

Sara Chiong

From: HNL Sustainable Places <[REDACTED]>
Sent: 20 September 2024 16:57
To: Local Plan; Local Plan
Subject: RE: One week remaining for the Local Plan consultation!
Attachments: Newham Reg 19 response.pdf; LB Newham Tidal MMs.xlsx; Response_form__Final (3).pdf

Follow Up Flag: Follow up
Flag Status: Completed

Dear Planning Policy Team,

Thank you for consulting us on this document. We have filled in your response form and have attached it to this email. However we believe that this response form is not suitable for the comments we have provided. We have therefore also attached a pdf copy of our response which should outline our position more clearly.

Unfortunately we have found the submission unsound. This is because we believe that the submitted evidence base (Strategic Flood Risk Assessment) is not justified. In particular, it is not possible to determine whether the flood modelling that was undertaken as part of the Strategic Flood Risk Assessment (SFRA) is suitable for use. Please let me know if you have any further questions. We would be happy to have a call and discuss the issue in more detail.

Kind regards,

Demetry Lyons

Planning Advisor, Hertfordshire and North London Sustainable Places
Environment Agency | 2 Marsham Street, 3rd floor, London, SW1P 4DF

Email: [REDACTED]

Telephone: [REDACTED]

From: Planning Policy Team <localplan@newham.gov.uk>
Sent: 13 September 2024 13:00
To: HNL Sustainable Places <[REDACTED]>
Subject: One week remaining for the Local Plan consultation!

[View this email in your browser](#)

This email is being sent on behalf of **Newham Council's Planning Policy Team**.



Final opportunity to have your say on the Draft Submission Local Plan!
The consultation ends next week on Friday 20th September 2024.

Dear consultees,

The Newham Local Plan serves as the primary planning document used to assess planning applications and manage areas for regeneration and development in Newham to 2038. The refreshed plan aims to deliver our key objectives: inclusive growth, delivering a fairer Newham and addressing the climate emergency.

Go to [Newham Co-create](#) and the [Newham website](#) to find copies of the Regulation 19 Draft Submission Local Plan and supporting documents. There is also further information on how to respond to the consultation in the [Regulation 19 Consultation Guidance](#) and [Statement of Representation Procedure](#).

There are many ways you can submit a representation:

- **Online response form:** submit responses using the online response form on [Newham Co-create](#)
- **Downloadable response form:** submit responses using the [downloadable response form](#) on [Newham Co-create](#) and [Newham's Regulation 19 consultation webpage](#) and return the downloadable response form by:
 1. **Email** to localplan@newham.gov.uk
 2. **Post** to the Planning Policy Team, London Borough of Newham, Newham Dockside, 1000 Dockside Road, London E16 2QU.
- Hard copies of the response form are also available at Newham Libraries and Newham Dockside and can be returned by email or post, using the addresses above.

Over the past 8 weeks, we held 4 drop-in sessions, an online informative session and community events. You can find the recording and slides from the online informative session on our [website](#).

If you would like to be kept informed on the Local Plan Review, sign up to the Local Plan mailing list [here](#). If you have any questions, you can contact us by emailing localplan@newham.gov.uk

Have your say before 5pm on Friday 20th September 2024.

Yours sincerely,

Ellie Kuper Thomas
Planning Policy Manager | Planning and Development
London Borough of Newham



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Response Form for Regulation 19 Consultation.

	<p>Local Plan Publication Stage Response Form</p>	<p>Ref:</p> <p>(For official use only)</p>
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**Name of the Local Plan to which this representation
relates:**

Newham Draft Submission
Local Plan

Privacy Notice

Who we are

London Borough of Newham (LBN) is registered with the Information Commissioner's Office (ICO) as a 'Data Controller' This privacy notice applies to you ('the service user') and LBN ('the Council'). The Council takes the privacy of your information very seriously.

This privacy notice relates to our functions relating to the Newham Local Plan Review Consultation (Regulation 19). It also provides additional information that specifically relates to this particular consultation, and should be read together with our [general privacy notice](#), which provides further detail.

What data do we collect and process

We collect your name, contact details, email address, job title and organisation if applicable and demographic equalities data if you choose to share it.

Why we collect your data

The consultation is a requirement of the Town and Country Planning (Local Planning) (England) Regulations 2012. We collect your data so that we can get your views on the legal compliance or soundness of the Local Plan, as well as its compliance with the duty to co-operate.

The lawful basis for processing your data

The lawful basis we use to process your data as set out in UK data protection legislation is:

Article 6 (a) Consent: the individual has given clear consent for us to process their personal data for a specific purpose.

Article 9 (a) Explicit Consent: the data subject has given explicit consent to the processing of those personal data for one or more specified purposes.

We will only process personal data where we have consent to do so, and you can withdraw your consent at any time. By submitting your personal data in the response form you are consenting for us to process your data and/or consenting to be added to the database. If added to the database, they can be removed upon request.

You can withdraw your consent at any time.

How we use your data

This data is collected, collated and then submitted to the Secretary of State, who will appoint an Inspector to conduct an independent examination of the Local Plan. Demographic data will be processed anonymously to assess the effectiveness of our consultation.

Where you have consented, your contact details will be added to our consultation database for future consultations and updates on the Examination in Public.

