



# **‘Shaping the Borough’ - Waltham Forest Local Plan (LP1) Examination**

## **Response to the Inspectors’ Matters, Issues & Questions**

### **Matter 5: The Environment, Climate Change, Flood Risk, Pollution and Waste Management**

January 2022

## **MATTER 5: THE ENVIRONMENT, CLIMATE CHANGE, FLOOD RISK, POLLUTION AND WASTE MANAGEMENT**

**Issue 1 - Whether the policies relating to the environment, climate change, flood risk, pollution, and waste management are positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan (Policies 79–95).**

### **Habitats Sites**

**Q105 What, if any, are the implications for Habitats Sites of an annualised housing target of 1,800 homes per annum (based on the Plan's proposed overall target of 27,000) compared to the annualised target ten-year for the Borough of 1,264 homes per annum set out in the London Plan?**

This is addressed within the Council's HRA, the scope of which covers the Epping Forest SAC (EFSAC), the Lee Valley SPA and Ramsar and the Wormley Hoddesdon Park SAC. HRA screening has taken place throughout the development of the local plan from the issues and options stage of the Direction of Travel (2017) to the submission version of the plan. The HRA assesses in combination effects of the Plan on EFSAC in terms of the 15 year target of 27,000 homes and the SAMMS/SANGS mitigations required to offset recreational and other impacts (e.g. urbanising) on the Forest.

Noting that the assessment has been conducted on the basis of the 1,800 homes per year target rather than relying on the lower 1,264 number in the London Plan, the impact of 536 homes per year difference between the two targets is dealt with in terms of the level of contribution that is made by development towards the provision of both SAMMS and SANGS through the NE-mediated Strategic Solution and the use of the NE "toolbox approach".

In addition, the location of Site Allocations is dealt with in the LP2 Site Allocations Document which is being assessed by a separate HRA. The LP2 HRA will set out the proportion of the SANG network assigned to each Site Allocation. The HRA will also set out additional mitigation measures for sites that may be allocated close to the SAC in order to deal with potential acute development issues of development in close proximity to the SAC.

## ***Policy 81 - Biodiversity and Geodiversity***

### ***Q106 Is the policy consistent with national policy and would it secure a net gain in biodiversity as required by section 15 of the NPPF?***

The policy at 81C references Section 15 of the NPPF and highlights para 174 which at subparagraph d sets out the principle of net gain. The supporting text of the policy at paras 17.19 and 17.22 refer to net gain in relation to London plan policy G6 and specifies the mechanisms that the Council will employ to ensure the delivery of net gain. As such the policy makes clear statements that stem directly from national policy. The Council is confident that the appropriate measures would be secured through the appropriate planning mechanisms.

## ***Policy 82 – Trees***

### ***Q107 Is the policy consistent with paragraph 131 of the NPPF in relation to the important contribution that trees make to urban environments?***

NPPF Paragraph 131 requires that planning policies and decisions should ensure that new streets are tree lined unless there are clear, justifiable and compelling reasons why this would be inappropriate.

This enhances 'green infrastructure and innovative drainage solutions' however will require careful design and stakeholder engagement to ensure solutions are compatible with highway requirements and do not result in overly onerous commuted sums placed on developers. In recognition of this, the Council proposes the following modification to the policy as follows: "Where viable, applicants will be expected to make a contribution to street trees and their maintenance, the detail of which will be set out in the Developer Contributions SPD."

With reference to trees in development, the policy refers to the need to ensure that existing trees should be retained and that the planting of new trees should be integral to new development. The value of trees in relation to character and placemaking is set out in para 17.30 - 17.32 and this reflects the "contribution to the character and quality of urban environments" expressed in para 131. The Council considers that the policy is itself consistent with para 131 and that the commitment to the importance of trees in design is reinforced through Policy 56 – delivering High Quality Design (part i).

