

Ms Andrea Copsey

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Date: 23 January 2023

## Waltham Forest Local Plan (LP1) Examination Stage 2 Autumn 2022

Thank you for the opportunity to comment on the information submitted by London Borough of Waltham Forest (LBWF) to address the issues detailed in the Inspectors' post-hearing letter dated 5 May 2022, as part of the Local Plan (LP1) Examination (Stage 2).

As part of the consultation, we have reviewed the following documents:

- Further Matters, Issues and Questions (MIQs) Stage 2 Topics, prepared by the Inspectors.
- **LPE30** Examination Stage 2 Topic Paper, prepared by London Borough of Waltham Forest and dated September 2022.
- **LPE34** Flood Risk Sequential Test Statement, prepared by London Borough of Waltham Forest and dated September 2022.
- **LPE39** Statement of Common Ground between the London Borough of Waltham Forest and the Environment Agency, dated September 2022.
- **LPE3** Matter 2 Statements of Common Ground, including the Statement of Common Ground between the London Borough of Waltham Forest and the Environment Agency dated July 2021.
- **KD1** Shaping the borough, Waltham Forest Local Plan; LP1: 2020 – 2035, prepared by London Borough of Waltham Forest and dated October 2020.
- **KD2** Schedule of Proposed Changes to the Published Plan – Shaping the Borough, Waltham Forest Local Plan; LP1: 2020 – 2035, prepared by London Borough of Waltham Forest and dated April 2021.

Having reviewed the submitted information, we have the following comments to make with respect to **Matter 5 (The environment, climate change, flood risk, pollution, and waste management) – Flood Risk and Sequential Test**.

Our comments respond to the 8 questions (5.1 – 5.8) put forward by the Inspectors in Further Matters, Issues and Questions (MIQs) document on this matter.

### 5.1: Is the Sequential Test Statement (LPE34) robust and consistent with national policy?

In response to question 5.1 of the Inspectors' Further Matters, Issues and Questions (MIQs), we confirm our support of LBWF's position as detailed in Chapter 3.2 of the Examination Stage Topic Paper (LPE30).

As agreed in our Statement of Common Ground with the London Borough of Waltham Forest (LBWF) dated 21 September 2022 (LPE39), we are satisfied that the submitted Food Risk Sequential Test Statement (LPE34) is in line with national planning policy.

## **5.2 Have all reasonably available options in Flood Zones 1 and 2 been exhausted before the suitability of sites in Flood Zone 3 has been considered?**

We have reviewed Chapter 3.2 of the LBWF's Examination Stage Topic Paper (LPE30) and Section 2.1 (Assessment of sites) of the agreed Flood Risk Sequential Test Statement (LPE34). In line with our Statement of Common Ground dated September 2022 (LPE39), we are satisfied that LBWF have applied a sequential approach in the preparation of this Plan, in line with NPPF paragraphs 159 – 162.

## **5.3 Has the Exception Test been carried out, where relevant?**

### **a. If it has not been carried out, should it have been?**

Paragraph 161 of the National Planning Policy Framework (NPPF) states that:

'All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: (a) applying the sequential test and the, if necessary, the exception test...'

Additionally, NPPF paragraph 164 states:

'The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at application stage.'

It is clear in the NPPF that the Local Plan should apply a sequential risk-based approach and take into account the principles of the Exception Test. However, the NPPF does not specify at what stage the Exception Test has to be applied.

As mentioned in our response to questions 5.1. and 5.2., we agree that LBWF have applied a sequential approach to the identification of development sites, as evidenced in the Flood Risk Sequential Test Statement (LPE34) and our Statement of Common Ground dated September 2022 (LPE39).

In response to question 5.3.a., we understand the Exception Test has not been carried out. However, we are satisfied with LBWF's decision to defer carrying out the Exception Test within the Local Plan Part 1 (Strategic Policies) document (LP1) and instead address this matter in the preparation of the Waltham Forest Local Plan Site Allocations Document (LP2). The LP2 document, once adopted, will form part of LBWF's Local Plan and planning applications will therefore be determined in accordance with this development plan.

In reference to NPPF paragraph 166, since planning applications for site allocations identified in the Local Plan will be informed by the sequential approach and supporting Strategic Flood Risk Assessment (SFRA), the sequential test will not need to be reapplied when they come forward. However, the Exception Test may need to be reapplied, in consideration of most up-to-date information about existing and potential flood risk, as well as aspects of the proposal which are unknown during the plan-making stage.

The detailed design of development proposals will need to be taken into account during the Exception Test, and therefore the test cannot be carried out in full during this stage of the Plan's preparation (when the specifics of detailed designs are yet to have been proposed). If the Exception Test had been carried out during the preparation of either Local Plan documents (LP1 and/or LP2), then it would likely need to be reapplied when determining the applications for planning permission for site allocations, where relevant.

This is especially pertinent in the context of the changes to national policy, for example the recent updates to the Planning Practice Guidance (PPG) on Flood risk and coastal change, which may alter the requirements for development and what is considered appropriate at the time of approval. For example, the use of voids is no longer acceptable for providing floodplain storage compensation (although voids can be used to mitigate flood risk to protect the development).

It is for these reasons that we accept that the Exception Test has not yet been carried out and do not support the claim that it 'should have been', at this stage of plan-making.

**b. If it has been carried out, was it passed; and have the findings informed the Sustainability Appraisal process and informed the selection of the Plan's Strategic Locations/Site Opportunity Locations and their capacity for housing growth?**

The Exception Test has not been carried out. Therefore, we have no comments to make in response to question 5.3.b.