At submission representations will be made public on the council's website, including name of person and organisation if applicable making representation. Other personal information will remain confidential.

Representations, in full, submitted along with the Local Plan, evidence base and documents Submission Draft Newham required by legislation to the Planning Inspectorate and to the person the Secretary of State appoints as the Planning Inspector. Contact details will be made available to the Inspector and Programme Officer so they can contact individuals to participate in the Examination.

Consultation database is stored on Mailchimp and accessed by planning policy team only. Mailchimp stores names and email addresses of those on the consultation database in line with Mailchimp policies, particularly its [data processing addendum](#). Please be aware they may store personal data external to the UK specifically in the USA and/or EU.

Who we will share your data with

We will only share your data with the Planning Inspector appointed by the Secretary of State, the Programme Officer appointed by Newham, and within the planning policy team. Your name and organisation (if applicable) will be published on our website along with representations upon submission. Demographic data is not shared with the Planning Inspector or the Programme Officer.

We will not share your personal information with any other third parties unless you have specifically asked us to, or if we have a legal obligation to do so.

How long we will keep your data

We will keep your data safe and secure for a period of 15 year(s) in line with our retention Schedule. After this time, it will be securely destroyed.

How do we protect your data

We comply with all laws concerning the protection of personal information and have security measures in place to reduce the risk of theft, loss, destruction, misuse or inappropriate disclosure of information. Staff access to information is provided on a need-to-know basis and we have access controls in place to help with this.

See the [Planning Inspectorate Customer Privacy Notice](#) for details on how they keep your data safe and secure.

Know your rights

We process your data in accordance with the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018. Find out about your rights at [Your rights – Processing personal data privacy notice – Newham Council](#) or at <https://ico.org.uk/your-data-matters/> If you have any queries or concerns relating to data protection matters, please email: dpo@newham.gov.uk

Response Form

For guidance on how to complete this representation form please view the Regulation 19 Consultation Guidance <https://www.newham.gov.uk/planning-development-conservation/newham-local-plan-refresh>.

This form has two parts –

Part A – Personal Details: need only be completed once.

Part B – Your representation(s). Please fill in a separate sheet for each representation you wish to make.

Part A

1. Personal Details*

2. Agent's Details (if applicable)

**If an agent is appointed, please complete only the Title, Name and Organisation (if applicable) boxes below but complete the full contact details of the agent in 2.*

Title	<input type="text" value="Mr"/>	<input type="text"/>
First Name	<input type="text" value="Demitry"/>	<input type="text"/>
Last Name	<input type="text" value="Lyons"/>	<input type="text"/>
Job Title (where relevant)	<input type="text" value="Planning advisor"/>	<input type="text"/>
Organisation (where relevant)	<input type="text" value="Environment Agency"/>	<input type="text"/>
Address Line 1	<input type="text" value="REDACTED"/>	<input type="text"/>
Line 2	<input type="text" value="REDACTED"/>	<input type="text"/>
Line 3	<input type="text"/>	<input type="text"/>
Line 4	<input type="text"/>	<input type="text"/>
Post Code	<input type="text" value="REDACTED"/>	<input type="text"/>
Telephone Number	<input type="text" value="REDACTED"/>	<input type="text"/>
E-mail Address (where relevant)	<input type="text" value="REDACTED"/>	<input type="text"/>

Part B – Please use a separate sheet for each representation

Name or Organisation:

3. To which part of the Local Plan does this representation relate? (Please be as specific as possible)

Policy	<input type="text" value="BFN1, BFN2, BFN4, D1, D4, D6, GWS1, GWS2, GWS3, CE1, CE6, CE7, CE8, W4"/>
Implementation Text	<input type="text" value="BFN1, BFN2, BFN4, D1, D4, D6, GWS1, GWS2, GWS3,"/>
Paragraph	<input type="text"/>
Policies Map	<input type="text"/>

4. Do you consider the Local Plan is :

4.(1) Legally compliant	Yes	<input type="text"/>	No	<input type="text"/>
4.(2) Sound	Yes	<input type="text"/>	No	<input type="text" value="x"/>
4 (3) Complies with the Duty to co-operate	Yes	<input type="text"/>	No	<input type="text"/>

Please tick as appropriate

5. Please give details overleaf of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

Thank you for consulting us on the Newham Draft Submission Local Plan on 19 July 2024. Based on a review of the draft local plan, and the submitted evidence base, we **find the submission unsound**. This is because we believe that the submitted evidence base (Strategic Flood Risk Assessment) is **not justified**. In particular, it is not possible to determine whether the flood modelling that was undertaken as part of the Strategic Flood Risk Assessment (SFRA) is suitable for use.

SFRA

We previously commented on the Reg 18 Local Plan submission on 3 March 2023. Since issuing this response we understand that Newham has produced updated SFRAs which are dated December 2023 to support the Reg 19 submission. As part of the new SFRA Newham has updated our Lee and Roding models to reflect updated climate change allowances and functional floodplain changes. We have identified a number of issues with regards to this modelling, please see the details below..

(Continue on a separate sheet /expand box if necessary)

6. Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Issues with Roding modelling:

We updated our modelling for the Roding in 2023, to ensure the best available data is used to assess flood risk, it is a requirement to compare the Newham updated Roding model outputs with those of the updated EA Roding model outputs. Comparison should be made of flood extents and depths to ensure there are no changes to flood risk. Comparison of all epochs including climate change is required. If any differences are found, then these should be addressed accordingly e.g. as part of the sequential and exceptions test and/or any relevant site allocations.