## **Policy 86 – Allotments**

### ***Q108 Is the policy justified in requiring no net loss of allotment sites and is it sufficiently clear how any proposals affecting allotments would be assessed?***

Chapter 8 of the NPPF sets out at para 92(c) the role that allotments may play in supporting healthy lifestyles in addition to access to sports facilities and healthy food. At regional level this is carried forward in policy G8 of the London Plan 2021 which requires the protection of existing allotments and encourages the provision of additional space for urban agriculture and community food growing. The Council's Open Space Needs Assessment (OSNA) indicates that with some 38 allotment sites within the borough, overall provision still falls short within the Hoe Street, Wood Street and Forest wards in Walthamstow. The conclusion of the OSNA is echoed in the Green and Blue Infrastructure Strategy (GBIS) which in turn makes no case for any loss of allotment space in the borough.

Part b of policy 86 sets out the contribution which development is expected to make to achieve the policy aim of expanding and improving existing allotments and community food growing schemes and para 17.59 sets out the mechanisms by which schemes will be assessed and obligations delivered. As such the policy sets a frame which allows for the inclusion of community food growing in development which can be incorporated at individual scheme level.

### **Q109 Are the percentage reduction requirements below Part L in Policies 87 and 89 justified and consistent with national policy including the Government's current policy for energy performance set out in the Written Ministerial Statement (March 2015)?**

The 2015 Ministerial Statement states that planning policies cannot require energy reductions above Code for Sustainable Homes (CfSH) Level 4 (i.e. 19% carbon reduction below part L 2013) and that new national technical standards should only be required through new Local Plan policies addressing evidenced need, and where viability impact has been considered. It also states that LPA's will continue to be able to set and apply Local Plan policies that require compliance with energy standards exceeding energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 expected alongside the introduction of zero carbon homes policy in late 2016. Neither materialised leaving a gap meeting the zero carbon homes agenda and national and local carbon reduction targets.

The Council cannot rely solely on building regulations (Part L) compliance: whilst successive versions of Part L have improved required building

performance, it is not enough to transition to net zero carbon. We note the Government's announcement of upcoming Part L amendments due July 2022 which will narrow this gap, but this will still be behind the London Plan standard (also reflected in the LDP).

LBWF declared a Climate Emergency in 2019, setting a net zero carbon target by 2030. Application of these policies in the absence of the expected zero carbon homes standard and updates to the Planning and Energy Act are vital. Buildings are responsible for c. four-fifths of London's total greenhouse gas emissions<sup>1</sup>. New buildings should be designed for a zero-carbon future, prioritising energy efficiency, minimising the need for significant, costly retrofit, saving households and businesses money on energy bills.

The adopted London Plan zero carbon buildings target (35% on site carbon reduction and remainder offset to zero carbon) has been in place for major developments since 2013 and been deemed sound. It has been successful in raising building standards in London - London committed to an average carbon emissions reduction of [40.6% beyond Building Regulations](#) during 2019. The GLA intend to review this on-site carbon reduction target when Building Regulations are updated. All Major developments in London are required to follow these policies therefore Waltham Forest's policies reflect this.

Since 2012, Waltham Forest Development Management Policies have required minor development<sup>2</sup> (> 1 unit and > 100m<sup>2</sup>) plus major development to follow this policy, although minor developments are not required to offset to zero carbon like major development. This was considered within the evidence base – Climate Change Policy Viability Assessment study June 2011 (CCPVA) – produced by Arup and deemed necessary to meet local and national carbon targets. Therefore, the Council is confident that this target for minor development is within tolerance of viability. Compliance with these standards by developments has demonstrated the viability and feasibility. The Ministerial Statement states that minor applications are not required to support further offsite carbon measures beyond strengthened onsite energy performance standards. Therefore, carbon offset payments for minor developments (> 1 unit and >100m<sup>2</sup>) are only requested should the developer fall short of the 35% target (i.e. not required offset to zero carbon as per Major developments).

The energy efficiency ('Be Lean') targets required under Policy 87D are included within 35% on site carbon reduction target and stem from the

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<sup>1</sup> [https://www.london.gov.uk/sites/default/files/energy\\_policies\\_topic\\_paper.pdf](https://www.london.gov.uk/sites/default/files/energy_policies_topic_paper.pdf)

<sup>2</sup> Between 2018-2020, 38% of applications were minor applications.

