

# Statement on behalf of the London Legacy Development Corporation (9<sup>th</sup> February 2015)

## Examination - London Legacy Development Corporation Local Plan 2015 to 2031

### Inspector's Matters, Issues and Questions

#### Matter 6: Environmental Sustainability

*Issue: Whether the Local Plan will contribute to securing sustainable and healthy places to live and work, minimising effects on climate change and reducing carbon dioxide emissions.*

- 1. Is section 8 of the Local Plan including Objective 5 and Policy SP5 consistent with the NPPF, paragraph 93 onwards, and in general conformity with the London Plan including FALP, Chapter 5 – London's response to Climate Change?**

The Local Plan works in conjunction with the policies within the London Plan including FALP and associated relevant London Plan Supplementary Planning Guidance to present a coherent and holistic approach to climate change and flooding. Strategic Policy S.5 sets out a comprehensive range of matters with the relevant strategic policies in the London Plan cross referenced alongside the relevant individual policies within the Local Plan as a whole that are key elements in achieving the aims of Objective 5. The Legacy Corporation considers that Policies S.2 to S.8 specifically cover the matters within Paragraphs 93-108 of the NPPF. In order that these policies work effectively in conjunction with relevant policies in the London Plan without repeating those policies, each includes specific London Plan policy cross-references. The GLA have indicated that the Local Plan as a whole is in general conformity with the London Plan within their letter of 6<sup>th</sup> October 2014 [LD/25]. It is considered that all relevant policies within London Plan Chapter 5 (including the FALP) have either been included within the Local Plan in a locally specific way or alternatively cross referenced to ensure that it is clear that those policies also apply. Policies relevant to waste (Policy IN.2), contaminated land (Policy BN.13) and hazardous substances (Policy BN.13, additional point 4 within the Table of Minor Amendments and Correction, Document LD/26) are included within other sections of the Local Plan.

- 2. LB of Tower Hamlets points out a difference with Policy DM9 of its Managing Development Plan, and suggests that emission reductions should be assessed against 2013 rather than 2010 building regulations. Should Policy S2 of the LLDC Local Plan be amended and, if so, how exactly?**

Policy S.2 has been designed to specifically work alongside and reflect London Plan Policy 5.2 Minimising Carbon Emissions. This policy identifies its baseline from which to calculate carbon savings as the 2010 building regulations, including the FALP version. While acknowledging that the separately developed LB Tower Hamlets Policy DM9 addresses this differently, the approach taken within Policy S.2 is considered to provide an appropriate mechanism for achieving the Mayor of London's identified carbon emissions target. Also Policy DM9 has been developed and adopted after the point at which the Legacy Corporation received its planning powers and so does not currently apply to the area of Tower Hamlets within the Legacy Corporation area and will therefore not be superseded by adoption of the Legacy Corporation Local Plan. The Legacy Corporation does not therefore consider it is necessary or appropriate to amend the policy.

**3. Policy 5.4 of the London Plan states that Boroughs should develop policies in their Local Plans for the sustainable retrofitting of existing buildings. In the interests of convergence, should this Local Plan include such a policy?**

Policy S.2 of the Local Plan indicates the Legacy Corporation's intention to prepare a Carbon Off-setting SPD which will either set a local carbon off-set rate and establish a local mechanism to apply this in order to achieve that off-set, or where a national Allowable Solutions system is introduced use this for the same purpose, potentially with the same local mechanism for its application. This is considered to be a practical solution to achieving the intention of London Plan Policy 5.4 given that the Legacy Corporation is not a Local Authority and does not have equivalent powers to directly improve older buildings or energy using infrastructure. In order to make it clear that there is a link from this policy to London Plan Policy 5.4 it is suggested that the following additional minor amendments be made:

- Add a cross reference to London Plan Policy 5.4 to the London Plan policies cross reference list at the end of Policy S.2.
- Add the following text to the Policy Application text at paragraph 8.7, after the end of the first sentence: "The scheme for allocating funds raised will take into account the local opportunities to aid appropriate retrofitting of carbon saving measures to existing buildings and structures within and around the Legacy Corporation area."

