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21 September 2023

REPRESENTATION ON WALTHAM FOREST'S MAIN MODIFICATION TO PROPOSED SUBMISSION LOCAL PLAN (LP1)

Introduction

We write on behalf of our client, London Hotel Group (LHG), to submit a further representation to the London Borough of Waltham Forest (LBWF) in relation to their emerging new Local Plan which is intended to comprise two parts:

1. Waltham Forest Local Plan Part 1 (Strategy Policies) – LP1
2. Waltham Forest Local Plan Part 2 (Site Allocations) – LP2

LP1 is currently subject of the final stages of Examination and is the focus of this representation. While LP2 is on hold at this stage its reference is relevant as discussed later in this letter.

This representation has been prepared as part of the Local Plan Part 1 Main Modifications Consultation period closing 21 September 2023. Following the Examination in Public (EIP) hearings held in March 2023, the Planning Inspectors and Council agreed a schedule of main modifications to make the Local Plan sounds and/or legally compliant. We have reviewed these main modifications and associated material, including:

- LPE27 Statement of Common Ground dated March 2022
- LPE30 Waltham Forest Local Plan Part 1 Examination Stage 2 Topic Paper dated September 2022
- LPE45 Waltham Forest Character and Intensification Study dated August 2019
- LPE46 Skyline Study dated November 2021
- Response to Further Matters, Issues and Questions dated January 2023
- Proposed Changes to Submission Policies Map dated July 2023
- Local Plan Part 1 (LP1) with Proposed Modifications dated July 2023
- Consolidated Schedule of Additional Modification to Local Plan LP1 dated July 2023

Previous Representation

This representation prepared by Icen Projects supplements the below previous representations prepared by Avison Young to the LBWF Emerging Local Plan process made on behalf of LHG:

- Representation to Waltham Forest Draft Local Plan and Character and Intensification Study dated September 2019
- A submission as part of the Waltham Forest Call for Sites process dated December 2019
- Representation on Waltham Forest Local Plan (LP1) Proposed Submission Document (Regulation 19) and Local Plan (LP2) Draft Site Allocations Document (Regulation 18) dated December 2020
- Representation on Waltham Forest Local Plan (LP2) Draft Site Allocations Document (Regulation 19) dated January 2022
- Representation on Waltham Forest Local Plan (LP1) Proposed Submission Document (Regulation 19) and Local Plan (LP2) Draft Site Allocations Document (Regulation 18) including Statement of Common Ground and Response to Further Matters, Issues and Questions dated January 2023
- Representation at the EIP hearings in March 2023

Background

LHG Site

The LHG site is outlined in red in Figure 1, comprising several adjoining allotments bound by Russell Road to the north-east, Lea Bridge Road the south-east and Amberley Road to the north-west.

- 543 Lea Bridge Road
- 525, 527 and 529 Lead Bridge Road
- 2, 4, 6, 8, 10 and 12 Russell Road
- 2, 2A, 4, 6, 8 and 10 Amberley Road



Promap v2
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Figure 1: Relevant LHG site in LBWF

LHG Position in Previous Representations

Consistent with previous representations, this letter focuses on the main modifications proposed for 'Policy 57 - Tall Buildings' and 'Policy XX - Building Heights' in the emerging LBWF Local Plan. These main modifications arose following EIP hearings held in March 2023 and the agreed schedule between the Planning Inspectors and LBWF intended to make LP1 sound and/or legally compliant.

For context, the preceding representations prepared on behalf of LHG objected to:

- The locally restrictive nature of 'Policy 57 - Tall Buildings', in that; it had the potential to restrict site-specific assessment of the suitability of a tall building based on the local character and context
- A lack of substantive evidence base which underpinned the shifted tall buildings policy, and
- No response from LBWF in relation to the matters raised in the representations by Avison Young on behalf of LHG, including the apparent misalignment of draft LP1 and LP2.

Response to Main Modifications Post Hearing

Overview

The main modifications proposed for 'Policy 57 - Tall Buildings' and 'Policy XX - Building Heights' are extracted in full in Exhibit A at the end of this letter. At a high level we understand:

- Policy 57(A) directs tall buildings to identified locations shown in Figure XX.