London Plan Policy SI2. Energy efficiency is the first step of the energy hierarchy and often the most cost-effective way to decarbonise buildings, saving households and businesses money on energy bills, reducing fuel poverty risk, reducing the need to oversize renewable energy plant, ensure heating technologies work most efficiently, and help mitigate capacity issues and costly reinforcement of the electricity grid.

The GLA's policies were demonstrated to be viable and feasible through several studies<sup>3</sup> looking at energy efficiency achieved in past applications and estimating the technical and economic feasibility of achieving higher standards, looking at:

- fabric first approach
- services approach
- blend of the two

The costs of achieving 10% and 15% reduction for domestic and non-domestic development respectively were deemed viable for most development types in London and is reflected in cost uplift figures within the viability assessment.

**Q110 Are criteria D and F of Policy 87, and criterion G of Policy 89, compatible?**

The policy wording will be updated as follows to make it clear what size and type of development the policy applies to and to ensure grammatical consistency.

**Policy 87:**

**D. All new build development of more than one residential unit or greater than 100sqm should meet the following London Plan 'Be Lean' stage carbon reduction targets before other measures are incorporated to meet the overall 35% reduction target:**

- **10% reduction below Part L of the Building Regulations 2013 for residential development**
- **15% reduction below Part L of the Building Regulations 2013 for non-residential.**

**F. All new build development of more than one residential unit or greater than 100sqm must achieve a minimum of 35% reduction below Part L on site, targeting zero carbon where possible. Carbon Offset Fund (COF) contributions will**

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[https://www.london.gov.uk/sites/default/files/driving\\_energy\\_efficiency\\_savings\\_through\\_the\\_london\\_plan\\_-\\_summary\\_report\\_-\\_buro\\_happold\\_.pdf](https://www.london.gov.uk/sites/default/files/driving_energy_efficiency_savings_through_the_london_plan_-_summary_report_-_buro_happold_.pdf);  
[https://www.london.gov.uk/sites/default/files/gla\\_energy\\_efficiency\\_target\\_-\\_development\\_case\\_studies\\_-\\_aecom.pdf](https://www.london.gov.uk/sites/default/files/gla_energy_efficiency_target_-_development_case_studies_-_aecom.pdf);

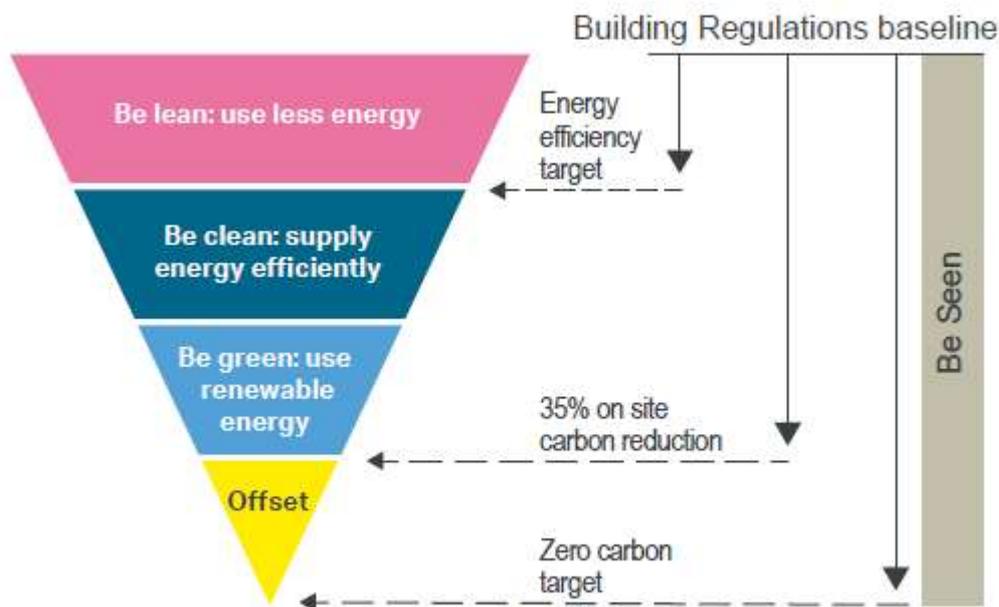
then be required for residual emissions to zero carbon major new build development.