**4. How will the performance and outcome of Policies S2-S8 be measured and monitored so that any ineffectiveness can be addressed when policies are reviewed or updated? Do paragraph 14.19 and Table 10 indicate a satisfactory approach?**

It is considered that the Key Performance Indicators identified at Table 10 provide an appropriate monitoring framework for this section of the Local Plan. KPI 17, Reductions in Carbon Emissions and KPI 18, Water Efficiency are particularly relevant. The Legacy Corporation's statement in relation to Matter 8, Question 3, also outlines the way in which each KPI will be monitored. In addition, the application of any Carbon Off-set Fund monies and schemes will be reported within the annual Authority Monitoring Report once a scheme has been introduced.

**5. Should reference be made to sewer flooding in Policy S8 and changes be made to Policy S5, as Thames Water requested?**

In respect of the suggestion in the Thames Water response to Policy S.5, requiring an approach that would restrict non-major development is considered particularly onerous and would have the potential to restrict the delivery of smaller development schemes unnecessarily in the light of the legal obligation placed on water companies as utility provider to provide connections to development (Water Industry Act 1991). It should also be noted that the vast majority of new development within the Legacy Corporation area is expected to come forward as part of planning applications that would fall within the definition of "major", given the size and characteristics of the site allocations within the Local Plan and the character of the area as a whole. The policy in its submitted form would therefore apply in the majority of cases.

For Policy S.8, Thames Water seek a reference to flooding from sewers within a relevant policy. It is suggested that a minor amendment is made to the first sentence of the final paragraph of Policy S.8 to enable the policy to include this issue, as follows:

"..... can be shown that sustainable drainage methods are not feasible in that location, particularly in areas where a localised surface water drainage problem has been identified

within a Surface Water Management Plan (including potential flooding from sewers)” (See also appended Statement of Common Ground between the Environment Agency and Legacy Corporation, introducing a further recommended minor change to Policy S.8.

- 6. Policy S8 will permit no basement development within flood zones 2 and 3. Is there justification to change this so that only “habitable development” is resisted, or could the presence of basements with parked vehicles and stored items exacerbate problems related to flooding?**

Policy S.8 has been drafted in cooperation with the Environment Agency and takes account of the specific flood risk characteristics within the Legacy Corporation area. This advice has specifically underlined the inappropriateness of basement development within Flood Zones 2 and 3 in the Legacy Corporation area due to the specific characteristics of development sites (addressed for site allocations within the sequential and exceptions tests included in the Sites Report, [TBP/06]) and built up areas, with the risk to life and property in those locations being at an unacceptable level. (See also appended Statement of Common Ground between the Environment Agency and Legacy Corporation, introducing a further recommended minor change to Policy S.8).

**TOTAL WORDS IN THIS STATEMENT: 1,046**

**Appendix 1**



# **STATEMENT OF COMMON GROUND**

Between the London Legacy Development Corporation  
and the Environment Agency in respect of Representation REP.LP.011

## **Statement of Common Ground between the London Legacy Development Corporation and Environment Agency**

### **Responding to Environment Agency Representation set out in LD17 and supporting London Legacy Development Corporation Examination Statement set out in reference to Matter 6**

This Statement of Common Ground has been prepared to identify the areas of agreement between the Environment Agency and London Legacy Development Corporation (LLDC) on matters relating to the Proposed Submission version of the Local Plan. Part 1 of this Statement sets out the flood risk issues in relation to the Proposed Submission version of the Local Plan. Part 2 sets out the agreed actions and changes proposed to policy S.8 and paragraph 10.3 to address these issues. Part 3 sets out the Environment Agencies letter confirming the common ground between the Environment Agency and London Legacy Development Corporation. Part 4 outlines that it is considered by both the Environment Agency and London Legacy Development Corporation that with the proposed changes the Local Plan is compliant with paragraph 100 of the National Planning Policy Framework and will forge a stronger link to the existing evidence base and associated guidance.