Note: The LHG site is not identified as a tall building site in Figure XX.

- Policy 57(B) identifies the heights of tall buildings identified in Figure XX and notes that on some Transformation sites there may be opportunities to exceed this which will be detailed in LP2 – Site Allocations.
- Policy 57(C) identifies other limited circumstances where tall buildings may be supported including but not limited to sites within a Strategic Location, benefiting from PTAL connectivity and a site is appropriate for a 'Transition' or 'Transformation' to character-led intensification.

Note: The LHG site is not part of a Strategic Location, has a PTAL rating between 4 and 5 (good/very good) and the draft LP2 Site Allocation Document (Regulation 19) identified the Site as located in a 'Transition' character area.

Policy 57 is supported by post-amble 14.9- 14.15. Of relevance to this representation:

- Post-amble 14.13 notes that the inclusion of a site with potential for tall buildings in Figure XX or in LP2 – Site Allocations does not mean that buildings of heights identified are automatically acceptable and will be subject to full considerations against relevant policy.
- Post-amble 14.14 notes that policy 57(C) does not provide an alternative to compliance with policy 57(A) or 57(B), though acknowledges over the lifetime of the Local Plan, evidence may be developed to support the delivery of a tall building on a site which is not currently identified on Figure XX. This will only be supported where Council led a Tall Buildings Assessment

Position on Main Modifications

We support Council's main modification to define a 'tall building' consistent with D9 of the London Plan 2021.

However, policy 57, as it is currently drafted, raises three concerns in our opinion. We strongly encourage the Planning Inspectorate to consider and rectify these, specifically:

1. The scope of the main modifications extends substantially beyond what are needed to make the Local Plan sound and these modifications should only demonstrate how the Local Plan as submitted and policy 57, at the point of submission, was not sound.
 - The starting point of examination is the assumption that Council has submitted what is considered a 'sound plan'. Where a change is sought, it is to be demonstrated why the plan is unsound by reference to one or more of the soundness criteria in paragraph 135 of the National Planning Policy Framework (NPPF). The criteria being 'positively prepared', 'justified', 'effective' and 'consistent with national policy'.
 - The purpose of main modifications is to incorporate minor corrections following examination rather than substantive revisions altering the nature and intent of policies contained within the draft Local Plan.
 - The main modifications fail to demonstrate how policy 57 at the point of submission was unsound and why the modifications were necessary. We acknowledge the plan needs to define a tall building and we support this, as stated earlier, and in doing so achieves general conformity with the London Plan 2021. However, no justification is provided in the main modifications documentation, nor historically provided by Council in relation to the changes to policy 57, which, by virtue, reduce the spatial extent of the borough suitable for tall buildings.
 - Specifically, the methodology and evidence base to the identified locations for tall buildings (and correlating height of building policy) has not been updated since the drafting of the much more flexible Regulation 19 version of draft policy 57. This is discussed below in further detail.
 - This raises a procedural and legal question from an examination perspective.
2. There is no substantial evidence base to underpin the approach outlined in point 1 above. The identification of tall building locations is based upon limited evidence, and there is no identified link to strategic locations being suitable for tall buildings in the evidence base.
 - The main modification policy 57 begins by stating that tall buildings will only be supported on some sites identified for a Transition or Transformation approach to character led intensification (policy 57(A)). Subsequently, policy 57(C) notes that other circumstances where sites are in a strategic location they may be considered for tall buildings. We reiterate our previous recommendation that tall buildings should not be precluded on opportunity sites or those not identified within a strategic location. There is no identified link to strategic locations being suitable for tall buildings in the evidence base.
 - A Local Plan is to be constructed soundly as to provide appropriate mechanisms to unlock a sites' strategic potential, notably one which will support sustainable development and contribute toward delivering the objectives of the Local Plan. Of course, being justified and consistent with an evidence base.
 - The intensification of density in the borough was originally evidenced in the Characterisation and Intensification Study 2019. However, there is no reference to the evidence base documents or a clear path as to how the substantially tighter approach to tall buildings in policy 57, including identification of sites and references to 'strategic locations', has been achieved from the continued reliance on the aforementioned 2019 study. The scope of the main modifications (except the defining of tall buildings) are not necessary to achieve general conformity with the London Plan 2021.
 - We note, the 2019 Study was supplemented with a Skyline Study 2021. The Skyline Study focused solely on view considerations and is contrary to the methodology and approach adopted in the 2019 Study. It fails to suitably assess the impact of tall buildings in any reliable form of evidence. Its scope does not extend to assess the suitability of the wider areas of the borough in the context of delivering tall buildings.