**Policy 89:**

**G. Requiring all new build development of more than one residential unit or greater than 100sqm to achieve at least 35% on-site carbon reduction below Part L of the Building Regulations 2013, targeting zero carbon where possible. Carbon Offset Fund (COF) contributions will then be required for residual emissions to zero carbon major new build development.**

Reference in 87D to 10% and 15% reductions relate to energy efficiency measures, i.e. the 'Be Lean' step of the energy hierarchy, as required under the London Plan (SI2). This is one step within the Energy Hierarchy to meet the 35% carbon reduction target. See diagram below from [2020 GLA Energy Assessment Guidance](#)

**Figure 9.2 - The energy hierarchy and associated targets**



Source: Greater London Authority

**Q111 Should Policy 87 include different targets for development involving reuse or conversion?**

The wording for Policy 87 has been amended to make clear it does not apply to “reuse or conversion” developments - the policy amended under Q110 states that the policy specifically applies to new build development.

The Council would support targets for “reuse and conversion”, however further evidence is needed to support this and will form part of future evidence gathering and reviews of the Local Plan.

Policy 89K deals with retrofitting of existing buildings and could be strengthened (in line with the London Plan Policy SI2) to say the following:

**Policy 89**

**Supporting the low-carbon retrofitting of existing buildings to reduce carbon emissions beyond building regulations, through energy efficient design of the site, buildings and services.**

Best practice guidance will also be produced by the Local Authority covering retrofit.

**Q112 How would the carbon offset fund contributions in criterion F of Policy 87 work in practice?**

The Carbon Offset Fund (COF) has been in place since 2016 following adoption under the London Plan.

Where development can demonstrate on-site targets will not be feasible a cash-in-lieu payment must be made to the COF ringfenced for carbon reduction projects in the borough.

The Council has adopted the London Plan’s carbon offset price which has been demonstrated to be [appropriate and viable](#). This price will be reviewed regularly by the GLA but at this point there is no evidence to support an increased cost.

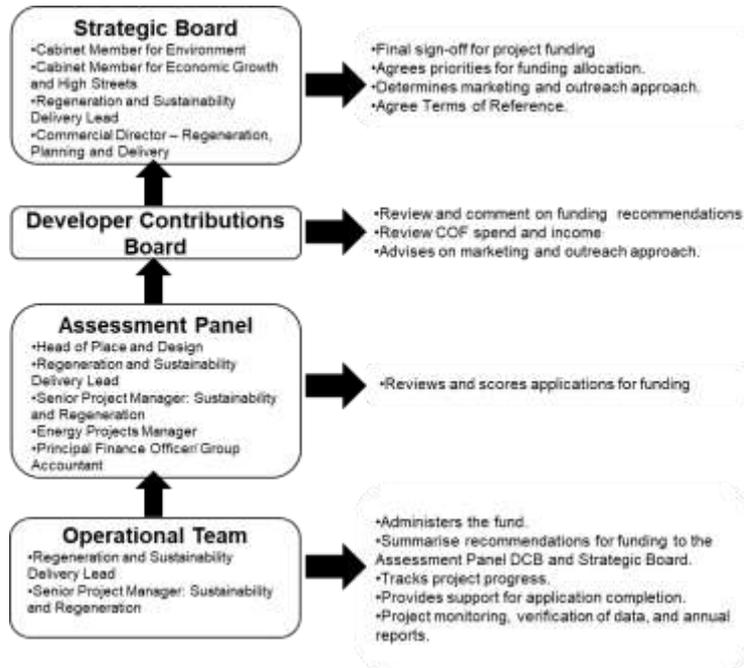
COF contributions are calculated in Energy Statements, secured by S.106, and administered by the Council under the terms of the S106 and the [GLA Carbon Offset Fund Guidance](#).

The payment is calculated as follows:

[[Target savings] - [calculated regulated carbon savings] x by 30 years] x  
£2,850

The charging schedule and types of projects that COF can support are detailed in the S106 agreement and the [Developer Contributions SPD](#).

A full governance structure for fund administration has been established – below.



