

**WALTHAM FOREST LOCAL PLAN
DEVELOPMENT MANAGEMENT POLICIES
- EXAMINATION**

Matters and Issues for Examination in Public:

**Energy
Policies DM11**

**Hearing Session – 21 May 2013
Agenda Item 3**

1. **Policy background/context**

- 1.1 In recognition of the government's agenda on climate change and energy use and also London Plan requirements, the Council has considered it necessary to give due regard to the matter of energy use in the Development Management Policies Document.
- 1.2 Two separate chapters in the document purposely deal with energy use. Policy DM11 relates to environmental design and construction standards applicable to new development proposals. Policy DM12 seeks to encourage the use of renewable energy through the development of decentralised energy networks. Both policies are intended to support the implementation of Core Strategy policy CS4.
- 1.3 This statement explains the Council position on Policy DM11 with regard to the policy approach taken and the requirements set by the policy.

2. **Main Issues**

- 2.1 The Council notes the representation from Aviva Life and Pensions UK Ltd (dmpps37) seeking a degree of flexibility with regard to the standards set by policy. Similarly, the representation from Mall Limited Partnership (dmpps52) questions the need for such standards as in their opinion such control is covered under Building Regulations.
 - 2.1.2 The matters and issues raised through the Inspector's agenda regarding energy relate to the following matters:
 - A. The Council's overall view
 - B.
 - i) The Mall Ltd Partnership (representation dmpps52) observes that there does not appear to be any justification stated for requiring the particular level of the CfSH and BREEAM codes chosen. (The use of the codes in principle is justified in the Core Strategy and repeated in paragraph 12.6 of the DMPDPD but there is no justification stated for choosing level 4 and "very good" respectively).
 - ii) The Council's position in relation to issue B (i).
 - C. Energy Assessment (part B of policy and Inspectors Q 71) the relevance of including a procedural policy associated with the planning application validation process

3 **Issue A: The Council's Overall View**

- 3.1 The Council has carefully considered all the questions and queries raised by the Inspector. Accordingly the Council has agreed all his suggestions – as set out in document KE154 (Waltham Forest Local Plan Supporting Document: Public Examination of Waltham Forest Development Management Policies Local Plan – LBWF Response to Inspector's Questions).

4. **Issue B (ii): The Council's Position regarding Issue B (i)**

4.1 Policy DM 11 (as amended by the Inspector) requires:

- A) Requiring development of one or more units or greater than 100sqm to be designed with regards to sustainable development principles and to achieve the Council's stepped targets towards zero carbon by 2016 for residential development and by 2019 for non-residential developments, as set out in the table below in accordance with the London Plan; carbon reduction targets can be met through a combination of on-site and appropriate off-site measures through contributions into carbon fund and the emerging Community Infrastructure Levy (CIL) To assist the Council in the application of this policy, planning applications for relevant developments should be accompanied by the developer's self-assessment quantitatively demonstrating the methods, measures and appliances by which the compliance will be achieved.
- B) Requiring residential development of one or more units to achieve Code for Sustainable Homes Level 4 or equivalent standards; encouraging developments to achieve higher standards where feasible
- C) Requiring non-residential development greater than 100 sqm to achieve BREEAM 'very good' or equivalent standards and major non-residential developments to achieve BREEAM 'excellent' or equivalent
- D) Encouraging high environmental standards in existing development wherever possible through retrofitting; and requiring, where appropriate, simple and cost effective energy efficiency measures to be carried out on the existing buildings when applying for extensions or conversions of more than 100sqm

4.2 Under amended policy A, in order to demonstrate how Co2 reductions will be achieved, evidence from the developer (in addition to pre-assessment data for CfSH and BREEAM) is required from all developments over 100m² or more than one unit using the energy hierarchy. Instead of proscriptively specifying exact measures to meet the CO₂ reduction targets, the Council is requiring an overall reduction target and it is for the developer to specify exactly how the targets will be met, taking into account the local site conditions and circumstances, again allowing flexibility for the developers as to the exact proposal chosen. The amended wording in 12.8 includes additional flexibility by acknowledging that, in exceptional circumstances, developments may not be able to meet the targets, but this will need to be demonstrated to the Council's satisfaction. The draft requirement for a Sustainability Statement has been deleted from policy DM 11.

