To: Sadiq Khan, Mayor of London
Robert Jenrick MP, Secretary of State for HCLG

**By email** mayor@london.gov.uk

robert.jenrick.mp@parliament.uk 6 August 2020

Dear Mr Khan and Mr Jenrick

Re. Open Spaces

I am writing further to my letter dated 31 July 2020. Please respond to this letter rather than to the letter dated 31 July 2020. I have marked additional text in this letter in red.

I am writing to inform you of inconsistencies between the Intend to Publish London Plan (the "London Plan") and the National Planning Policy Framework 2012 (the "NPPF 2012") in relation to open space that I am asking you to amend to ensure that the London Plan conforms with the requirements of Section 41 of the Greater London Authority Act (GLAA) 1999, namely:

> "41 (1) This section applies to— ….
> (c) **the spatial development strategy** prepared and published under Part VIII below, ….
> (4)In preparing or revising any strategy mentioned in subsection (1) above, the Mayor shall have regard to— …
> (c)**the matters specified in subsection (5) below**.
>
> (5)Those matters are—
> (a) **the need to ensure that the strategy is consistent with national policies**, with the EU obligations of the United Kingdom and with such other international obligations of the United Kingdom as the Secretary of State may notify to the Mayor for the purposes of this paragraph; …".

**1. Definition of Open Space**

The London Plan definition of open space extends the scope of the term "open space" significantly beyond the meaning that it has in the NPPF 2012 with the result that much space across London that is *not* of public value because it has limited or restricted public access or because it does not have potential to act as a visual amenity without any qualification will count towards any requirement for open space accompanying development. This is a considerable weakening of the NPPF 2012 definition and will threaten the delivery of sustainable development as laid out in the NPPF 2012.

In the glossary of the NPPF 2012, open space is defined as:

"All open space *of **public value***, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity".

In contrast, the London Plan defines open space as:

"*all land* predominantly undeveloped other than by buildings or structures that are ancillary to the open space use. The definition covers *broad ranges of types of open space* within London whether in public or private ownership ***and whether public access in unrestricted, limited or restricted***.

Whilst the NPPF 2012 explicitly and clearly relates the meaning of the term "open space" to areas of land and water that have "public value", the London Plan definition limits the "public value" requirement to "green space" with a limited definition (which is not defined in the NPPF 2012). In addition, The London Plan includes as open space "all land *predominantly* undeveloped *other than by buildings and structures that are ancillary to the open space use*" which extends the definition of open space to include land that may have significant development on it, which is contrary to the NPPF 2012 definition. The London Plan definition of open space also does not insist that open space should have the possibility of acting as a "visual amenity", a significant weakening of the term as used in the NPPF 2012. Instead, the definition of green space in the London Plan reduces the possibility that open space can provide "visual amenity" to the possibility that green space can provide "an important visual amenity *in an urban landscape*." [1]. This is a significant weakening of protection for open spaces in London as it subordinates their ability to provide visual amenity to the provision of visual amenity in an "urban" context, which is not present in the NPPF 2012. The London Plan also restricts its definition of open space to "land" and allows "all land" to be classified as open space, including open space that has "limited or restricted" public access. The NPPF 2012 offers no such restriction.

## 2. Policy Protection for Open Spaces

It is stated in Section 73 of the NPPF 2012 that planning policies need to be based on "robust, up-to-date assessments of the needs for open space" and "opportunities for new provision". The NPPF 2012 also refers to the importance of "high quality" open spaces to the health and well-being of communities.

"Access to ***high quality open spaces*** and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. *Planning policies should be based on* ***robust and up-to-date*** *assessments of the needs for open space*, sports and recreation facilities *and* ***opportunities for new provision***. *The assessments should identify specific* ***needs*** *and* ***quantitative or qualitative deficits*** *or* ***surpluses of open space***, sports and recreational facilities ***in the local area***. ***Information gained from the assessments should be used to determine what open space***, sports and recreational provision ***is required***."

In contrast, London Plan policies G4 for Open Space do not insist upon an "*up-to-date*" assessment of the need for open space as required by the NPPF 2012; nor do they require assessments to identify "*opportunities for new provision*." There is also no requirement for assessments to identify "*specific needs* and *quantitative or qualitative deficits or surplus of open space" or to undertake such an assessment "….in the local area"*, rather, the London Plan in G4 A 1) lays out a generic requirement that a "needs assessment of all open space" should be carried out to "inform policy", that "assessments should take in to account the quality, quantity and accessibility of open space" and, in policy G4 A 2) that development plans should "*include appropriate designations and policies for the protection of open space*

[1] Green space is defined in the London Plan as: All vegetated open space of public value (whether publicly or privately owned), including parks, woodlands, nature reserves, gardens and sports fields, which offer opportunities for sport and recreation, wildlife conservation and other benefits such as storing flood water, and can provide an important visual amenity in the urban landscape.