Funded projects undergo detailed scrutiny before funding is allocated. Application funding rounds are launched periodically to Council departments. Project must meet eligibility criteria in accordance with GLA guidance, S106 agreement and calculated expected carbons savings. Projects are subject to 5 years post-implementation monitoring to verify carbon savings.

COF spend and impact is monitored and reported annually to the GLA.

Waltham Forest COF statistics:

- collected £2,907,233 by December 2021
- spent £1,418,217 with £1,003,494 allocated to projects with spend planned in next 2 years
- remaining funds available in next funding round closing January 2022

Projects supported:

- Zero Emissions Delivery Scheme
- electric vehicle charge points
- solid wall insulation to Council housing

- solar PV on hostels
- tree planting
- deep retrofit of a Victorian terrace house
- street lighting upgrade

**Q113 Is it sufficiently clear what is required in the bullet points of Policy 88 criterion A? Does criterion B contradict the requirements of A?**

We suggest amending the wording to provide clarity:

**Policy 88**

New development will maximise its use of low carbon heating systems by ensuring that the following developments install a communal heating system and connect to an existing district heating network (where one exists) or install a communal heating system and 'future-proof' by making the development connection ready, to enable connection to a district heating network in the future:

- Developments of one or more units, or greater than 100sqm that are located within 200m of an existing or committed future district heating network; or
- Major developments located within 500m of an existing or committed future district heating network

Unless demonstrated to the Local Planning Authority's written satisfaction that such a connection is not feasible or viable, in line with the GLA's latest Energy Assessment Guidance

Criterion B is not contradictory, but for clarity we suggest deleting criterion B and amending the wording as above. The amended wording allows flexibility by acknowledging that, in exceptional circumstances, developments may not be able to meet policy, but this needs to be demonstrated to the Council's written satisfaction.

**Q115 Is it sufficiently clear how developers and decision makers should respond to the various policy targets in practice? For example, how would compliance with the carbon reduction targets be assessed, measured, secured, and evidenced?**

Energy Assessment are required for major developments through the [LPAs Validation Checklist and London Plan Policies](#). Applicants must follow the [GLA's Energy Assessment Guidance](#) , setting out carbon reductions for each stage of the Energy Hierarchy and assess feasibility of connection to a Heat Network using the GLA London Heat Map.

Energy Assessments / Strategies, including technical datasheets (e.g. BRUKL and SAP) are reviewed by the LPA's energy assessor to check policy compliance and calculate COF contributions. The S106 requires updated energy assessments post-construction, to demonstrate "as built" performance (reviewed by energy assessor). Any shortfall against targeted emissions reductions would trigger another COF contribution.

Minor developments are not required to submit Energy Assessments at planning submission, however, approved minor developments (> one unit and >100sqm) have a condition imposed to achieve the minimum 35% on-site carbon reduction and 'Be Lean' targets (with relevant evidence e.g. SAP or BRUKL data sheets and summary statement provided pre-occupation to discharge the condition) plus a condition for water efficiency target of 105l/person/day (required in Policy 91).

'Be Seen' policies of the London Plan Policy SI2, require Major developments to monitor and report energy performance to the GLA for at least five years via an online portal. This is reiterated in Policy 87 and secured by condition.

Policy 89 covers a more comprehensive list of sustainability criteria going beyond energy. Sustainability Statements ([required for major development](#)) and Planning Statements ([required for minor development](#)) should cover the following: energy, water (including water consumption targets in Policy 89), climate resilience (flood risk, overheating, water scarcity), biodiversity, waste, transport, pollution (air, noise, contamination), materials and resourcing - showing how Policy 89 has been met. The London Plan encourages boroughs to include BREEAM targets in Local Plans. In Waltham Forest all non-residential development > 100 sq.m is required to submit a BREEAM pre-assessment with the application, and post-completion BREEAM assessments and certificate following construction evidencing how BREEAM targets (Policy 89) are met. The evidence base - CCPVA - has demonstrated that BREEAM "very good" is viable and achievable for major and minor schemes in the borough. Some major developments have demonstrated meeting higher standards (Excellent and Outstanding) therefore the Council considers it appropriate to encourage BREEAM "excellent" for major developments. These requirements ensure higher standards of sustainable design are achieved.