**5.4 While the Council's position throughout has been that this Plan does not include site allocations, the Strategic Locations and the focused Site Opportunity Locations provide a clear steer on the location and amount of development expected within their boundaries. On this basis is it justified, and would it be effective at the strategic level, to defer flood risk considerations, including the Exception Test where necessary, to future consideration of site allocations and/or planning applications and site-level Flood Risk Assessments?**

Following on from our response to question 5.3., we accept the Council's justification to address the flood risk constraints for site allocations in comprehensive detail within the Waltham Forest Local Plan Part 2 (Site Allocations) (LP2).

We are satisfied that flood risk considerations have been considered to the adequate extent within the Flood Risk Sequential Test document (LPE34) and agree that the Plan has applied a sequential approach. This is confirmed in our September 2020 Statement of Common Ground with the Council (LPE39).

**5.5 Will reliance on Policy 93 adequately deal with flood risk at the strategic level, including for consideration of sites in the Strategic Locations?**

In our representation for the Regulation 19 consultation (dated December 2020), we proposed amendments to Policy 93 to ensure the policy is found sound and in accordance with national policy. These changes were agreed in our Statement of Common Ground with LBWF dated May 2022 (LPE3), and the required modifications are identifiable in the Schedule of proposed changes to the published plan dated April 2021 (KD2).

In light of these amendments, we are satisfied that Policy 93 is robust, effective, sound and consistent with national policy.

**5.6 The Sustainability Report Addendum (LPE36.1) identifies that the effect of the Plan's scale of growth (SA Option 1 in LPE36.1) on the flood risk objective is "uncertain" and that the effect of the level of growth as set out in the London Plan (SA Option 2 in LPE36.1) is "minor positive". It also identifies that the majority of growth in Option could be delivered on sites in Flood Zones 1 and 2.**

**a. Is the Plan's spatial strategy for housing justified and consistent with national policy in relying on sites in Flood Zones 2 and 3 for around 50% of planned housing growth?**

In reference to paragraph 12 of the Inspectors' Examination Consultation Stage 2 Topics Guidance Note, we are not currently in a position to provide comments on the

Sustainability Appraisal (SA).

As mentioned in response to question 5.1. we are satisfied that the Local Plan has taken a sequential, risk-based approach, and we accept the justification given in the Flood Risk Sequential Test Statement (LPE34) agreed in our Statement of Common Ground dated September 2022 (LPE39).

**b. Does the Sustainability Report Addendum (LPE36.1) strike a reasonable balance between Sustainability Appraisal objectives SA1 (meeting local housing needs) and SA11 (reducing flood risk and improving resilience to climate change)?**

As mentioned under 5.6.a., we are unable to comment on the Sustainability Appraisal (SA) at this time. Additionally, it is not within our remit to advise on what should be accepted as a 'reasonable balance', as this is a matter of planning judgement residing with the decision-maker.

We understand development is needed to meet local housing needs, however it is our statutory responsibility to advise that these houses must be located in appropriate locations with regard to flood risk.

In line with NPPF paragraph 159, development should be directed away from areas at highest risk of flooding, and development should be made safe for its lifetime without increasing flood risk elsewhere. Furthermore, NPPF paragraphs 161 and 162 direct new developments should be steered to areas with the lowest risk of flooding from any source, and this is the purpose of the Sequential Test (and Exception Test, where relevant).

We are satisfied that LBWF have appropriately carried out the sequential test approach in the preparation of this Plan (LP1), as agreed in our Statement of Common Ground dated September 2022 (LPE39).

**5.7 Is the degree of reliance on improvements in relation to surface water flooding justified and has an appropriate balance been struck between addressing this and the risk of flooding in the Borough from other sources?**

We have no comments to make on surface water flood risk as this responsibility lies within the remit of the Lead Local Flood Authority (LLFA).

**5.8 Overall, is the Plan positively prepared, justified, effective, consistent with national policy, and in general conformity with the London Plan in terms of flood risk? Are any main modifications necessary for soundness?**

Based on a review of the information submitted in support of the Local Plan (LP1) Examination Stage 2 Autumn 2022 consultation, we are satisfied that the Council have adequately addressed the issues in the Inspectors' MIQs regarding Matter 5 Flood Risk and Sequential Test.

We consider Policy 93 – Managing Flood Risk, to be found **sound**, in light of the main modifications evidenced in the Schedule of proposed changes to the published plan dated April 2021 (KD2), as agreed in our Statement of Common Ground dated July 2021 (LPE3).

In reference to our Statement of Common Ground with LBWF dated September 2022 (LPE39), we agree that the Council have appropriately applied the Sequential Test in the preparation of this Plan and agree the submitted Flood Risk Sequential Test Statement (LPE34) is in accordance with national policy.

We support the Council's approach to defer applying the Exception Test to the Waltham

Forest Local Plan Site Allocations Document (LP2) and agree that this remains consistent with the requirements of the NPPF.

In summary, we are satisfied that the Plan is positively prepared, justified, effective and consistent with national policy on flood risk grounds.

**Final comments**

Thank you again for seeking our representation in response to the Waltham Forest Local Plan (LP1) 'Shaping the Borough' Examination Stage 2.

Whilst are interested in attending the Hearing sessions in March 2023 as a spectator, we confirm that we do not wish to exercise our right to be heard as we have no further comments to make.

Should you have any queries or required further information regarding any of the points raised in this response, please contact me.

Yours sincerely,

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