- It is unclear as to the sound evidence base which has informed the change to policy 57 in the main modifications. Further discussion is provided in point 3 below.
3. If LP2 – Site Allocations is to be allowed to identify tall buildings, policy 57(A) and 57(C) should include such criteria consistent with post-amble 14.13 which notes that *“inclusion as a site with potential for tall buildings in Figure XX **or** (our emphasis) in Local Plan 2 -Site Allocations does not mean that buildings of the heights identified are automatically acceptable”*.
- We made representations to the draft LP2 - Site Allocations (Regulation 19) in January 2022 in which the LHG site was identified as draft Allocation SA75, located within a ‘Transition’ character area and having the capacity of approximately 90 new homes (gross). As such, draft Site Allocation SA75 acknowledged tall buildings should be considered appropriate in principle, subject to meeting the criteria in draft policy 57.
 - The site is located approximately 120 metres west of the Bakers Arms District Centre, which is identified as a strategic location within South Waltham Forest capable of accommodating a minimum 16,000 new homes and 3,250 new jobs. The characteristics of the LHG site; a corner site fronting Lea Bridge Road, within a high PTAL, proximity to Leyton Midland Overground station and Bakers Arm Centre earmarked for significant strategic change, lend itself to transitional intensification achieving the highest and best use of the land and contributing to growth in the borough.
 - At present, there is little evidence to understand how LP1 and LP2 will correlate with one another when made. While we understand LP2 is currently on hold, policies 57(A) and (C) would benefit from revisions to align with the site allocations intent detailed draft LP2 – Site Allocations.
 - In the first instance, paragraph 14.13 indicates that the tall buildings are capable of being identified in LP2 allocations that are in locations not identified within Figure XX.
 - Furthermore, we recommend amending policy 57(A), the criteria in policy 57(C) and post-amble 14.14 as to not restrict the ‘other circumstances’ in which sites can deliver tall buildings to solely ‘strategic locations’. Instead, we propose that in policies 57(A) and 57(C) ‘strategic locations’ to be either replaced (on the basis that there is no link to the evidence base), alternatively retained, but for the policies to also include ‘allocated sites’ that are identified with draft LP2 (once finalised). This would ensure that policy 57(A) and 57(C) better align with the intent of post-amble paragraphs 14.13 and 14.14. This recommendation is a sounder policy making approach, future proofs the construct of policy 57 to enable sites in the borough to contribute to growth and delivery of jobs and housing. These allocated sites will continue to be subject of a tall buildings assessment.
 - We recommend LP2 be informed by a strong evidence basis and has regard to our previous representations. We will of course continue to make further representations as this process recommences.
 - Refer to Exhibit B for recommended amendments to policies 57(A) and 57(C) and, post-amble 14.14.

Conclusion

This representation has been made on behalf of LHG and supplements the previous representations (both written and verbal) made to LBWF in relation to the emerging LP1 and LP2.

We are of the view that LP1 is ‘broadly sound’ as the policy is mostly consistent with the paragraph 35 of the NPPF tests of soundness having been positively prepared, a justified strategy, effective in its future delivery and consistent with national policy. We support LBWF’s aspiration for growth and intensification in South Waltham Forest and Bakers Arms District Centre.

However, we reiterate our strong position that *‘Policy 57 - Tall Buildings’* would benefit from re-drafting to future proof the policy and deliver an improved mechanism to unlock tall building sites, subject to

achieving the relevant criterion, as discussed herein. It is unclear as to the evidence base which has informed the main modifications and we ask the Planning Inspectorate to consider this in the upcoming examination.