Issues with Lee modelling:

We note that Newham has conducted their own modelling for the River Lee. This will need to be reviewed by our modelling team to ensure soundness of the data used. This is crucial as we currently do not have much confidence in the existing EA Lee model as there are known inaccuracies and it is outdated. Therefore, a comparison is not worthwhile. Once the model is reviewed, subject to approval, it can be used as part of this draft local plan and future planning applications in the areas as the most up-to-date data.

Why the above is important

It is important that all flood modelling used in the SFRA is as up to date and as reliable as possible. If the modelling isn't up to date or reliable then flood risk could be underestimated which could lead to sites being allocated where they shouldn't be. Paragraph 31 of the NPPF states that 'The preparation and review of all policies should be underpinned by relevant and up-to-date evidence'. If an SFRA isn't using the most recent modelling or if the modelling being used isn't fit for purpose then it is not possible to demonstrate that that evidence base is relevant and up-to-date.

Finally, paragraph 35 (b) of the NPPF states that 'Plans are 'sound' if they are: **Justified** - an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence'. If the evidence base is not based on relevant and up-to-date flood modelling then it is not proportionate and therefore the **test of soundness** cannot be passed which would render the local plan **unsound** at examination.

Draft local plan policies

Please see our comments on the policies within the draft Local Plan regulation 19 submission, below.

BFN1: Spatial strategy

We are pleased to see that the plan now makes references to the declared climate emergency in the implementation section. We are also pleased to see that the importance of development to be net zero, designed to mitigate the impacts of a changing climate and deliver spaces for biodiversity is recognised. Recognising the importance of these matters should help the council tackle the twin challenges of the climate change and biodiversity emergencies. It is also good to see that these matters are now covered by policy in this section of the local plan.

In our Reg 18 response we recommend this policy is strengthened to encourage the improvement of essential infrastructure, and not just protection. We are pleased to see that Point 7 of this policy has been amended so that development is now required to not only protect but to also support improvements to the borough's strategic and utilities infrastructure.

The Implementation section from BFN1.1. refers to development being required to comply with 'site specific development and design principles'. We previously recommended that the LPA clarifies what this means and recommended that this is anchored to the Local Plan's design policies, and the London Plan's design guidance (in reference implementation section D1.1.). We can see that the council has provided clarity on this matter and anchored it onto the Plan's site allocations. This makes it even more important to incorporate design principles which protect and enhance the environment in the site allocations. Please see attached Excel sheet which contains a list of aspirational ecological improvements (known as mitigation measures) for the Tidal Thames along the banks through the London Borough of Newham. In addition to this we have included further comments in the site allocations section of this response.

BFN2: Co-designed masterplanning

It is positive to see that Point 2 requires all major applications and applications on site allocations to undertake co-designed site masterplanning, through engagement with different stakeholders.

BFN4: Developer contributions and infrastructure delivery

We would like to remind you that within our remit, a key concern here will be to ensure that flood risk management (flood defences) infrastructure and any needs for improvements have been identified and inform the evidence base'.

Policy D1: Design standards

In our Reg 18 response we stated that 'We welcome that the Council have developed a Newham Characterisation Study (2022) and support the policy principles set out. However, it is not clear how these principles are expected to contribute to climate resilience and net zero commitments contained within the

Plan'. It is still not clear how these principles are expected to contribute to climate resilience and net zero commitments contained within the Plan.

In our Reg 18 response we also stated that this policy should be improved so that it makes clearer reference to the role and requirement of green infrastructure. It does not appear that this has been done as part of the Reg 19 draft.

Policy D2: Public realm net gain

We are pleased to see that Point 1.e has been amended to also include delivering biodiversity net gain in addition to addressing urban cooling and flood risk.

We are also pleased to see the addition of Point 2.C which states 'maximising green infrastructure within or abutting the public realm, including street trees'. In our Reg 18 response we said that 'under implementation section D2.2, there is an opportunity to include a new theme on green infrastructure and refer to Natural England's Green Infrastructure Framework guidance. With the addition of Point 2.C we believe that it is even more important to include a reference to Natural England's Green Infrastructure Framework guidance in the implementation section.

D4: Tall buildings

In our Reg 18 response we advised that this policy is amended to note the negative impacts of tall buildings on riparian habitats and the amenity of main rivers. We are pleased to see that an addition has been made in the implementation section of point D4.3 includes the wording which reads 'Development proposals for tall buildings should avoid overshadowing'. We can also see that some of the tall building zones in Table 1 include further guidance on avoiding overshadowing impact on watercourses, such as TBZ15: West Ham Station, TBZ16: Abbey Mills and TBZ18: Stratford High Street. This is positive to see, however it doesn't look like all riverside tall building zones include this guidance. For example, TBZ4: Beckton and TBZ5: Gallions Reach don't seem to include this guidance even though they appear to be next to watercourses.