4.3 The evidence base - Climate Change Policy Viability Assessment study June 2011 (CCPVA) (KE116) has demonstrated that CfSH level 4 for all major and minor new build residential schemes and BREEAM "very good" for major and minor non-residential schemes is currently viable and achievable in the borough, regardless of size, as summarised in the report Executive Summary and in the Specific Policy recommendations in Section 12.3 on p. 67-68. The London Plan targets apply to major applications referable to the GLA whereas the Council LDF DM policy targets apply to the whole range of development

sizes within the Borough. The thresholds in these policies have been tested and set in terms of viability in the context of local circumstances through the CCPVA study. Section 10.1 (p. 59) specifically considers the appropriate CfSH and BREEAM standards. BREEAM “very good” and CfSH level 4 are recommended as minimums for all development within Waltham Forest having considered and tested local conditions and viability. The study shows that to impose higher standards would have a significant cost burden on new developments adversely affecting their viability – therefore the Council has not adopted these higher standards.

- 4.4 To test viability, Arups through the CCPVA, undertook an analysis on behalf of the Council of the cost of complying with the different levels of the CfSH and BREEAM as a percentage of average property sale prices in Waltham Forest. Against the higher CfSH code levels 5 – 6 these costs ranged from 9-15% uplift (up to £330m²) for meeting the entire CfSH standards (not just for the energy element) but equated to a modest below 2% of additional costs (£25 m²) from a Part L 2010 baseline for CfSH Level 4 (p. 29 5.1.1 and p. 30 in CCPVA). In terms of the energy element of the code this represents 70-100% of the cost impact of compliance. For BREEAM (p. 29 5.2 & p. 31 CCPVA) the uplift to reach “Very Good” and “Excellent” ranges from 1.5% to 9%.
- 4.5 Arups then undertook an exercise to identify the carbon compliance cost implications on-site in a Waltham Forest context using a sample of 10 development sites representing the type and quantum typical for Waltham Forest (table 6. p.33-34 CCPVA). This demonstrated that it was technically possible to meet emissions reductions on-site between 87% and 104% (from a Part L 2006 baseline) but at a very high cost premium (about £4,000 per CO₂ tonne). Arups then assessed the potential for low carbon infrastructure within the borough (including decentralised energy networks, retrofitting energy efficiency measures into existing properties and offsite large scale renewable energy generation). This demonstrated good potential to offset carbon emissions from new development through off site low carbon infrastructure and retro fit programmes at a lower cost premium.
- 4.6 As shown on page 22 3.2.5 of the study, the “steps together provided locally relevant estimates of the practical feasibility and cost of delivering carbon emissions reductions associated with new development through a combination of on- and off-site measures. The data were then combined to identify, based upon the conditions in Waltham Forest, firstly the practical limit to reduce carbon emissions from new development and secondly the expected most cost-effective combination of on- and off-site measures.”
- 4.7 Arups therefore put the on-site and off-site approaches together to apply locally derived targets, reflected in table 12.1 in DM policy 11 as recommended in Section 12 of the CCPA p. 67-68, which developers can balance between maximising on-site compliance, with the residual off site compliance to be addressed through a CiL charge for “infrastructure” and a carbon off set fund contribution for non-infrastructure measures. Suggested local schemes to provide off site carbon reductions are shown on pages 35-26

of the CCVPA. Details of the CiL and carbon off set fund contributions will be included in the emerging Sustainability and Climate Change SPD.