#### **Part 1 Issues to be resolved**

##### **Issue 1: proposed Policy S.8, Flood Risk and Sustainable Drainage Measures**

The Environment Agency made representations on site allocations affected by flood zone 2 and 3 in the Legacy Corporation area and requested that site allocations should include a general development principle to include flood mitigation measures in line with the recommendations of the relevant Strategic Flood Risk Assessment (SFRA). A meeting was held between the London Legacy Development Corporation and the Environment Agency to consider the issue on the 14<sup>th</sup> of January 2015. The attached letter from the Environment Agency of 29<sup>th</sup> January highlights the issues underlying the outstanding matters from the Environment Agency representation to the Publication Local Plan. It was proposed that a minor amendment be made to the Local Plan that would overcome this. The first of these would be to include a minor amendment to Policy S.8. The proposed amendment clarifies the policy ensuring that the current minimum standard for finished floor levels can be applied throughout the Legacy Corporation area where developments come forward in areas of flood risk.

##### **Issue 2: proposed paragraph 10.3, Sub Area 1 Area Priorities**

The Environment Agency made representations on flood risk within Sub Area 1 and requested a paragraph within the chapter highlighting that flood risk is a priority for this area and signposting to the relevant SFRAs. At the meeting on the 14<sup>th</sup> of January 2015 it was outlined that significant areas of Sub Area 1 are at risk of fluvial flooding from the Lea Navigation and its topography makes the area particularly vulnerable in comparison with the surrounding areas within the LLDC boundary. The Environment Agency raised concern that although Policy S.8 does include the key flood risk principles, it does not include the level of detail set out in the Hackney Wick AAP (2012), informed by Hackney Level 2 SFRA (2010) which enable development to take place if designed appropriately. It was considered that with the changes to policy S.8 outlined above and the inclusion of an additional paragraph to identify flood risk as an area priority and signpost developers to the relevant guidance, the

issues would be resolved and the Environment Agency would consider the Local Plan to be sound in terms of flood risk management.

## **Part 2 Agreed actions and changes**

**Action 1:** The Legacy Corporation and the Environment Agency agreed that the following additional text be proposed for inclusion in policy S.8, Flood Risk and Sustainable Drainage Measures. Proposed changes (underlined):

*...setting living accommodation finished floor levels 300mm above the predicted flood level for the 1 in 100 chance in any year including an allowance for climate change*

**Action 2:** The Legacy Corporation and the Environment Agency agreed the insertion of text for Paragraph 10.3 Area Priorities, Sub-Area 1: Hackney Wick and Fish Island be proposed. Proposed insertion (underlined):

*Parts of Hackney Wick and Fish Island are at risk of fluvial flooding from the River Lee Navigation. To ensure future growth in this area is sustainable, development proposals will need to incorporate appropriate flood mitigation measures in accordance with Policy S.8 and the guidance within the most up to date strategic flood risk assessments for this area (see evidence base list at page 141 for the current assessments) and the most up to date flood modelling held by the Environment Agency.*

## **Part 3 Letter from the Environment Agency**

See Appendix 1

## **Part 4 Conclusion**

The Legacy Corporation and Environment Agency have agreed to the above including the proposed minor changes to Local Plan set out at Part 2 of this statement of common ground to Policy S.8 and Paragraph 10.3.

**Appendix 1: Letter from the Environment Agency**

Ms Lydia Sprake  
London Legacy Development  
Corporation  
Planning Policy and Decisions Team  
Level 10, 1 Stratford Place  
Montfichet Road  
London  
E20 1EJ

**Our ref:** NE/2012/116487

**Date:** 29 January 2015

Dear Lydia

### **London Legacy Development Corporation Local Plan: Outstanding issues and way forward**

Following the representations we made on your Local Plan proposed submission stage and our meeting on 14<sup>th</sup> January, this is to confirm the changes we think are necessary to resolve the outstanding issues we have raised:

[Site allocation design principles \(SA1.1, SA1.2, SA1.4, SA2.3, SA3.1, SA3.2, SA3.4, SA3.6, SA4.1, SA4.2 and SA4.3\)](#)

We made several representations on the site allocations affected by flood zone 2 and 3 and requested that they should include a general development principle to include flood mitigation measures in line with the recommendations of the relevant Strategic Flood Risk Assessment (SFRA). The intention was to forge a firmer link between the design principles for sites and the appropriate SFRA which include detailed design criteria. However, we are mindful that there is a current design principle included to avoid ground-floor residential use where flood risk levels show this to be inappropriate and recommend that a better solution is to include a minor amendment to Policy S.8 'Flood risk and sustainable drainage measures' as shown below.