In our Reg 18 response we stated that 'for sites in locations within Source Protection Zones (SPZs) where groundwater is vulnerable, we recommend an additional point is added to the implementation section for Policy D4 to support the importance of managing risks to groundwater resources associated with deep piled foundations which are typically required for tall buildings. We can see that a new point has been added to the implementation section of D4.3. This is positive to see however this should be amended to read as follows 'Development with tall buildings in locations within Source Protection Zones (SPZs) should preserve, ~~where possible,~~ the groundwater resources. If piling in contaminated and layered ground is necessary, the development should manage the risks on groundwater flow and contamination'. Protecting SPZs is crucial because these areas are set up to safeguard the quality and safety of drinking water sources used for human consumption.

D6: Neighbourliness

In our Reg 18 response we said that 'We are also pleased to see Policy D7.2. advocates Agents of Change, and recommend that the significance of this approach in the context of regulated industry activities and operations is noted in the implementation section for D7.2. This does not appear to have been done.

GWS1: Green spaces

We note that the wording for Point 1.g has been changed from 'requiring all development to consider *from the outset* the form, function, and extent of green infrastructure opportunities' to 'requiring all development to consider *at the earliest* opportunity the form, function, and extent of green infrastructure'. We are concerned that if green infrastructure needs are not considered from the outset, they risk being overlooked by developers. This could lead to planning applications being submitted with minimal green infrastructure, especially in areas around main rivers. Once a planning application is submitted, developers are often less willing to incorporate additional green infrastructure, or what is proposed tends to be of lower quality, as their plans are already detailed and costly to modify. By integrating these considerations from the outset, the occurrence of such issues could be reduced. Therefore, we strongly recommend changing the wording from 'at the earliest opportunity' back to 'from the outset'. The provision of green infrastructure is important as it can provide benefits for wildlife as well as people. We believe that this is especially important for Newham as section 3.205 of the Local Plan states that 'the overall provision of publicly accessible green space in Newham is low, with a rate of just 0.72 hectares per 1,000 residents, far below neighbouring boroughs'.

We are pleased to see that Point 4.d has been strengthened to read 'Where a development is providing publicly accessible green space, it should: maximise biodiversity, delivering a minimum 10 percent Biodiversity Net Gain'.

We would like to point out that the implementation table is missing a title for this policy section.

We are pleased to see that a reference to Natural England's Green Infrastructure Framework (GIF) has been included in the implementation section for GWS1.1.

Under the GWS1.4 implementation section titled 'Connectivity', it would be useful to mention that protecting wildlife access routes can improve the habitat availability and foraging capabilities of species. Green spaces can also provide connectivity between watercourses/blue spaces which will improve both habitat types.'

GWS2: Water spaces

We note that the wording for this policy could be strengthened, and some points may seem to be advocating for increased development and engineering by edges of waterbodies, rather than reducing development in the riparian zone to protect and enhance the aquatic environments. The effects of

development and urbanisation have resulted in a huge percentage of the UK's biodiversity to decline or disappear, especially related to river habitats. The policy on water spaces should influence developers to consider this from the outset, as well as environmental obligations for betterment, thereby supporting the UK to meet national and international targets on wildlife protection and recovery.

We recommend making the following change to Point 2: Development affecting and/or adjacent to water space should improve the existing water space network, including navigation, biodiversity (including *undeveloped areas of riparian buffer zone*, riparian trees and wet woodland)(...).

We note that what was Point 2.a has become Point 2.c and the policy wording has changed from 'not result in the loss or covering of any water space unless it is a water-related or water-dependent use' to 'requiring no loss or covering of any water space unless it is a water-related or water-dependent use'. This policy implies that developers proposing water dependant uses can freely encroach into rivers and cover them, through culverting for example. Loss of water space is considered encroachment and should not be allowed even if it is for a water-dependent use. This can lead to increase in flood risk and loss of biodiversity. This point should be amended to read as follows 'not result in the loss or covering of any water space ~~unless it is a water-related or water-dependent use~~ through culverting or encroachment. Developments involving culverting of the rivers will not be accepted, and opportunities to de-culvert should be explored and implemented where feasible'.

We are pleased to see the council included the Point 2.e which states 'maximising biodiversity, delivering a minimum 10 percent Biodiversity Net Gain (see Local Plan Policy GSW3). It should be noted that BNG requires both a 10% gain in riparian AND watercourse units if the development is within 10m of a watercourse. We encourage the local authority to change policy/ guidance in order to reflect the requirement to provide 10% gain in riparian habitat. We would also like to point out that often developers do not factor in the watercourse units when required, this should be highlighted in the policy as well as implementation section for point 2.e. We note that Point 2.e has become Point 2.g. In our Reg 18 response we stated that this policy requirement should be amended to include that 'the setback should be 16 metres for intertidal/tidal waters measured from the landward side of the flood defence or an 8 metre setback is required and measured from the landward side of any flood defence.'. This change has not been made. We suggest that the council makes the following modification to this policy: 'providing ~~suitable setbacks from water space edges~~ 8 metres setback for fluvial watercourses and 16 metres setback for intertidal/tidal watercourses. Where defences are present setback should be measured from the landward side of any flood defence including any buried elements. This is necessary to mitigate flood risk, to protect the riparian buffer zone and habitat availability, supporting water quality, and to allow waterside walkways and cycle paths where appropriate

We recommend that Point 3.b is amended as follows: 'it can be demonstrated that the activation of the water space is appropriately scaled and located and does not negatively impact on flood risk, navigation, ecological value, water

quality, the openness and character of the water space and the amenity of surrounding residents.