Should you wish to discuss the contents of this letter, please do not hesitate to contact the undersigned on opage@iceniprojects.com / 917 041 908 or Simon Fowler (Director) on sfowler@iceniprojects.com / 07831 820634.

Yours faithfully,



Olivia Page

Senior Planner – London Planning

EXHIBIT A

Extract of main modification 'policy 57' and 'policy XX'

Policy 57

Tall Buildings

In some identified locations, tall buildings may be supported subject to meeting the requirements of this Policy and the other requirements of this Plan.

For the purposes of these policy tests, the definition of a tall building in the borough is any building of 10 storeys or more, or any building that measures 30m or more from ground level.

- A. Tall buildings will only be supported on certain sites identified for a Transition or Transformation approach to character intensification, in line with Policy 8 'Character-led Intensification'. These sites have been identified in Figure XX. The acceptability of tall buildings on these sites remains subject to thorough contextual analysis, a robust place making strategy, and assessment against all relevant policy tests in the Development Plan.
- B. In general, the appropriate range of heights for new tall buildings is between 10 and 17 storeys in height. On some Transformation sites however, there may be the opportunity to exceed this and, subject to contextual analysis, a robust place making strategy, and assessment against all relevant policy tests, buildings of 18 storeys or more may be acceptable. Indicative ranges of potentially acceptable heights for these sites will be provided in Local Plan 2 - Site Allocations.
- C. In other limited circumstances, a tall building may be supported on a site outside those sites identified in Figure XX, but only where a Tall Buildings Assessment (which has been undertaken and endorsed by the Council prior to the determination of a relevant planning application) demonstrates that:
 - i. The site is located within a Strategic Location;
 - ii. The site benefits from good local public transport connectivity;
 - iii. The site is appropriate for a 'Transition' or 'Transformation' approach to character-led intensification;
 - iv. All relevant policy tests have been undertaken and assessed against appropriate contextual analysis and a robust place making strategy; and
 - v. A tall building(s) on the site would be able to fully satisfy all policy requirements and deliver Exemplar Design, having regard to the considerations below (including Visual Impacts, Environmental Impacts, Functional Impacts and Cumulative Impacts);
- D. Where justified in accordance with criteria (A) to (C), tall buildings will be supported where they achieve Exemplar Design, having regard to the following considerations, in addition to those set out in Policy 56 'Delivering High-Quality Design' and Policy XX 'Building Heights'.

Visual Impacts

- i. Impact on the existing character and townscape of their surroundings considered in long-range, mid-range and immediate views;
- ii. Impact on the existing streetscape, including the provision of active frontages and sufficient, high quality public realm at ground level;
- iii. Impact on the existing, and where relevant emerging, skyline;
- iv. Contribution to existing and proposed spatial networks and hierarchies, wayfinding, and legibility;
- v. Impact on heritage assets, their settings, and views to and from them including the background zones of views identified in the London View Management Framework (LVMF) ⁽⁴¹⁾; and
- vi. Exemplar quality of architecture and design with careful attention paid to form and proportionality, materials, finishes, and details;

Environmental Impacts

- vii. Avoidance of harmful overshadowing or other impacts that would compromise the comfort and enjoyment of surrounding public open space, private or communal outdoor spaces, private amenity of neighbouring properties, watercourses and canals;
- viii. Avoidance of harmful environmental impacts in relation to overcrowding, overheating, wind movement, solar glare, microclimatic conditions, air, noise and light pollution and bird and bat strikes;
- ix. Use of sustainable design, materials and construction methods;

Functional Impacts

- x. Demonstration of the safety of all occupants, including considerations such as internal and external design, construction detailing, materiality, and emergency exit routes;
- xi. The impacts of servicing, maintenance, and building management on safety, quality, and enjoyment of the surrounding public realm;
- xii. Connection to public transport, walking and cycling networks and access to nearby facilities such as shops, community facilities and social infrastructure;
- xiii. The avoidance of interference to aviation, navigation and/or telecommunications; and

Cumulative Impacts

- xiv. The cumulative visual, functional, and environmental impacts of proposed, consented and planned tall buildings in the surrounding area.

