
Technical Appendix B: Legislation and Policy Review

1 Introduction

The purpose of this Technical Appendix is to provide an overview of the legislation and policy context for the IWMP including how each instrument influences key IWMP study drivers. It also provides a summary of the London Plan and Local Plan policies which relate to water and flood management in the IWMP study area.

Section 2 provides an outline of the key study drivers derived from a range of national legislation, policy and guidance. Section 3 provides an overview of the London and local planning documents that have been reviewed. Sections 4 and 5 provide more detail about the planning policies within the London Plan and Tower Hamlets Local Plan respectively.

2 Study drivers – national legislation policy and review

Table A- 1: Summary of water management drivers and their legislative and policy context

Driver	Context	Legislative / policy source
Increased resilience	There is an increasing risk to the provision of resilient water services and flood protection from the effects of climate change, population growth and land use change. New development needs to contribute to the resilience agenda through sustainable management of resource provision and resilient building design such as designing for reduced water demand, flood resilient buildings and sustainable management of wastewater and surface water discharge.	<ul style="list-style-type: none"> - National Planning Policy Framework 2019 (NPPF) - National Strategy for Flood and Coastal Erosion Risk Management – Environment Agency 2019 - Flood Risk Regulations 2009 - Flood and Water Management Act 2010 (FWMA) - Guiding Principles for Water Resources Planning - Defra 2016 - Environment Bill (Draft) 2019 - Preparing for a drier future – NIC 2018 - Water Act 2014
Net Gain and Urban Greening	The government’s 25 Year Environment Plan sets the framework for environmental improvement, resulting in a 2019 update to the NPPF and the need for net gain to be delivered across spatial planning and delivery of new development. This considers net gain in all contexts including environmental, social and economic gains. New development needs to consider how it can <i>improve</i> aspects such as flood risk, water quality and biodiversity and not just manage it. New London Plan and Local Plan policies on urban greening reflect the need for delivery of biodiversity net gain in an urban environment. Integrated water management systems (such as SuDS) can provide multifunctional benefits which can support net gain and urban greening delivery across a range of facets.	<ul style="list-style-type: none"> - 25 Year Environment Plan 2018 - NPPF
Sustainable drainage	A range of national legislation and policy drives the need for surface water discharge from new development to be managed in a sustainable way by minimising the volume and rate of discharge into public sewers.	<ul style="list-style-type: none"> - NPPF and Associated National Planning Guidance (PPG) - National Strategy for Flood and Coastal Erosion risk - Flood Risk Regulations - FWMA
Protect and enhance the Water Environment	The requirement to protect the water environment (water quality, aquatic ecology, and hydromorphological quality) is a key part of ensuring a resilience environment but also to providing protection of sources of water from which human activity relies for industry, agriculture and water supply. New development has a key role to play in minimising the need for water demand (reducing abstraction pressures), minimising wastewater discharge and ensuring surface water leaving new development is clean and unpolluted.	<ul style="list-style-type: none"> - 25 Year Environment Plan 2018 - NPPF and Associated National Planning Guidance (PPG) - Water Framework Directive Regulations 2003 - Water Abstraction Plan – Defra 2017 - Preparing for a drier future -NIC 2018

3 Policy overview

Table A- 2 identifies the documents that have been reviewed and provides some comments on the coverage of their policies.

Table A- 2: Documents reviewed

Document	Relevant Policies	Comments
London Plan (Intend to Publish Version, December 2019)	Policy SI5 Policy SI13 Policy G5	Refer to Section 4.
Tower Hamlets Local Plan 2031 (January 2020)	Policy S.ES1 Policy S.ES3 Policy D.ES5 Policy D.ES6 Policy S.OWS1 Policy S.OWS3	Refer to Section 5.
Isle of Dogs and South Poplar Opportunity Area Planning Framework (September 2019)	-	No water specific policies except reference to the IWMP currently being undertaken with typical measures including rainwater harvesting, reduced potable water use, etc. Aspiration of 20% increase in green cover and no loss or restriction of waterspace or greenspace by 2041, supported by the sustainability strategy 4.3.1. Section 4.4 statement 4.4.39 – Development will achieve a 20% increase in green cover in the OA compared to the existing baseline.
Infrastructure Delivery Plan (October 2017)	-	No specific policies. Paragraph 2.3 states “Policy SP04 of the CS outlines a number of ways to assess the risk and impact from flooding when considering proposals for new development. In addition, Policy DM13 of the MDD outlines that development proposals will be required to show how they reduce the amount of water usage, runoff and discharge from development sites, through appropriate water reuse and Sustainable Urban Drainage Systems (SUDS) techniques, which will help to reduce the risk of flooding.”