As noted in our response to Q109, the Ministerial Statement withdrew CfSH and the ability for Councils to require equivalent standards for new build residential schemes only, therefore policies only 'encourage' environmental standards, such as Passivhaus and Home Quality Mark. Experience shows that housing developers are increasingly willing to

target such standards, seeing the importance and benefits they bring<sup>4</sup>. Where these standards are targeted, evidence would be required by condition (official reports, assessment or certificates) to verify whether standards have been met, helping the Council, GLA and Government consider whether a more mandated approach is needed in future.

The above requirements will be set out in the supporting text of the policy document and have been added to the policy as below:

### **Policy 87 - A Zero Carbon Borough**

Waltham Forest will minimise greenhouse gas emissions, reduce the borough's carbon footprint and maximise energy efficiency within developments by:

.....

G. Energy Assessments undertaken in accordance with the GLA's Energy Assessment Guidance, demonstrating compliance with this policy, is required for major developments.

### **Policy 89 - Sustainable Design and Construction**

Developers are required to submit a Sustainability Statement (major development schemes) or a Planning Statement (minor development schemes) setting out how the sustainable delivery of development will be achieved, including by:

A.....

### **Q116 Does Policy 89 make sufficient provision for biodiversity, having regard to national policy and in the light of Policy 81?**

Policy 89(H) sets out that development should seek to "(maximise) urban greening, blue and green infrastructure measures and incorporate 'living building' principles into new and existing developments and including measures to improve biodiversity". The policy would benefit from the addition of a reference that ties the relevant clauses to the details set out in Policy 81 (below):

**H. Maximising urban greening, blue and green infrastructure measures and incorporating 'living building' principles into new and existing developments and including measures to improve**

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<sup>4</sup> AECOM's and UCL's [recent analysis](#) showed overall capital cost uplift was only 0.9% for new build construction projects. Passivhaus drastically reduces fuel bills for tenants and evidence suggests lower rent arrears from homes with low fuel bills (see Passivhaus Trust guidance), plus improvement in construction quality may also reduce the chance of long-term defects.

**biodiversity aligned with the principles set out in Policy 81 - Biodiversity and Geodiversity.**

**Q117 Should Policy 89 make distinctions between different types or sizes of development?**

As explained in the response to Q114, suggested wording amendments made for clarity and to reflect requirements in Policy 87.

Criteria A, B, C, E, F, H, I, J and K do not require amendment as these are clear and apply to all development or clearly state the types of development that the policy applies to.

Exact standards for most of Policy 89 criteria have not been set. This allows flexibility for the application to be as sustainable as possible without being overly prescriptive. The developer will specify exactly how the aspirations will be met, considering local site conditions and circumstances.

***Policy 90 – Air Pollution***

**Q118 Is Policy 90 consistent with NPPF paragraph 186 and in general conformity with the London Plan? Should the policy define or identify the Borough’s air quality focus areas, and should it require specific design measures for effectiveness?**

Policy 90 – Air Pollution is consistent with the NPPF and in general conformity with the London Plan. The council does not believe that the Local Plan should define or identify the Borough’s air quality focus areas, as these could change over the Local Plan period, and as mitigation measures are introduced in the currently identified pressure points. This is currently being reviewed as part of the development of a new Air Quality Action Plan due to replace the current document in 2023. The current air quality plan is referenced in paragraph 18.7, which should be sufficient.

## ***Policy 91 – Water Quality and Water Resources***

### **Q119 Having regard to the expectations of the Planning Practice Guidance, is there evidence of a clear local need for the residential water efficiency standard set out in criterion C of Policy 91?**

The plan aligns with the 2021 adopted London Plan which has a water efficiency standard set at 110 litres per person, per day which comprises of 105 litres for personal consumptions and a further 5 litre allowance for watering plants etc. The evidence for this is derived from the stricter Regulation 36 Optional Requirement para (2) b [Building Regulations Merged Document Part G - Appendix A](#)

## ***Policy 92 – Contaminated Land***

### **Q120 Will Policy 92 be effective in managing contaminated land and preventing the spread of contamination?**

To align with the NPPF para 183 and 184, and conform with the London Plan Policy SD1, Clause 1 (e) and 11 and paragraph 2.1.8 of the London Plan the plan must: “take appropriate measures to deal with contamination that may exist.”