14.9 In the right places, and with exemplary architectural quality and design, tall buildings can make a positive contribution to the character and skyline of the borough. They can help to optimise the use of land and assist in accommodating the borough's anticipated growth over the coming years, providing new homes and economic opportunities. They can also help people navigate through the borough by providing reference points on the skyline and drawing attention to key destinations, and they can become beacons for regeneration, stimulating further investment.

14.10 It is important to note however, that tall buildings are not always necessary to achieve intensification and good growth. For sites or areas that are sensitive to height, lower approaches to intensification are likely to be more suitable. It is also recognised that tall buildings can present a number of challenges which must be addressed and managed sensitively in the context of their immediate and wider surroundings.

14.11 The London Plan (2021) says that local authorities should define what is considered to be a tall building, as this may vary in different parts of the capital and should take into account local character and context. This is an important consideration in Waltham Forest, where there are significant variations in character, townscape and sensitivity to growth and intensification.

14.12 As set out in Policy 57 'Tall Buildings', new tall buildings in Waltham Forest are defined as being between 10 storeys (or above 30m when measured from the ground) and 17 storeys and will only be supported on certain sites identified for a Transition or Transformation approach to character-led intensification, as identified on Figure XX. On some Transformation sites which are likely to see extensive change, there may be opportunities for buildings of 18 storeys or more in height. Where the Council considers a Transformation site to be potentially suitable for tall buildings of 18 storeys or more, a range of heights will be indicated in Local Plan 2 - Site Allocations.


14.13 Inclusion as a site with potential for tall buildings in Figure XX or in Local Plan 2 -Site Allocations does not mean that buildings of the heights identified are automatically acceptable. Any proposals for tall buildings on these sites will be subject to full consideration against all relevant planning policy, including that set out in Policy 8 'Character-led Intensification', Policy 56 'Delivering High-Quality Design' Policy 57 'Tall Buildings' and Policy XX 'Building Heights' to ensure that they are appropriate for their location and do not lead to unacceptable impacts on the local area.

