

MAYOR OF LONDON

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Planning condition enforcement and construction management after GLA approval

Thank you for your letter dated 4 March 2021 and I am sorry for the delay in my response.

The GLA must work within the current regulatory regime and has no legal remit to get involved in the enforcement of planning conditions. While the GLA can and does recommend that certain conditions should be attached to planning permissions, ultimately the imposition, drafting and enforcement of planning conditions is down to local planning authorities. Your suggestion that residents are involved in writing fit for purpose construction management plans is therefore a matter for individual local planning authorities.

In relation to the GLA drawing up guidance, there is government guidance in place on the use and drafting of conditions (<https://www.gov.uk/guidance/use-of-planning-conditions>) which is for all planning authorities - including the GLA when applications are called in by the Mayor. Section 70 of the Town and Country Planning Act enables local planning authorities to impose such conditions as they see fit. This power needs to be interpreted in light of material considerations such as the National Planning Policy framework (NPPF), Government guidance and case law.

During the last decade all councils have faced significant financial challenges and, starved of funding, most have struggled to deliver all services to a standard which everyone would prefer. Planning has suffered in this respect with insufficient resources and often it's the enforcement service that suffers most. Our ongoing challenge is that planning services, together with other public services will find it difficult to maintain delivery going forwards. I hope you will support our ongoing calls for better funding of planning services in the future.

When it comes to applications called in by the Mayor, mindful that it is the local planning authority who have enforcement powers, GLA officers work closely with officers from the local planning authority on the drafting of both planning conditions and section 106 legal agreements. In the situation where a planning committee has overturned an officer recommendation to approve planning permission there will be a set of draft conditions. These will be reviewed, and changes discussed with the local planning authority officers as they have the local knowledge of the site and its immediate environment as well as the needs of local residents. Similarly, if the application was recommended for and resulted in a refusal, and subsequently called in by the

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Mayor, GLA officers will discuss with local planning authority officers the drafting of both the planning conditions and the section 106 legal agreement.

Depending on the nature of the nuisance, in relation to the environmental issues you identify, there are regulatory mechanisms in place that sit outside the planning system that can be used by local councils. The Environmental Protection Act is the statutory provision for the control of emissions into the environment. It deals with both contaminated land and statutory nuisances, including smoke, fumes or gases, dust, steam, smell and noise.

From a planning perspective, to prevent some of the issues you refer to arising there are steps that can be taken, and processes followed by both developers and local planning authorities.

- The Environmental Statement accompanying the planning application must describe in detail the nature of the contaminations and its likely environmental impacts. The Environmental Statement will also need to set out in detail how those impacts will be mitigated and a methodology to do so.
- The assessment of the Planning Application will require a thorough interrogation of the applicant's Environmental Statement by council officers to ensure all contamination has been identified and that the methodology to mitigate is sound and will work.
- If the council considers it does not have adequate resources to undertake the necessary tasks it should use Planning Performance Agreements to recover the costs of carrying out the work including the costs of having to use external consultants and experts.
- Planning conditions and s106 obligations should be used to require further technical reports, studies and mitigation measures. Care should be taken with the drafting to ensure they can be enforced by the local planning authority if the developer fails to comply.
- To monitor compliance with planning conditions and s106 obligations, local planning authorities should secure financial contributions from the developer through the s106 to cover the costs of the extra officer resources that will be needed to monitor compliance and if necessary to gather evidence of non-compliance to support any enforcement action that maybe required. The contributions can cover the costs of extra council officers or if necessary, the costs of third-party consultants and experts required to advise and assist the council.

In response to concerns that AM Onkar Sahota raised in relation to Southall Gasworks which you cite, GLA officers produced a Good Practice Note on dealing with contaminated and polluted land which sets much of this out. This was published on the GLA website and can be found here: [GLA Letter Template \(london.gov.uk\)](https://www.london.gov.uk/what-we-do/what-we-protect/good-practice-note-dealing-with-contaminated-and-polluted-land).

Yours sincerely,



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