4 London Plan (Intend to Publish Version, December 2019)

Policy SI 5 – Water Infrastructure

- A. In order to minimise the use of mains water, water supplies and resources should be protected and conserved in a sustainable manner.
- B. Development Plans should promote improvements to water supply infrastructure to contribute to security of supply. This should be done in a timely, efficient and sustainable manner taking energy consumption into account.

C. Development proposals should:

- 1) through the use of Planning Conditions minimise the use of mains water in line with the Optional Requirement of the Building Regulations (residential development), achieving mains water consumption of 105 litres or less per head per day (excluding allowance of up to five litres for external water consumption)
- 2) achieve at least the BREEAM excellent standard for the 'Wat 01' water category¹⁶⁴ or equivalent (commercial development)
- 3) incorporate measures such as smart metering, water saving and recycling measures, including retrofitting, to help to achieve lower water consumption rates and to maximise future-proofing.

D. In terms of water quality, Development Plans should:

- 1) promote the protection and improvement of the water environment in line with the Thames River Basin Management Plan, and should take account of Catchment Plans
- 2) support wastewater treatment infrastructure investment to accommodate London's growth and climate change impacts. Such infrastructure should be constructed in a timely and sustainable manner taking account of new, smart technologies, intensification opportunities on existing sites, and energy implications. Boroughs should work with Thames Water in relation to local wastewater infrastructure requirements.

E. Development proposals should:

- 1) seek to improve the water environment and ensure that adequate wastewater infrastructure capacity is provided
- 2) take action to minimise the potential for misconnections between foul and surface water networks.

F. Development Plans and proposals for strategically or locally defined growth locations with particular flood risk constraints or where there is insufficient water infrastructure capacity should be informed by Integrated Water Management Strategies at an early stage.

Policy SI 13 – Sustainable drainage

A. Lead Local Flood Authorities should identify – through their Local Flood Risk Management Strategies and Surface Water Management Plans – areas where there are particular surface water management issues and aim to reduce these risks. Increases in surface water runoff outside these areas also need to be identified and addressed.

B. Development proposals should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible. There should also be a preference for green over grey features, in line with the following drainage hierarchy:

- 1) rainwater use as a resource (for example rainwater harvesting, blue roofs for irrigation)
- 2) rainwater infiltration to ground at or close to source
- 3) rainwater attenuation in green infrastructure features for gradual release (for example green roofs, rain gardens)

- 4) rainwater discharge direct to a watercourse (unless not appropriate)
 - 5) controlled rainwater discharge to a surface water sewer or drain
 - 6) controlled rainwater discharge to a combined sewer.
- C. Development proposals for impermeable surfacing should normally be resisted unless they can be shown to be unavoidable, including on small surfaces such as front gardens and driveways.
- D. Drainage should be designed and implemented in ways that promote multiple benefits including increased water use efficiency, improved water quality, and enhanced biodiversity, urban greening, amenity and recreation.

Policy G5 – Urban greening

- A. Major development proposals should contribute to the greening of London by including urban greening as a fundamental element of site and building design, and by incorporating measures such as high-quality landscaping (including trees), green roofs, green walls and nature-based sustainable drainage.
- B. Boroughs should develop an Urban Greening Factor (UGF) to identify the appropriate amount of urban greening required in new developments. The UGF should be based on the factors set out in Table 8.2, but tailored to local circumstances. In the interim, the Mayor recommends a target score of 0.4 for developments that are predominately residential, and a target score of 0.3 for predominately commercial development (excluding B2 and B8 uses).
- C. Existing green cover retained on site should count towards developments meeting the interim target scores set out in (B) based on the factors set out in Table 8.2.