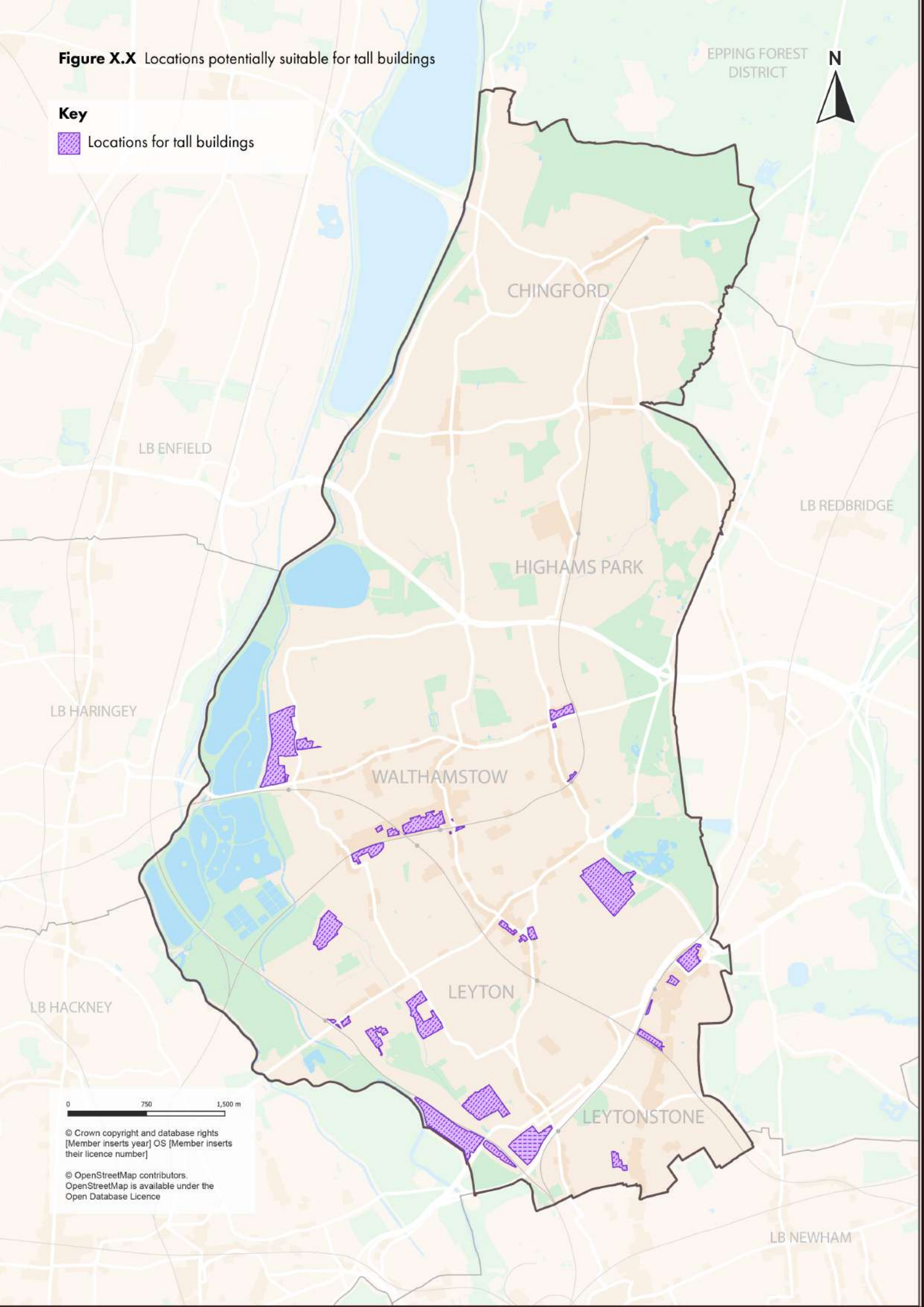
14.14 Clause C of Policy 57 'Tall Buildings' does not provide an alternative to compliance with Clauses A or B, but rather acknowledges that, over the Plan Period, evidence may be developed to support the delivery of a tall building on a site that is not currently identified on figure xx. This is only anticipated in very limited circumstances and will only be supported where a Council led Tall Buildings Assessment supports a tall building on the site. Examples of such limited circumstances could include opportunities to signify a new use or public space of civic importance, framing or defining key views or to enhance an existing cluster of tall buildings. As set out in the policy, this will only apply in Strategic Locations, on sites with good public transport connectivity, that are suitable for a Transition or Transformation approach to character-led intensification and where all other policy tests can be met.

14.15 All tall buildings will also need to demonstrate exemplar architectural and design quality to be considered acceptable. Further detailed guidance on the Council's expectations regarding the design and architecture of proposals for tall buildings will be set out in the Exemplar Design Supplementary Planning Document (SPD).

Figure X.X Locations potentially suitable for tall buildings

Key

 Locations for tall buildings



0 750 1,500 m

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Policy XX

Building Heights

Appropriate building heights for new development will vary in response to the prevailing character and building heights of that part of the Borough, in line with the approach to character-led intensification set out in Policy 8 'Character-led Intensification'.

A. Building heights for new development will generally be acceptable where they fall within the ranges set out in Table 14.1 below. This remains subject to thorough assessments of context and character and all of the Exemplar Design criteria set out in Policy 56 'Delivering High-Quality Design'.

Agreed response to surrounding character	Indicative range of typical building shoulder heights	Indicative range of heights for buildings that exceed typical shoulder heights, where supported by a positively prepared Height and Massing Strategy	Approach to Tall Buildings
Transformation	4-9 storeys	Refer to Policy 57 'Tall Buildings'	
Transition	3-5 storeys	6-9 storeys	Refer to Policy 57 'Tall Buildings'
Reinforcement	2-5 storeys	Not appropriate, other than in exceptional circumstances where the site context and proposed land uses would be enhanced by taller buildings. In such circumstances, 6-9 storeys may be considered appropriate.	Not appropriate

B. Where development proposals are required by Part A to be supported by a Height and Massing strategy, any such strategy should demonstrate that proposals contribute to their context and result in a successful composition of buildings and open spaces.

