustly now. The absence of NSOA site allocations which would partially bank this development potential is a symptom of this.

What legal compliance issue or soundness test(s) does it fail and why does it fail?

20. At present this approach to the NSOA Site Allocations will meet the Positively Prepared or Effective Tests of Soundness.
21. Because the NSOA contribution to objectively assessed needs has not been accurately captured either spatially or in terms of development yield, it makes achieving those yields uncertain. Because of this the Plan cannot be sure that it will, as a minimum, seeks to meet the NSOA's objectively assessed needs. Indeed, because a much lower figure for Housing has been used by the LPA, the policy may actively

³ London Plan Policy SD1

work to underachieve objectively assessed need. This part of the plan is not positively prepared and so is not sound.

How could the Plan be made legally compliant or sound?

22. The Plan could be made sound by setting a more robust range of estimated housing, employment, and retail yields to set the benchmark and context for the future plan making exercise which is to follow.

What is the precise change that is sought?

23. Two changes are needed to address this issue:

- First, a Strategic policy should be prepared for the NSOA which mirrors the form of policy GSS02 which deals with the Brent Cross Growth Area for instance.
- Second, the new Strategic Policy should utilise the correct residential and jobs figures from table 2.1 of the London Plan (2,500 homes and 3,000 jobs) or a pro rata figure for the London Borough of Barnet

24. A draft additional policy has been prepared and is set out above.

d) If the allocations do not fully meet the identified distribution of housing or employment growth in the areas referred to in Policies GSS01 to GSS12, does the Plan provide sufficient certainty as to how they would otherwise be delivered?

What particular part of the Plan is not legally compliant and/or unsound?

25. In respect of GSS09 the answer is no. The LPA propose to deal the housing and employment yield from the NSOA with this at some point in the future via an SPD. Both the mechanism, the content of the prospective SPD and timescale however are all uncertain.

What legal compliance issue or soundness test(s) does it fail and why does it fail?

26. This approach would not be effective and so would not be sound in respect of policy GSS09

27. For a policy to be effective it must be deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground. The LPA's approach is to defer consideration of the NSOA for a later date but without putting in place now robust policy criteria to guide that future assessment. The future SPD cannot emerge from the Plan as drafted because the key homes and jobs it will need to deliver have not been accurately captured by policies GSS01 or GSS09.

How could the Plan be made legally compliant or sound?

28. A Strategic policy dealing with the NSOA and setting out the expected development parameters should be produced to mirror those such as Policies GSS02, GSS03, GSS04, GSS05 and GSS06, which have been produced for the Brent Cross, Brent Cross West, Cricklewood, Edgware and Colindale Growth Areas respectively.

What is the precise change that is sought?

29. A draft additional policy has been prepared and is set out above.

e) How have the boundaries of the aforementioned areas been identified and are they sufficiently clear?

What particular part of the Plan is not legally compliant and/or unsound?

30. The boundaries of the NSOA have not been identified with any precision yet by the LPA. This is because it is intended that the detail will be defined in an SPD that will be produced in the future. There is no guidance in the form of a strategic policy in relation the NSOA to guide the production of an SPD.

What legal compliance issue or soundness test(s) does it fail and why does it fail?

31. This approach is unlikely to result in OA policies that are positively prepared, and which are able to meet the area's objectively assessed needs. It is unlikely to be effective in meeting needs over the plan period.

32. This is dealt with under Matter 1 and that response applies equally to this question but is not repeated here.

How could the Plan be made legally compliant or sound?

33. This is dealt with under Matter 1 and that response applies equally to this question but is not repeated here.

What is the precise change that is sought?

34. A draft additional policy has been prepared which is set out above.

f) Are the approaches to boundaries and extents of the Growth Areas in general conformity with the London Plan, which identifies Opportunity Areas at New Southgate, Colindale/Burnt Oak and Brent Cross/Cricklewood. If not, are variations justified?

What particular part of the Plan is not legally compliant and/or unsound?

35. The approach to the NSOA set out in policy GSS09 is not in conformity with the London Plan in respect of the quantum of development that is proposed for it.

What legal compliance issue or soundness test(s) does it fail and why does it fail?

36. This discrepancy suggests that an important component of the Plan may not be positively prepared, and so it may not be sound in consequence.

37. In addition, preparation of an SPD without a clear overarching strategic policy is unlikely be effective to ensure predictable delivery of assessed needs over the Plan period.

38. The LPA's current approach seeks to achieve a minimum of 250 homes for the Barnet portion of the NSOA. This sets the bar too low, and this is likely to produce a significant under delivery against the London Plan target of 2,500 homes and 3,000 jobs for the whole of the NSOA.