Policy G5 identifies that ‘nature-based sustainable drainage’ is one of the key measures by which the UGF targets can be met. This is because the GLA has identified its ‘factors’ for different surface cover types, used in the UGF calculation, based on the various benefits provided by soils, vegetation and water, and their potential for rainwater infiltration as a proxy to provide a range of other benefits such as improved health, climate change adaptation and biodiversity conservation.

As an example, an intensive green roof with a substrate minimum settled depth of 150mm has a ‘factor’ of 0.8, whereas a sedum mat green roof only has a factor of 0.3, and a sealed surface (i.e. no green roof) has a factor of 0. Therefore, by taking a nature-based approach to the design of sustainable drainage from the outset of a project, the developer can look to more easily satisfy multiple policy requirements whilst creating attractive places to live that offer multiple benefits for people and nature.

5 Tower Hamlets Local Plan (to 2031)

Policy D.ES5 – Sustainable Drainage

- 1) Development is required to reduce the risk of surface water flooding, through demonstrating how it reduces the amount of water run-off and discharge from the site through the use of appropriate water reuse and sustainable drainage systems techniques.
- 2) Major development is required to submit a drainage strategy which should demonstrate that surface water will be controlled as near to its source as possible in line with the sustainable drainage systems hierarchy.

- 3) Development is required to achieve the following run-off rates:
 - a. New development in critical drainage areas is required to achieve a greenfield run-off rate and volume leaving the site
 - b. All other development should seek to achieve greenfield runoff rate and volume leaving the site. Where this is not possible, the minimum expectation is to achieve at least 50% attenuation of the site's surface water run-off at peak times prior to redevelopment.

Policy D.ES6 – Sustainable water and wastewater management

- 1) Development is required to reduce water consumption: new residential developments must achieve a maximum water use of 105 litres per person per day and refurbishments and other nondomestic development should meet BREEAM water efficiency credits.
- 2) New development is required to minimise the pressure on the combined sewer network.
- 3) Major development is required to demonstrate that the local water supply and public sewerage networks have adequate capacity both on and off-site to serve the development, taking into consideration the cumulative impact of current and proposed development.

Policy S.OWS1 – Creating a network of open spaces

- 1) Proposals will be required to provide or contribute to the delivery of an improved accessible, well-connected and sustainable network of open spaces through:
 - a. protecting all existing open space to ensure that there is no net loss (except where it meets the criteria set out in Policy D.OWS3)
 - b. maintaining the open character of Metropolitan Open Land (MOL)
 - c. improving the quality, value and accessibility of existing publicly accessible open space across the borough and neighbouring boroughs, in line with the Green Grid Strategy, Open Space Strategy, Local Biodiversity Action Plan and Sport England's Active Design Guidance
 - d. delivering an improved network of green grid links in line with the Green Grid Strategy to enhance access to key destination points (town centres, community facilities and publicly accessible open spaces) and to and along water spaces, as well as provide ecological corridors for wildlife
 - e. maximising the opportunities to create/increase publicly accessible open space (including playing pitches and ancillary sporting facilities) with a range of sizes and for a range of users, particularly in the following locations (which are expected to experience the highest level of open space deficiency)
 - Bethnal Green
 - Blackwall and Cubitt Town
 - Bromley North
 - Bromley South
 - Canary Wharf
 - Limehouse

- Poplar
 - Shadwell
 - Spitalfields and Banglatown
 - St Dunstan's
 - St Peter's
 - Weavers
 - Whitechapel
- f. assisting with the delivery of enhanced new strategic publicly accessible open spaces at Lea River Park (including the Leaway) and within site allocations.
- 2) Inappropriate development on areas designated as MOL (as shown on the Policies Map) will not be permitted unless very special circumstances can be demonstrated in line with the requirements set out in the National Planning Policy Framework.