They should always come forward as positive design intentions rather than solely to increase density.

- C. All development proposals should address issues of height and scale with regard to the impact on the local and historic context, as set out in Historic England Advice note 4 ⁽⁴²⁾(or equivalent) and other relevant guidance.

14.16 The character and built context of Waltham Forest, including predominant building heights, varies across the borough. In line with the Characterisation and Intensification Study (2019) ⁽⁴³⁾, Policy 8 'Character-led Intensification' of this Plan sets out an approach to intensification based on the categories of Reinforcement, Transition and Transformation identified for different parts of the Borough. Table XX in Policy XX 'Building Heights' sets out recommended ranges of heights for each of these categories, based on the evidence provided in that study. The recommended ranges of shoulder heights reflect the generally low-rise nature of some of the borough's built environment. Above that, the ranges reflect the distinction in architecture found between existing examples in the borough.

14.17 Sites identified in Local Plan 2 - Site Allocations will provide guidance as to whether they are appropriate for Reinforcement, Transition or Transformation. Where not specified in Local Plan 2 - Site Allocations, development proposals will be expected to determine which approach to character-led intensification is most appropriate given the character and context of the site under consideration. This will be subject to agreement with the Local Planning Authority, likely at pre-application stage, and will require clear and compelling justification.

14.18 Height and Massing Strategies are an important tool used to justify the distribution of scale across a development proposal. As set out in Policy XX 'Building Heights', they should be led by positive design intentions such as marking a location of civic, cultural, or landmark importance, or providing appropriate enclosure to well-designed open spaces and public realm. Further guidance on the location, quality and composition of all buildings will be provided in the Exemplar Design Supplementary Planning Document (SPD), area specific SPDs, design codes, masterplans and planning/development briefs and Area Frameworks.

42 [Historic England Advice Note 4](#)

43 [Character and Intensification Study \(2019\)](#)

EXHIBIT B

Recommended amendments to main modification policies 57(A) and 57(C) and, associated post-amble paragraph 4.14.

A. Tall buildings will only be supported on certain sites identified for a Transition or Transformation approach to character intensification, in line with Policy 8 'Character-led Intensification'. These sites have been identified in Figure XX or identified Allocated Site within LP2. The acceptability of tall buildings on these sites remains subject to thorough contextual analysis, a robust place making strategy, and assessment against all relevant policy tests in the Development Plan.

C. In other limited circumstances, a tall building may be supported on a site outside those sites identified in Figure XX, but only where a Tall Buildings Assessment (which has been undertaken and endorsed by the Council prior to the determination of a relevant planning application) demonstrates that:

- i. The site is location within an identified Strategic Location or:*
- ii. The site is ~~identified Strategic Location~~ Allocated Site within LP2 and is supported for a tall building; and*
- iii. The site benefits from good local public transport connectivity; and*
- iv. The site is appropriate for a 'Transition' or 'Transformation' approach to character-led intensification; and*
- v. All relevant policy tests have been undertaken and assessed against appropriate contextual analysis and a robust place making strategy; and*
- vi. A tall building(s) on the site would be able to fully satisfy all policy requirements and deliver Exemplar Design, having regard to the considerations below (including Visual Impacts, Environmental Impacts, Functional Impacts and Cumulative Impacts);*

14.14 Clause C of Policy 57 'Tall Buildings' does not provide an alternative to compliance with Clauses A or B, but rather acknowledges that, over the Plan Period, evidence may be developed to support the delivery of a tall building on a site that is not currently identified on figure xx. This is only anticipated in very limited circumstances and will only be supported where a Council led Tall Buildings Assessment supports a tall building on the site. Examples of such limited circumstances could include opportunities to signify a new use or public space of civic importance, framing or defining key views or to enhance an existing cluster of tall buildings. As set out in the policy, this will only apply in Strategic Locations or identified Allocated Sites, and on sites with good public transport connectivity, that are suitable for a Transition or Transformation approach to character-led intensification and where all other policy tests can be met.