39. Barnet has indicated that the NSOA can accommodate a minimum of 250 units⁴, less than a third of the GLA's assessment of capacity assuming housing was split equally between the three NSOA Authorities. It might be argued that because it is a minimum it will still be possible to achieve more than 250 units. Although true in principle, future applications will be subject to an order of magnitude comparison, and while it might be possible to exceed a minimum by 10% or even 20% a doubling or trebling of unit numbers is unlikely from such a low base.

⁴ Draft Barnet Local Plan Reg19 – Policies GSS01 and GSS09

40. In addition, in the absence of a distinct and clear overarching strategic policy, the SPD cannot be expected to and indeed is not allowed to pick up the slack. This point is made in relation to question 19 of Matter 1 and so is not repeated further here.

How could the Plan be made legally compliant or sound?

41. The Plan could be made sound by the introduction of a new Strategic policy to specifically deal with the NSOA. This new policy would take the opportunity to correct the under provision of housing in Barnet and to refer to a corrected figure based on the London Plan assessment for the NSOA⁵.

What is the precise change that is sought?

42. A draft additional policy has been prepared and has been set out above.

g) Are the Council's proposed modifications to the Plan and the Key Diagram in relation to the Growth Areas and their boundaries, necessary for soundness?

43. The changes to the MOL around the Friern Barnet Retail Park shown on Maps 27, 28, 29, 30, and 31 are supported because they provide rationalization of the boundaries of the MOL and create more flexibility in the boundaries around the largest site in the NSOA. This will enable the development potential of the Friern Barnet Site, and the contribution it can make to the NSOA to be maximised when it comes forward.
44. We have two comments, however. The pattern of hatching is confusing in relation to the key shown on the Maps and it is not immediately clear that they key changes between the maps as the same hatched notation is used.
45. On Map 29, the route of the footpath is being altered and new MOL created. At present it is shown retained, but it looks like the intention was to remove it to allow the new line of the footpath to line up with the new MOL boundary shown on Map 31.

h) Are any other changes to the Growth Areas, Opportunity Areas, or other locations identified in the strategic policies required to achieve soundness?

46. In the case of the NSOA and Policy GSS09, the link to Cross Rail is a significant problem. For the policy to be sound it should be de-linked from Cross Rail whose prospects are so highly uncertain. We have dealt with this matter in response to 6a above and the points made there apply equally in response to this question.

MIQ 2.4 Are the strategic requirements of the plan as set out in policy BSS01 intended to correlate with the London Plan when having regard to the approach to spatial development strategies in the Framework? If so, is the Plan's approach to housing, employment, retail, leisure and other commercial development respectively - positively prepared, justified and consistent with national policy?

What particular part of the Plan is not legally compliant and/or unsound?

47. Policy BSS01 prioritises Opportunity Areas, including NSOA, for growth, but does not give most I prominence to redevelopment of brownfield sites and underused buildings in those areas. These are also strategic categories of development identified and encouraged by the London Plan and policy BSS01 should recognise this.

⁵ 2,500 units across the whole OA, set out in London Plan policy SD1

What legal compliance issue or soundness test(s) does it fail and why does it fail?

48. As currently worded, this policy is not effective or entirely consistent with national policy. It fails to establish that previously developed land should be prioritised. to make the most effective use of land in OA and GA's as set out in Chapter 11 of the NPPF and paragraph 119.

How could the Plan be made legally compliant or sound?

49. The wording of draft policy BSS01 should be amended to specifically include undesignated brownfield sites as part of the Council's spatial strategy.

What is the precise change that is sought?

50. Amend Criterion (c) as follows with additional text in red:

*"c) In order to better manage the impacts of development on the climate, growth will be concentrated in accordance with the Local Plan's suite of strategic policies GSS01 to GSS13 in the Opportunity Areas of Brent Cross Cricklewood, Colindale and New Southgate, together with Barnet's Growth Areas, ~~and~~ District Town Centres, **and previously developed sites**. These are...as a result."*

MIQ 2.13 Policy GSS09 relates to Existing and Major Transport Infrastructure, in that regard:

a) Are the Council's proposed modifications necessary for soundness?

51. No for the reasons set out in 6(a), (c), (d), (f) and (h), which apply equally here but are not repeated for brevity.

b) Is the policy sufficiently clear as to the forms of development that would be permitted to come forward independent of the WLO and Crossrail 2 planned transport improvements and any safeguarding of land and/or contributions to funding arrangements that may be necessary?

52. No for the reasons set out in 6(a), (c), (d), (f) and (h), which apply equally here but are not repeated for brevity.

c) Are any further modifications required for effectiveness in the above respects or to ensure consistency of identification of existing transport hubs that are not linked to town centres?

53. Yes, for the reasons set out in 6(a), (c), (d), (f) and (h), which apply equally here but are not repeated for brevity.

d) Would any other changes be necessary to ensure that it is justified, effective, consistent with national policy and in general conformity with the London Plan?

54. Yes, for the reasons set out in 6(a), (c), (d), (f) and (h), which apply equally here but are not repeated for brevity.