Comments on Draft New London Plan

Chapter 2, Policy H2

General

It is clear that the proposals in Policy H2 as they stand are likely to be damaging to biodiversity in London through the loss of green space within suburban and urban gardens. The purported mitigation provisions in paragraph 4.2.9 are extremely weak and non-prescriptive, and take no account of quality of green cover or of the effect of fragmentation.

Nor, on a review of Chapter 8 of the Plan (Green infrastructure and Natural Environment), is it apparent how, if at all, it would serve to protect against the adverse effects for biodiversity and the environment liable to be produced by Policy H2, since it contains no provision clearly directed to the issue.

Generally, the Plan seems to contain little recognition of the value of gardens forming part of residential or other already-developed sites; the absence of any reference to them in the "green infrastructure" provisions of Policy G1 (or indeed elsewhere in Chapter 8) is conspicuous. This apparent failure represents a flaw in the analysis underlying the Plan. Urban and suburban gardens, especially those in outer London, do in fact constitute an important refuge for wildlife and enhance biodiversity – a function of increasing significance given the low biodiversity of much agricultural land. They also overall contribute other environmental benefits, including carbon absorption, water retention and mitigation of the heat island effect.

The categories listed in paragraph D of Policy H2 are broad and cover a wide range of cases, from ones where development would give rise to no major environmental concerns to ones where it would give rise to significant damage. It does not seem appropriate to apply a blanket presumption in favour of development for all cases within those categories, simply treating them as undifferentiated "brownfield" cases.

Boroughs should be given scope to achieve the small sites targets in Table 4.2 on a more strategic basis rather than simply being required to apply the presumption to any application which ticks the relevant box. Amongst the risks of the latter approach is that sites such as gardens, which tend to be perceived as "easier" and "more desirable" by developers, will be developed in preference to other potential sites within the paragraph D categories, such as vacant or under-used retail units, or residential dwellings which fall short of contemporary standards. This would tend on the one hand to produce a loss of environmental benefits and on the other a reduced incentive to deliver desirable improvements in the housing stock.

Some more specific points relating to Policy H2 are made below; these are by way of comment on the provisions as they stand but do not detract from the overall concerns expressed above, which it is hoped merit a more general adjustment to the policy.

In relation to the protection of biodiversity, there are essentially two issues. First, in what circumstances may the planning authority refuse permission for a proposed development because of concerns about loss of biodiversity? Secondly, if a planning authority grants permission for a proposed development, what duties does it have in relation to the protection of biodiversity? The first of these issues is addressed by the text of Policy H2 and the second by supplemental paragraph 4.2.9, so these are considered below in turn.

Policy H2

In the case of any proposed development which is classified as "small" and which falls within one of categories 1 – 3 in Part D, the effect of Policy H2 appears to be that (so far as relevant) the planning authority should grant permission if the proposal is in accordance with a design code developed in accordance with Part B of the policy. If there is no design code in place then (so far as relevant) the authority should grant permission unless it can be demonstrated that the development would give rise to an unacceptable level of harm to biodiversity that outweighs the benefits of additional housing provision.

In the first place, the provisions in relation to design codes in Part B of the Policy make no reference (express or obviously implicit) to the safeguarding of biodiversity. This seems to produce the rather odd result that, if a borough chooses to adopt a design code which makes no reference to biodiversity protection, it may be, in effect, obliged to grant permission irrespective of the level of harm to biodiversity, even if that outweighs the benefits of additional housing provision. That is surely wrong and unintended.

Paragraph B should be amended so as to ensure that design codes give at least no less a level of protection to biodiversity than the "threshold" test for refusal which applies in the absence of a design code (and that if the design code does not do so, then the threshold test applies in addition).

Turning to the threshold test itself (development would give rise to an unacceptable level of harm to biodiversity which would outweigh the benefit of additional housing provision), the concern is that this may constrain the planning authority into a "site-focused" comparison, which takes no account of the potential for less damaging / more beneficial development elsewhere in the borough. Whilst some of the outer London boroughs may feature relatively large gardens, they also contain, for example, many small parades of retail units which are now vacant/ difficult to let, often with space on an upper storey which is either unused or constitutes residential accommodation below contemporary standards. Broadly, sites in the

latter category may have the attraction of providing a significant supply of additional residential units (including affordable units), without any adverse effect on biodiversity or the environment, whilst sites in the former category tend to be more popular with developers because they are perceived as “easier” / more profitable.

It is submitted that Policy H2 should be amended so as to ensure that, where possible, additional housing is provided by developments which do not entail the loss of existing green space or biodiversity.

It is submitted that Policy H2 should be amended to make clear that the planning authority, in considering the benefits of additional housing provision, should take into account the scope for provision on other sites (ie not limit itself to a site-focused comparison).

The importance of avoiding a site-focused approach applies also on the other side of the comparison, namely considering the harm to biodiversity from a proposed development. There is a basic conceptual issue in considering the biodiversity and environmental value of gardens in that unlike a discrete entity such as, say, a relict fragment of lowland heath, the value of the whole is likely to be greater than the sum of the parts. For a given area of suburban/ urban gardens, there is likely to be a mosaic of individual components (typically separate gardens) some of which will probably be more obviously “nature-friendly” than others, but which effectively form an interconnected whole. In terms of landscape-scale conservation (which is generally recognised as the correct approach), the “landscape” is, at a minimum, the whole neighbourhood of gardens, not the individual garden. (Indeed, it may be that the appropriate entity to consider, in biodiversity terms, is wider still.)