We recommend that Point 4.b is amended as follows: 'it can be demonstrated that residential and visitor moorings are appropriately located and do not negatively impact on flood risk, navigation, water quality, the openness and character of the water space and the amenity of surrounding residents.'

Implementation section comments: The implementation section for GWS2.2 states that 'River re-naturalisation will be encouraged (see Local Plan Policy CE7), wherever feasible'. We recommend that this is changed to the following 'River re-naturalisation will be required encouraged (see Local Plan Policy CE7), wherever feasible'. This section on re-naturalisation could also include setting back existing flood defences in order to create more space for water and biodiversity wherever feasible. This implementation section suggests including flood tolerant trees, bushes/shrubs and other plants. Where trees are proposed within close proximity to a tidal defence we would typically require an assessment on proximity to any structural elements of the defence. We may also ask for root protection to be included in order to protect the flood defence structure. We advise that this is mentioned in the implementation section.

The Environment Agency should be mentioned as a key stakeholder in the implementation section for GWS2.2 on accessibility.

We are pleased to see that the section on biodiversity includes the following 'Planting should include only species suited to the on-site conditions (types and maturities) and be managed appropriately to achieve maximum benefit for biodiversity and river health. Invasive non-native species must be avoided, and where possible, reduced.'

The section on flood risk provides information on buffer zone requirements. The section should be updated to include the following: 'Where defences are present setback should be measured from the landward side of any flood defence, including any buried elements'.

Finally we advise that the council incorporates further guidance regarding new Clippers/Ferry services. We expect that any proposals for new Clippers/Ferry services to be accompanied by a foreshore monitoring and mitigation strategy.

GWS3: Biodiversity, urban greening, and access to nature

In our Reg 18 response we said that we are pleased to see the Urban Greening Factor (UGF) requirements of London Plan Policy G5 are recognised in GSW3.5. We also added that the Natural England's Green Infrastructure Framework should be referenced here and used to inform implementation guidance. We note that the framework has been referenced in the evidence base but there is no mention of it in the policy or implementation section.

We are pleased to see that the council has changed the wording of Point 4 from 'Development should deliver a Biodiversity Net Gain' to 'Development must deliver a Biodiversity Net Gain'. However the council had omitted a part

of the policy which states 'secured in perpetuity (at least 30 years)'. 'Secured in perpetuity (for at least 30 years)' is a key element of BNG and should be incorporated back into the plan. This section should seek to encourage developers to consider BNG and the 30-year management obligation from the initial inception of the development idea, particularly when considering location and the possibility of achieving on-site improvements in biodiversity. Furthermore, In order to secure the maximum benefit for both people and the environment, schemes should consider the ecological value of a given site at the conceptual stage of a development proposal, considering the potential to achieve on-site net gains in biodiversity (BNG), protect and enhance the existing ecology, and incorporate environmental benefits throughout all stages of the development process. This addition should be incorporated into the policy.

In our reg 18 response we said that it is important to also mention other benefits that biodiversity net gain can bring such as improving the water environment and preventing deterioration of water bodies in line with WFD requirements, managing flood risk and addressing climate risks. It does not appear that there is mention of these wider benefits in the Reg 19 submission.

Finally, it looks like there has been a typing error in this section 'Where it can been demonstrated'.

The Policy section covers BNG in Point 4 and Urban Greening Factor (UGF) in point 5, however the implementation section for GWS3.4 seems to discuss UGF while the implementation section for GWS3.5 seems to discuss BNG.

CE1: Environmental design and delivery

In our Reg 18 response we said that 'We argue that there is a clear need for groundwater protection, and not just the remediation of land. We strongly advise that consideration is given to whether a separate policy is needed for contaminated land and groundwater protection'. We note that Point 3 has been changed from 'Development should remediate contaminated land' to 'Development should remediate contaminated land and address groundwater pollution'. We can also see that additional guidance has been added to the implementation section which states that 'The protection of controlled waters – such as regulated groundwater and surface water – fall under the remit of the Environment Agency. Proposals on sites situated in a vulnerable groundwater area within Source Protection Zones (SPZs) or on an aquifer must protect the underlying groundwater. This is especially important where the previous land use at the site suggests the potential presence of contamination, or if the proposed land use is potentially contaminative.'

In our Reg 18 response we said that 'It should be clarified here that the risks associated with contaminated land extend beyond environmental health and include the protection of controlled waters which falls under the Environment Agency's remit'. We are pleased to see that the council has updated the implementation section for CE1.3 and it now states 'The protection of controlled waters – such as regulated groundwater and surface water – fall under the remit of the Environment Agency'.

In our Reg 18 response we also said that ‘there is currently no mention of Source Protection Zones (SPZs) or aquifers in the Local Plan, and this must be addressed’. We are pleased to see that the council has updated the implementation section for CE1.3 and it now states ‘Proposals on sites situated in a vulnerable groundwater area within Source Protection Zones (SPZs) or on an aquifer must protect the underlying groundwater. This is especially important where the previous land use at the site suggests the potential presence of contamination, or if the proposed land use is potentially contaminative’.