The opening sentence of the policy does not provide sufficient clarity to purposely address this requirement as set out under clauses A-C. Accordingly, it is proposed to amend this to read:

*“Policy 92 - Where development is to take place on contaminated land, a 'suitable for use' approach will apply by” ...*

## ***Policy 93 – Managing Flood Risk***

### **Q121 Is Policy 93 effective and consistent with national policy in relation to flood risk?**

The Council believes that Policy 93 (Managing Flood Risk) requires amendment to make sound and consistent with national policy as currently written, it has not considered development lifespans and the requirement for development to not increase flood risk elsewhere. To address this, the council would like to propose an additional clause to policy 93 as below:

**“Where development is proposed in areas of the borough with a recognised higher risk of flooding, the development should be:**

**i) Safe from flooding for the entire lifetime of the development; and**

**ii) Should not increase flood risk elsewhere, whether within or outside of the borough boundary. "**

**Q122 *Is the policy sufficiently flexible to respond to situations where Sustainable Drainage Systems will not be appropriate, including having regard to the PPG ?***

Clause G provides sufficient flexibility to respond to situations where SuDS is deemed not appropriate as the requirement for SuDs can be screened a part of the development of a project level sustainable drainage strategy. As such the policy sets the principle which can be form part of the decision at the planning application stage.

**Q123 *How will criterion H be implemented in practice? Is it sufficiently clear to potential applicants and decision makers how they should respond to it?***

Clause H aligns with adopted London Plan policy D10 (Basement Development) with reference to supporting paragraph 3.10.3. It is assumed that any negative impact such as those identified in 3.10.2 is mitigated through the planning application stage as described in 3.10.4. The Council believes that this position provides sufficient clarity to applicants and would assume that due to the disruptive nature of these developments, that applicants would make use of the pre-application stage.

**Q124 *How will criterion K be implemented in practice? Have such flood alleviation projects been identified and costed?***

The 2018 Strategic Flood Risk Analysis (SFRA Pt 1) identifies that the River Lea, Lee Flood Relief Channel, Ching Brook and Dagenham Brook are the main rivers that run through the Borough. It is anticipated that where a risk has been identified, a project level that a flood risk assessment will be required as part of the planning application process and planning obligations will be secured via the [Waltham Forest 2017 Planning Obligations SPD](#) mechanism para 10.2 (Flood Risk Management) and will be sought only in accordance with the R.122 tests on a site-by-site basis, and determined in relation to the nature and scale of a proposed development.



**Q125 Overall, are Policies 87-95 positively prepared, justified, effective, consistent with national policy, and in general conformity with the London Plan?**

The council considers that with minor amendments as identified in response to questions raised will assist with clarity to the reader that policies 87-96 are sound.

**Q126 Are any main modifications necessary for soundness?**

Policy 87 – Insert new part to state that policy “does not apply to reuse of conversion developments”

Policy 89 – Strengthen part ‘K’ by inserting the following text:  
**“Supporting the low-carbon retrofitting of existing buildings to reduce carbon emissions beyond building regulations, through energy efficient design of the site, building and services.”** To align with the London Plan policy SI2.

Policy 88 – Amend to clarify and add flexibility as follows: Delete criterion B and amend the wording to **“New development will maximise its use of decentralised energy systems by ensuring that the following development install a communal heating system and connect to an existing network (where one exists) or install a communal heating system and ‘future-proof’ and make the development connection ready, to enable connection to a decentralised energy network in the future:**

- **Developments of one or more units, or greater than 100sqm that are located within 200m of an existing or committed future decentralised energy network; or**
- **Major developments located within 500m of an existing or committed future decentralised energy network**

**Unless demonstrated to the Local Planning Authority's written satisfaction that such a connection is not feasible or viable, in line with the [GLAs latest Energy Assessment Guidance](#)”**

3351 Words