*to meet needs and address deficiencies*", a generic statement, with no identification of quantitative or qualitative deficits or surplus of open space required. No reference is made to the benefits of "high quality" open spaces. In addition, in Table 8.1, in establishing benchmarks for assessing existing public open space, the London Plan does not restrict itself to assessing parks but adds an open-ended statement that allows it to consider undefined types of space in its assessment of the adequacy of open space: "*This table gives examples of typical open space typologies in London; other open space types may be included to reflect local circumstances*".

In addition, the NPPF 2012 insists that "*information gained from the assessments should be used to determine what open space…**is required***". This establishes a direct relationship between the specific open space requirement as derived from the assessment of the quantitative or qualitative deficit or surplus of open space and relates it to a specific local area. No such links are made in the London Plan which instead, in Policy G4 A 3) makes the generic requirement – not linked to information gained from the needs assessment nor relating it to any local area - that development plans should: "***promote*** the creation of new areas of *publicly-accessible open space*, particularly green space, ***ensuring that future open space needs are planned for**, especially in areas with the potential for substantial change*". Indeed, the national "requirement" is weakened further and beyond any level of acceptability in Policy G4 B 2) which states: "***where possible** create areas of publicly accessible open space, **particularly in areas of deficiency***" and in 8.4.3 which states "New provision or improved public access should be particularly ***encouraged in areas of deficiency*** in access to public open space."

This will simply never happen in areas of existing deficiency that have been targeted for large scale growth and substantial change, such as Kingston . Publicly-accessible open spaces either won't get built, will have no public value and will destroy the public value of areas or will destroy sensitive, vulnerable and often rare natural habitats. One example is the Hogsmill Valley, a rare chalk stream in Kingston invaluable for its biodiversity, which the council is considering opening up for greater public access, on the banks of which the council has already approved a floodlit astroturf football pitch, and which has been included in the SHLAA for massive housing development.

Kingston is an area with a massive deficiency of public open space dating back to 2001[2] and is a place where no environmental assessment has taken place for decades. The London Plan's weakening of national policy for open spaces facilitates the unsustainability of the massive development planned for Kingston as laid out in the London Plan policies SD1, H1 and H2 amongst others as well as in the SHLAA against the requirements of the NPPF 2012. It will also put nationally protected habitats and species in Richmond Park SAC and Wimbledon Common SAC at risk as vast numbers of people descend on these internationally protected sites as the only open spaces of significant public value near much of the Kingston's proposed "opportunity area". I attach a link to a map of public green spaces across the Borough of Kingston[3].

In the regard of protection to existing open space, Policy G4 B 1) of the London Plan again offers weaker protection than the NPPF 2012 in that it states merely that development proposals should "not result in the loss of ***protected*** open space." Looking at Point 8.6.3 and the definitions in the Plan, the only protected open spaces are those with a **European or national designation** including

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[2] ATKINS report 2006: Kingston Open Space Assessment https://f0895c4f-8046-4005-a284-ab80f919ab55.filesusr.com/ugd/8451a6_600e89121b434affac1070fcd675fb00.pdf

[3] https://www.kingston.gov.uk/downloads/download/99/maps_of_the_borough%E2%80%99s_green_spaces

Special Protection Areas, Special Areas of Conservation, Sites of Special Scientific Interest, National Nature Reserves and Local Reserves. These sites should also by law be protected from significant harm which is not mentioned in this context and is therefore a significant oversight. This is hugely relevant in the context of Kingston, an area of significant deficit of open space that is being targeted for large-scale development which will result in significant increases in human activity in protected Richmond Park SAC and the potential for significant harm to the park's protected species and habitats.

In contrast, the NPPF 2012 offers protection to *all* open space as defined by stating in section 74 that "existing open space…including playing fields, should not be built on unless… the open space… surplus to requirements, the loss … would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location, or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss."

**3. Public Realm**

Lastly, the London Plan introduces a new term "public realm" of which "open space" is a subset. This term does not exist in the NPPF 2012. Public realm is defined as *"publicly accessible space between and around buildings, including streets, squares, forecourts, parks and open spaces."* This definition creates by default a new context for "open space" that is not present in the NPPF 2012 as something that is "publicly-accessible space between and around buildings"

But the London Plan does not actually even limit "public realm" to external open spaces. Policy D8 subsection 3.8.2 of the London Plan explains in more detail what the public realm comprises and reveals how the London Plan's emphasis has moved a long way away from the NPPF 2012 requirement to provide the required quantity and quality of *open space of public value as defined* to providing publicly-available space that is both indoors and outdoors and which includes alleyways and shopping malls:

*"The **public realm** includes **all the publicly-accessible space between buildings**, whether public or privately owned, from alleyways and streets to squares and **open spaces**, including the Thames and London's waterways. Some internal or elevated spaces can also be considered as part of the public realm, such as markets, shopping malls, sky gardens, viewing platforms, museums or station concourses. Such forms of public realm are particularly relevant in areas of higher density."*

I look forward to receiving your reply to this letter. I believe that the statutory requirement for the London Plan to conform with national policy is an overriding reason why London Plan policies for Open Space need to conform with policies for Open Space in the NPPF 2012.

Yours sincerely

Caroline Shah