In our Reg 18 response we also said that ‘For sites where piled foundation works are proposed in a Source Protection Zone, a Foundation Works Risk Assessment (FWRA) will be required to ensure that the risks to groundwater are minimised’. We are pleased to see that the council has updated the implementation section for CE1.3 and it now states ‘For sites where piled foundations are proposed in a SPZ, a Foundation Works Risk Assessment (FWRA) will be required to ensure that the risks to groundwater are minimised’.

In our Reg 18 response we also said that ‘It should be noted that site investigations and subsequent remediation should be undertaken by a competent person, in line with NPPF paragraph 183. A ‘competent person’ is defined in the NPPF as ‘A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution and land instability, and membership of a relevant professional organisation’. We are pleased to see that the council has updated the implementation section for CE1.3 and it now state ‘A desk study and site investigation verification report by a competent person will be required in order to provide confirmation that work has been undertaken in line with best practice’.

Finally we are pleased to see that a reference has been made to The Environment Agency’s Approach to Groundwater Protection as we requested in our Reg 18 response. We also note that the implementation section is now referencing the London Borough of Newham: Contaminated Land Strategy (2023) instead of the 2003 Contaminated Land Strategy however this document doesn’t appear be hyperlinked.

CE6 Air Quality

In our Reg 18 response we said that ‘We encourage consideration to be given to how an air quality positive approach can be linked to other policies within the Plan’. The council may wish to explore how this can be further linked into policies within the plan. For example, policies GWS3 and GWS4.

CE7: Managing flood risk

In our Reg 18 response we said that ‘We would like to see stronger wording in the Local Plan to demonstrate the Council’s commitment to managing flood risk, to ensure that the requirements of the NPPF and Planning Practice Guidance are adhered to, so that development remains safe for its lifetime and does not increase flood risk elsewhere. Developers will need to demonstrate that any new developments will be safe for their lifetime without increasing flood risk elsewhere, by assessing flood risk, residual risk, and safe access

and egress'. It doesn't look like there is any mention of new developments being safe for their lifetime without increasing flood risk elsewhere. There also doesn't appear to be any mention of residual risk or breach apart from in section 2.d which talks about basement locations providing internal access and egress which is a major concern. It is essential that flood risk resulting from a breach in the tidal flood defences is considered when locating bedrooms on the ground floor as there must be no sleeping accommodation located below the tidal breach flood level.

We can see that the wording for Point 2 has changed from 'Developments within Flood Zones 2 (medium probability of flooding) and 3 (high probability), or where detailed more up to date modelling shows it will be at increased risk of flooding due to the impacts of the climate emergency, should: ' to 'Developments within Flood Zones 2 (medium probability of flooding), or where detailed more up to date modelling shows it will be at increased risk of flooding due to the impacts of the climate emergency, should:'. The council should use the original wording which includes 'and 3 (high probability)' in order to avoid any confusion. We also suggest that climate emergency is changed to climate change as this is what it is normally referred to in the modelling. Finally we suggest that Point 2 is amended to include tidal breach too. Although rare, some areas may be located in flood zone 1 but inside the tidal breach extent.

We recommend that Point 2.b. is amended as follows: 'be designed and constructed to be flood **resistant and** resilient'.

We recommend that Point 2.c is amended in order to clarify what is considered to be a 'vulnerable' use.

Point 2.e states 'ensure all 'more vulnerable', 'highly vulnerable' and 'essential infrastructure' uses have finished floor levels no less than 300 millimetres above the one per cent annual probability flood level and an allowance for the impact of the climate emergency'. There are a number of issues with this policy. Firstly this policy should be amended to also include 'less vulnerable' development. Secondly, 'Highly vulnerable' development is not allowed in Zone 3a/ one per cent annual probability flood event as per Table 2: Flood risk vulnerability and flood zone 'incompatibility' in the [Flood risk and coastal change guidance](#). We note that this is recognised in the implementation section of CE7.1 which states that 'this is not permitted in Flood Zone 3a or 3b'. Thirdly it will be worth clarifying that we would ask for finished floor levels to be set above the 1 in 100 flood level where a site is in the fluvial flood extent. If development is proposed in the tidal flood extent and is in an area affected by tidal breach we would request that finished floor levels for sleeping accommodation to be set above the modelled tidal breach level.

We are pleased to see that point 3 has been changed from 'Developments (including redevelopment of existing buildings and sites) will be set back a minimum of 16 metres from tidal flood defences and eight metres river defences' to 'Developments (including redevelopment of existing buildings and sites) must be set back a minimum of 16 metres from the landward side of tidal flood defences and eight metres from the landward side of river defences'. For further clarify we suggest that this policy is amended as follows: Developments (including redevelopment of existing buildings and sites) must

be set back a minimum of 16 metres from the landward side of tidal flood defences and 8 ~~eight~~ metres from the landward side of ~~fluvial~~ river defences to future proof against increased risks of ~~fluvial~~ flooding., ~~taking into~~ Developers would need to take into account the requirements set out in the Thames Estuary 2100 Plan ~~when proposing development within 16 metres of the landward side of tidal flood defence~~. Where no formal defences are present, development must be set back eight metres from the top of the river bank.