Policy S.8 is currently weak and open to interpretation where it states 'Development proposals must be designed to...setting living accommodation above the predicted flood level' because it is not made clear which flood event finished floor levels should be designed against. This section of the policy therefore lowers the risk bar and means that in the absence of a confirmed design standard, developers could set living accommodation above any flood event and not include an allowance for climate change resulting in an increase in objections from the Environment Agency. The proposed amendment below clarifies the policy ensuring that the current minimum standard for finished floor levels can still be applied throughout the LLDC area where developments come forward in areas of flood risk.





The recommended proposed changes (**in bold**) to Policy S.8 is as follows:

...setting living accommodation **finished floor levels 300mm** above the predicted flood level **for the 1 in 100 chance in any year including an allowance for climate change...**

The wording “1 in 100 chance in any year including an allowance for climate change” suggested above is necessary as it is important to describe the risk accurately. The 1 in 100 year event is an expression of chance, not a guaranteed event that will happen. The appropriate allowance for climate change is calculated using the lifetime of development, so it is not a fixed percentage.

#### Sub-Area 1: Hackney Wick and Fish Island – Paragraph 10.3 Area Priorities

Significant areas of Hackney Wick are at risk of fluvial flooding from the Lea Navigation and its topography makes the area particularly vulnerable in comparison with the surrounding areas within the LLDC boundary. Hackney’s Level 2 SFRA 2010 assessed the risk in detail and found that extensive flooding could occur in this area. We are continuously updating this information and the latest flood data available for this area shows depths that would be classed under “FD2320 Flood Risk to People” as being a danger to all. Hackney Wick’s Area Action Plan (adopted 2012) included a suite of detailed flood risk policies setting the standards required for flood mitigation and resilience in new developments. Until a strategic solution is implemented such as the option of flood storage in Hackney Marshes and improving flood defences on the Lea Navigation, the AAP policies meant that development could take place if designed appropriately. The adoption of the LLDC’s Local Plan will effectively mean the Hackney Wick AAP policies are superseded and although Policy S8 does include the key flood risk principles it does not include the detailed standards set out in the Hackney Wick AAP. We understand that LLDC intend to address this gap in guidance by producing an Supplementary Planning Document. In the absence of a detailed policy in the Hackney Wick and Fish Island chapter in the Local Plan, a paragraph must be included identifying flood risk as an area priority and signposting developers to the guidance they need to refer to for developments in Hackney Wick. The recommended additional text (in italics) is shown below:

***Flood resilience: Incorporating flood mitigation measures as part of new development.***

*Parts of Hackney Wick and Fish Island are at risk of fluvial flooding from the River Lee Navigation. To ensure future growth in this area is sustainable, development proposals will need to incorporate appropriate flood mitigation measures in accordance with Policy S.8 and the guidance within the most up to date strategic flood risk assessments for this area (see evidence base list at page 141 for the current assessments) and the most up to date flood modelling held by the Environment Agency.*

In combination with the proposed changes we suggest to Policy S.8 this will ensure the Local Plan is compliant with paragraph 100 of the National Planning Policy Framework and forge a stronger link to the existing evidence base and associated guidance. With the proposed changes we consider the Local Plan to be sound with regards to flood risk management.

Basement dwellings are classified as highly vulnerable development and should not be permitted in flood zones 2 or 3 according to Table 2 and 3 of the National

Planning Practice Guidance. We support the principle in Policy S.8 of basement development not being permitted in flood zone 2 and 3 in particular where basement dwellings are proposed.

I hope this sufficiently sets out our position on the outstanding matters and enables us to agree a statement of common ground. If you have any further queries please contact me.

Yours sincerely

**Keira Murphy**