Policy D.OWS3 – Open space and green grid networks

- 1) Development on areas of open space (excluding Metropolitan Open Land) will only be supported in exceptional circumstances where:
- a. it provides essential facilities that enhance the function, use and enjoyment of the open space (e.g. ancillary sport facilities to the playing field use), or
 - b. as part of a wider development proposal, both an increase of open space and a higher quality of open space can be achieved, and
 - c. in any of the circumstances described in Parts 1(a) and (b), it is demonstrated that it will not result in any adverse impacts on the existing ecological, heritage or recreational value of the open space and the flood risk levels within and beyond the boundaries of the site, and
 - d. it is an outdoor sport and recreational space or facility, the sporting and recreational benefits of which would outweigh the harm resulting from its loss
- 2) Strategic development should contribute to the delivery of new publicly accessible open space on-site which should:
- a. be visible and accessible from the public realm surrounding the site
 - b. be of a high quality and inclusive design and provide facilities to promote active recreation and healthy lifestyles
 - c. be well-connected and way-marked to other open spaces, in accordance with the Green Grid Strategy and Open Space Strategy
 - d. contribute towards meeting the demand that they generate through the provision of on-site sport facilities and/or providing additional capacity off-site
 - e. incorporate soft landscaping and sustainable urban drainage systems, and
 - f. enhance biodiversity, contributing to the objectives identified in the Local Biodiversity Action Plan.

- 3) Development should not solely rely upon existing publicly accessible open space to contribute towards on-site communal amenity space and child play space.
- 4) Development should not adversely impact on the public enjoyment, openness, ecological and heritage value of the borough's publicly accessible open spaces.
- 5) Development adjacent or in close proximity to the green grid network (i.e. 200 metres) is required to demonstrate that it will not have adverse impacts on the access, design, usability, biodiversity and recreational value of the green grid network. It should also contribute to the expansion and the enhancement of green grid links to connect communities to publicly accessible open spaces and water spaces as well as other main destination points, such as town centres, schools, health facilities and transport hubs.
- 6) Development of community allotments, gardens and pocket parks will be encouraged, particularly where they bring into use vacant developable land on a temporary basis.

Policy S.ES1 – Protecting and enhancing our environment

- 1) Proposals will be supported which minimise the use of natural resources and work proactively to protect and enhance the quality of the natural environment, through:
 - a. reducing the areas of sub-standard air quality in the borough and contributing towards delivering the objectives of the latest Tower Hamlets Air Quality Action Plan
 - b. protecting and enhancing biodiversity, with the aim of meeting the objectives of the latest Tower Hamlets Local Biodiversity Action Plan and Thames River Basin Management Plan and improving opportunities to experience nature, in particular in deficient areas
 - c. using the sequential and exceptions tests to direct development away from high flood risk areas and reduce flood risk in the borough
 - d. reducing water use
 - e. following the energy hierarchy: be lean, be clean and be green
 - f. maximising climate change adaptation measures, and
 - g. improving water and land quality and mitigating the adverse effects of contaminated land on human health.

Policy D.ES3 – Urban Greening and biodiversity

- 1) Development is required to protect and enhance biodiversity, through:
 - a. maximising the provision of 'living building' elements
 - b. retaining existing habitats and features of biodiversity value or, if this is not possible, replacing them within the development, as well as incorporating additional measures to enhance biodiversity, proportionate to the development proposed, and
 - c. protecting and increasing the provision of trees, through:
 - i. protecting all trees, including street trees
 - ii. incorporating native trees, wherever possible

- iii. providing replacement trees, including street trees, where the loss of or impact on trees in a development is considered acceptable.
- 2) Major development is required to submit an ecology assessment demonstrating biodiversity enhancements that contribute to the objectives of the latest Tower Hamlets Local Biodiversity Action Plan and the Thames River Basin Management Plan.
- 3) Planting and landscaping around developments must not include 'potentially invasive non-native species'. Invasive non-native species listed in Schedule 9 of the Wildlife and Countryside Act must be controlled, and eradicated where possible, as part of redevelopment.
- 4) Development must not negatively impact on any designated European site such as Special Protection Areas, Special Areas of Conservation or Ramsar sites. Developments which might have the potential to adversely impact a Special Protection Area or Special Area of Conservation outside the borough will be required to submit a Habitat Regulations Assessment.
- 5) Developments which affect a Site of Importance for Nature Conservation, or significantly harm the population or conservation status of a protected or priority species, are required to be managed in accordance with the following hierarchy:
 - a. Adverse impacts to the biodiversity interest should be avoided.
 - b. Where avoidance is not possible, proposals must minimise and mitigate the impact to the biodiversity interest.
 - c. As a last resort for exceptional cases where the benefits of the proposal clearly outweigh the biodiversity impacts, appropriate compensation will be sought.
 - d. Where appropriate compensation is not possible, planning permission will be refused