In our Reg 18 comments regarding Point 4 we said that 'The wording of policy requirement CE7.4 should be strengthened by adding that for residential developments a lifetime of at least 100 years is required, and 75 years for commercial developments. It does not appear that the changes to policy wording have been made however we note that the implementation section for CE7.4 mentions this. This policy also provides details on timings of any works where it says 'If any improvements are required, these should be made at the earliest possible stage'. This should be changed to 'If any improvements are required, these should be ~~completed prior to development made at the earliest possible stage~~'. This change should also be reflected in the implementation section for CE7.3 and CE7.4 which currently reads 'earliest possible stage'.

We note that Point 5.b which reads as follows 'Proposals within Gallions Reach, North Woolwich, Royal Victoria, Royal Albert North Canning Town and Custom House and Manor Road Neighbourhoods must have regard to: the emerging Riverside Strategy to ensure flood defence requirements are delivered to improve flood risk management and maximise multifunctional benefits including public access to the river and an improved the riverside environment' has been removed. We would recommend that reference to the Riverside Strategy is made as per Reg 18 submission.

In our Reg 18 response we advised that policy CE7.5 includes specific requirements for development along the tidal riverside. It does not appear that these suggestions have been taken on board. The specific requirements we suggested included:

- Maintain, enhance, or replace flood defence walls, banks, and flood control structures to provide adequate protection for the lifetime of the development, including ensuring adequate provision of space for this in regeneration or Local

Plan site allocations.

- Demonstrate how the tidal flood defences can be upgraded to the required Thames

Estuary 2100 levels in the future through submission of plans and cross-section of

the proposed raising. Where opportunities exist, this could be achieved through

developers raising defences now to the require heights, as long as these are able

to be adapted if required in future.

- Demonstrate the provision of improved access to existing defences, or where opportunities exist, to realign or set back defences.
- Provide associated landscape, amenity and habitat improvements alongside defence improvements where appropriate, in line with the riverside strategy approach.
- Safeguard and protect land for future defence raising and possible modification to the existing Thames Barrier.
- Secure financial contributions from partners in order to enable flood defence works.

In our Reg 18 response we said that 'Policy CE7 needs to be amended to specifically acknowledge the presence and importance of the Thames Barrier. The TE2100 Plan contains a number of high-level options to manage flood risk in London and the estuary to the end of the century and beyond. One of these options is to modify the existing Thames Barrier, and if chosen, we want to ensure that no proposed developments or land uses, within the vicinity of the Thames Barrier site, prevent this modification from occurring. This should be reflected either in CE7.4 or as a new part CE7.6. within the policy'. This has not been done.

CE8: Sustainable drainage

In our Reg 18 response we said that 'Policy CE8 can be strengthened by referencing sustainable drainage in the context of groundwater protection'. We note that the policy itself has not been strengthened by referencing sustainable drainage in the context of groundwater protection however the implementation section for CE8.1 and CE8.2 has. We also note that this section now discusses Environmental Permit for discharges of surface water run-of.

Point 3.d states that 'where culverted watercourses are present, investigates opportunities for de-culverting'. This however does not put any obligations on developers to actually carry out any de-culverting. This Policy should be amended in order to require de-culverting where feasible.

W4: Utilities and Digital Connectivity Infrastructure

In our Reg 18 response we stated that 'There are number of misconconnections within the borough which contribute to diffuse pollution in our waterbodies We recommend the inclusion of a retrospective recognition of this in your policies, ensuring new developments aim to clean up misconconnections in their proposal of works and ensure new ones are not created'. We are pleased to see that Point 3 has been amended to read 'All new development, including road and rail schemes, should incorporate future-proofed ducting to accommodate

utilities connection requirements, rectify existing, and avoid future, pipe misconnections'.

New site allocations:

The council appears to have allocated two new sites which are N11.SA3 (Alpine Way) and N2.SA5 (Excel Western Entrance). Both of these sites have environmental constraints which fall under our remit. These environmental constraints include:

- Flood zone 3 & tidal breach
- Secondary aquifer

We believe that the site allocations document presents an opportunity to encourage developers to undertake environmental improvements. As part of this response we have provided an Excel sheet which contains a list of aspirational ecological improvements (known as mitigation measures) for the Tidal Thames along the banks through the London Borough of Newham. We suggest that these measures are implemented where they are present on an allocated site.

In our Reg 18 response we said that 'The following four site allocations fall within Source Protection Zone 1 (SPZ1): N8.SA1, N8.SA2, N8.SA5 and N15.SA2'. We are pleased to see that SPZ1 has now been identified in the 'Natural environment Designations' for these 4 sites.

Areas in SPZ1 are the catchment areas for sources of potable, high quality water supplies usable for human consumption. As such, sites within SPZ1 are particularly sensitive with respect to groundwater. Additional constraints will be placed on development proposals in these areas. With respect to the Environment Agency's Approach to Groundwater Protection, the following position statements would apply:

- D1-General principles-all storage facilities
- D2-Underground Storage (and associated pipework)
- D3-Subwater table storage
- G2- Sewage Effluent Discharges within SPZ1
- G4- Trade effluent and other discharges within SPZ1
- G8-Sewage pipework
- G13- Sustainable Drainage systems
- N7- Hydrogeological risk assessment
- N8-Physical disturbance of aquifers in SPZ1

Please note, we would recommend planning conditions for any piled foundation proposals for allocated sites within SPZ1. The use of piled foundations would require a robust supporting Foundation Works Risk Assessment demonstrating that they are appropriate at the particular location and would not result in a deterioration of groundwater quality. Without such a risk assessment we would object to the use of piled foundations. For allocated

sites in close proximity to potable groundwater abstractions, we would strongly advise that the abstraction licence holder are also consulted with respect to piled foundation proposals.