- 4.8 The climate change policy viability study technical analysis has shown that the delivery of net zero carbon emissions in the borough is feasible, but that very high on-site performance targets may not be feasible or viable. The study demonstrates that on-site target of 70% reduction on Part L 2006 (25% - 40% reduction on 2010 regs as shown in table 12.1 in DM policy 11) appears the current upper limit for viability through on-site measures. However, as technology improves over time, the higher target may become more viable in future. To reflect this, the Council has currently adopted the lower target of CfSH 4 pending the zero carbon national intention of 2016 and 2019 respectively. Building regulations 2010 already require an energy component equivalent to CfSH 3 (CCPVA p. 13 2.6), so the Council's target policies are only requiring one code level increase. Any site specific shortfall will be addressed by the CiL and carbon off set fund contribution.
- 4.9 The Council's viability study acknowledges that each development site will have a unique set of circumstances and opportunities – with the ability to comply in full with the on-site target varying across developments. Meeting a 70% on-site target is shown in the analysis to be feasible through on-site measures with only an estimated 5% uplift in the sale price (£25/m²) to meet CfSH level 4 (p. 30). The analysis shows that to meet CfSH level 6 could range up to £330/m² (p. 30), so to reflect impact on financial viability the Council has not adopted the higher CfSH levels. But in energy and Co2 reduction terms, the Council is focussing on developers to reduce Co2 emissions in line with the London Plan targets, unless they can demonstrate to the Council's satisfaction why, on a case by case basis, this cannot be achieved. The requirement for energy statements (including regulated and unregulated energy) for developments greater than 100 m2 is considered and recommended at section 10.2 in the CCPA (p. 60). The Council is currently developing guidance on how to prepare an energy statement as recommended.
- 4.10 Regarding the viability of the higher standards of sustainable development (CfSH 4 and BREEAM Excellent and Outstanding) development management applications have shown that some major residential and non-residential applications in WF have demonstrated meeting these standards.
- 4.11 The Council has further considered the matters and issues regarding non-residential development greater than 100 sq m and proposes a further amendment as follows "Requiring non-residential development greater than 100 sq m to achieve BREEAM "very good" or equivalent standards and encourage major non-residential developments to achieve BREEAM "excellent" or equivalent."
- 4.12 The Council has further considered this issue and would like to address the amendment at 12.7 under the Inspectors Q 73 and proposes a further amendment as follows "The evidence base (climate change viability study) has demonstrated that CsH level 4 for all major and minor new build

residential schemes and BREEAM “very good” for major and minor non-residential is currently viable and achievable in the borough. Furthermore, ~~an increasing number~~ some major non-residential developments in Waltham Forest have demonstrated the viability of highest standards of sustainable development (BREEAM ~~Excellent~~ Outstanding) over the past years. Given that the cost implications of a higher sustainability standard are proportionally less for larger developments considers it appropriate to ~~set~~ encourage BREEAM “excellent” for major developments.”

- 4.13 Given that the cost implications of a higher sustainability standard are proportionally less for larger developments, the Council considers it appropriate to encourage BREEAM standard “excellent” for major developments. As cost implications are proportionally higher for smaller developments, a threshold has been set of one unit or more than 100m² for parts A - D of the policy, to exclude householder applications where access to technical consultants would be more limited. Development management applications have also shown that the requirement for submission of energy statements at this lower threshold is already being complied with Flexibility has also been built into the policy with the revised wording at section 12.8, where the Council acknowledges that, in exceptional circumstances, it must be demonstrated to the Council’s satisfaction why individual developments cannot achieve the required targets.
- 4.14 In order to meet local targets for sustainability and carbon emissions, the Council cannot rely solely on compliance under building regulations as the CfSH and BREEAM go further than the current building regulations (which only contain energy aspects) covering a more comprehensive list of sustainability criteria (energy & CO₂, water, materials, surface water run-off, waste, pollution, health and well-being, management and ecology). By requiring a CfSH and BREEAM pre-assessment as part of the application validation process and evidence package, the Council intend to achieve higher standards of sustainable design across the range of criteria. The building regulations 2010 part L already require a 25% reduction in CO₂ emissions over 2006 which equates to the energy element of Code Level 3.
- 4.15 As shown above, the energy related element of the CfSH and BREEAM represent the most significant impact on cost. These energy codes are however national schemes and London Plan targets and would need to be met for major developments referable to the Mayor regardless of the CfSH standards adopted by the Council.
- 4.16 As demonstrated in the analysis in sections 5-7 in the Climate Change Policy Viability Assessment (32-34, table 6 and p. 40) a two tier on and off site approach will need to be adopted to achieve the 40% reduction above 2010 Building Regulation requirement, as achieving that target purely on site will be challenging in Waltham Forest.
- 4.17 Paragraph 12.19 in the policy allows additional flexibility on a site by site basis, dependant on site constraints and conditions, plus technical and economic viability. The Council further includes flexibility within the policy by