A planning approach which seeks to assess the environmental/ biodiversity value of just the one or two gardens which are likely to be the subject of any given small scale development planning application gives rise to a high probability of “death by a thousand cuts”. It will inevitably give rise to a progressive stripping away of good habitat, as the first application generates the response that “building on that little bit won’t make a difference”, setting a precedent for the loss of a further lot of little bits which will be significant, not only in terms of “total area” lost but also in terms of interconnectedness.

Policy H2 should be amended to make clear that, in assessing the harm to biodiversity liable to be caused by a development, the planning authority should take a holistic view, considering the site as part of a landscape rather than in isolation, and recognising the cumulative damage liable to be done through a “salami-slicing” effect of similar applications.

It also seems appropriate that planning authorities should consider the importance of gardens in the context of the extent of other green spaces; some outer London boroughs are much better-endowed with these than others, and to those which have relatively few, gardens may be particularly significant to overall biodiversity and "greening".

Further, it should also be clarified that harm to biodiversity may consist in a reduction of species abundance, as well as of species distribution.

Paragraph 4.2.9

This provision makes a gesture towards mitigation of the environmental damage and biodiversity loss which is liable to follow from Policy H2. However, in its present form it is defective and wholly inadequate.

As a preliminary point, this paragraph is rather confused in that it conflates mitigation of biodiversity/green space loss with water management issues. It would be preferable to address these as distinct points. In the first place, there needs to be a straightforward rule that no development should give rise to increased run off, and that the objective should be to achieve greenfield runoff rates (it would presumably not be practicable to attain greenfield rates in all cases, eg where on-street retail units with flats above are replaced by wholly residential development).

Maintenance of biodiversity and green space as an end in itself should then be dealt with. In this respect, the approach of paragraph 4.2.9 is flawed in that it appears to proceed on the basis of a crude comparison of area lost vs area gained ("no net loss of overall green cover"), without taking account of issues such as quality and connectivity. It is a one-dimensional approach to a multi-dimensional problem.

The value of land as species habitat is of course not a simple matter of whether it is "green" or not. (Indeed, some recognition of this, albeit rather broad-brush, is made in the "Urban Greening Factor" formula in paragraph 8.5.4 of Chapter 8. It appears that this will not, at least at present, apply to developments within Policy H2; this underlines the deficiency in paragraph 4.2.9.) A mature suburban or urban garden – and still more so a number of them together – will frequently embody a number of elements or layers – trees, shrubs, grass, flowering plants, mosses and lichens, fungi, leaf litter and soil – which mimic many characteristics of open/ traditionally managed woodland (with its mosaic of trees of varying maturities, coppice, understorey, rides and clearings). A complex structure such as this promotes biodiversity – indeed, there is a very substantial body of evidence demonstrating that a network of mature gardens is much superior, in terms of species diversity and abundance, to commercial woodland or most agricultural land. To propose that the loss of

an area of habitat of this kind can be adequately replaced by a corresponding area of a single type of vegetation, such as green roofs or street trees, is demonstrably misguided.

(As an aside, it is noted that the Plan seems to show a particular enthusiasm for green roofs. Whilst these can, especially in the context of relatively high-rise buildings in urban settings, make a useful contribution to biodiversity, it should be borne in mind that roofs generally are also at present the most obvious location in the built environment for photovoltaic panels, which can be expected to be adopted much more widely as part of a renewable energy strategy.)

The approach in paragraph 4.2.9 also fails to take account of the importance of connectivity, as well as complexity. As already noted, the importance of gardens and other green spaces in the urban/suburban environment is on a landscape scale. Paragraph 4.2.9, as it stands would be liable to give rise to progressive erosion of any given "green" area and its replacement by widely dispersed notionally "green" fragments with a negligible biodiversity/ environmental value in comparison to that of the area replaced. 100 trees in 50 adjoining gardens are not "equalled" by 100 street trees widely dispersed across an entire borough and so on.

The approach of paragraph 4.2.9 should be recast entirely, to one of no net loss of (i) biodiversity value and (ii) environmental value.

It is submitted that the approach to mitigation should so far as possible be by means of ***on-site*** measures ensuring no adverse impact on biodiversity. The emphasis should be on improving or at least maintaining quality of habitat, and connectivity with adjoining and neighbouring sites. Such an approach should be followed consistently (the need for this should be made express). The retention of trees (constituting part of the urban forest) is an obvious example (and it should be made explicit that Policy G7 in Chapter 8 applies in relation to developments within Policy H2). But planning authorities should also pay close attention to other aspects, such as ensuring that retained garden areas and other spaces around dwellings are filled with a variety of vegetation types and levels, with an emphasis on native species (or at least species appropriate to a temperate palaearctic ecosystem). Environmentally unhelpful landscaping features such as extensive hard surfaces, decking and exotic plants inappropriate to local ecosystems should be minimised.

Chapter 8

Without seeking to comment on the detail of Chapter 8, in general its objectives seem commendable, although some (such as the 2050 date for achieving a 10 per cent in London's tree cover) might ideally be more ambitious.

Some provisions of Chapter 8 are of potential relevance to the concerns expressed above in relation to Policy H2 , but the relationship is somewhat obscure, and it may be helpful if this were made clearer. As already noted, Policy G7 is obviously of relevance and this should be made explicit. This is also the case with paragraphs B3 and B4 of Policy G6.