acknowledging that where a development can demonstrate that achieving on-site targets will not be feasible, the Council will require developments to make a contribution to a carbon fund (in line with the GLA's emerging Carbon Fund Guidance). Further guidance on on-site and off-site targets, measures and contributions to the carbon off set fund and CiL charging schedule will be provided in the emerging Sustainability and Climate Change SPD.

4.18 As shown at policy paragraph 12.24, the Council has imposed a threshold of 100 m² for the retrofitting of energy efficiency measures within an existing building when extensions or conversions are proposed, as recommended at section 10.3 p. 60 in the CCPVA. This is to focus this policy aspect on the applications where an intensification of use is likely to increase energy demand. The threshold has been imposed in order to avoid placing an unreasonable and onerous burden on householder scale of developments.

5. Issue C: Energy Assessment (part B of policy and Inspectors Q 71)

5.1 As shown at paragraph 4.1 above, the Council have accepted the Inspectors amended wording to the policy and deleted policy B and amended the wording to policy A as per the Inspectors' recommendations.

6. Response to the Representations received

6.1 With regard to the representations from Aviva Life and Pensions Ltd, Mall Limited Partnership and NE London NHS Foundation Trust (dmpps52, dmpps38 and dmpps74), the Council's response is set out in the Development Management Policies Proposed Submission Consultation Report Part I - Summary of Representations and Council's Response (SD17).

6.2 It is important to also mention that the policy is supported by organisations the Council has a duty to cooperate with including Natural England (dmpps19) and Thames Water Utilities Ltd (dmpps30)

7. Response to the Inspectors Questions

7.1 With regard to matters raised by the Inspector, these have been addressed in the Council's response as set out in the document - "Response to the Inspectors Questions" (KE154). Key points as follows:

- Question 69 (duplication of text) - The Council has proposed changes to delete such unnecessary text. The inspector raised no further questions.
- Question 70 (missing text and lack of justification for the 100 sq m threshold applied). It is proposed to include additional text to provide such justification. The inspector raised no further questions.
- Question 71 (duplication of text, and the relevance of including a procedural policy associated with the planning application validation process). The Council has proposed changes to delete unnecessary text. Explanation has been provided regarding the inclusion of a procedural policy with regard to the planning application validation

process. Inspector has suggested amended wording to part A and deletion of part B – which the Council accepts in this topic paper at paragraph 4.5.

- Question 72 (part C of Policy missing) The Council has amended the policy numbering. The inspector raised no further questions.
- Question 73 (lack of justification for requiring a particular level of CfSH and BREEAM standards). The Council has proposed changes to provide such justification at paragraph 12.7. The inspector raised no further questions.
- Question 74 (policy point F does not require more than CS6A). The Council has proposed to delete policy point. The inspector raised no further questions.
- Question 75 (lack of justification for 100sqm threshold) The Council has proposed changes to provide justification at paragraph 12.23 and 12.24. The inspector raised no further questions.

8. **Conclusion**

- 8.1 In summary, the Council has carefully considered the effects of these requirements on the economic viability of local schemes and developments. This analysis is contained in the “Climate Change Policy Viability Assessment” (KE116) Report produced by Arups in June 2011 as itemised above and reflected in policy DM 11 (as amended).