Finally we have attached an excel document which contains our aspirational ecological improvements (known as mitigation measures) for the Tidal Thames along the banks through the London Borough of Newham. Some of these ecological improvements may fall on allocated sites. Where an improvement falls on an allocated site we would like the council to outline the improvement as a requirement in the site allocations document.

Integrated Impact Assessment

In our Reg 18 response regarding section 3.20 on Water quality we said that 'we recommend reference is made to the Water Framework Directive (WFD). The status of Newham's main rivers should be considered in reference to the current WFD management cycle'. We are pleased to see the addition of 'Water quality in Newham's three rivers – the Thames, Lea and Roding – has improved dramatically over the last 50 years, assisted by the decline in heavy industry - however data from the Environment Agency show that river quality has not improved in recent years. All in land waterbodies are protected under the Water Framework Directive not just main rivers. Of the three rivers in Newham, the Lea is noted to have the worst overall water quality, with the EA 2019 assessment rating it 'Bad'. The Thames and the Roding May 2024 Doc Ref. 62281192_P01.01 Page 57 are both rated 'Moderate,' however neither river has improved its overall rating in the last 6 years.'

In our Reg 18 response regarding section 2.23 on water use we said that 'it should be noted that Newham is located in an area of serious water stress, as identified by the Environment Agency's Water stressed areas - final classification. We recommend that water resources are more clearly be identified in the Local Plan as a challenge and opportunity'. We note that more detail has now been provided including future water needs.

In our Reg 18 response regarding section 3.26 on Contaminated Land we said that 'LBN's Contamination Land Strategy was published in 2003. The IIA should consider whether this evidence base is still up-to-date and whether additional research is needed to better understand Newham's environmental constraints. It doesn't look like there is any discussion regarding this however we note that a newer strategy titled 'London Borough of Newham: Contaminated Land Strategy (2023)' was referenced under policy CE1 however the 2003 version is still being referenced in section 3.26 of the document titled 'Newham Local Plan (Regulation 19) – Integrated Impact Assessment (Final Report)' prepared by WSP (dated: MAY 2024, ref: 62281192_P01.01).

In our Reg 18 response regarding section 3.27 on Flood Risk we said that 'there are locations within the borough that are within flood zones and are not within areas that benefit from flood defences'. However the updated report referenced above still states that 'Thanks to formal flood defences (including the Thames Barrier) all properties in the borough are protected from tidal and fluvial flooding. This statement is incorrect as there are residential properties in

undefended areas. We also said that this section should reference the risk of flooding from groundwater however it doesn't look like this has been done.

We note that the changes we recommended to 3.30 Key Sustainability Issues have been made.

With regards to the Table 4.1 Sustainability Objectives we recommended that SO13 should be expanded to include groundwater vulnerability. The wording we suggested was 'mitigation of adverse effects on contaminated land on human health and controlled waters'. However it does appear that this has been taken onboard.

(Continue on a separate sheet /expand box if necessary)

Please note In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.

7. If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

☐

No, I do not wish to participate in hearing session(s)

☐

Yes, I wish to participate in hearing session(s)

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

9. Do you wish to be notified about:

a. the submission of the local plan for independent examination

Yes ☒ No ☐

b. the publication of the Inspector's report

Yes ☒ No ☐

c. the adoption of the Local Plan

Yes ☒ No ☐

10. Would you like to be added to our consultation database to be notified about future planning policy consultations?

Yes ☒ No ☐

Please return to London Borough of Newham by 5pm 6th September 2024

London Borough of Newham
Building 1000 Dockside Road
London
E16 2QU

Date: 20 September 2024

The Newham Draft Submission Local Plan (Reg 19)

Thank you for consulting us on the Newham Draft Submission Local Plan on 19 July 2024. Based on a review of the draft local plan, and the submitted evidence base, we **find the submission unsound**. This is because we believe that the submitted evidence base (Strategic Flood Risk Assessment) is **not justified**. In particular, it is not possible to determine whether the flood modelling that was undertaken as part of the Strategic Flood Risk Assessment (SFRA) is suitable for use.

SFRA

We previously commented on the Reg 18 Local Plan submission on 3 March 2023. Since issuing this response we understand that Newham has produced updated SFRAs which are dated December 2023 to support the Reg 19 submission. As part of the new SFRA Newham has updated our Lee and Roding models to reflect updated climate change allowances and functional floodplain changes. We have identified a number of issues with regards to this modelling, please see the details below..

Issues with Roding modelling:

We updated our modelling for the Roding in 2023, to ensure the best available data is used to assess flood risk, it is a requirement to compare the Newham updated Roding model outputs with those of the updated EA Roding model outputs. Comparison should be made of flood extents and depths to ensure there are no changes to flood risk. Comparison of all epochs including climate change is required. If any differences are found, then these should be addressed accordingly e.g. as part of the sequential and exceptions test and/or any relevant site allocations..

Issues with Lee modelling:

We note that Newham has conducted their own modelling for the River Lee. This will need to be reviewed by our modelling team to ensure soundness of the data used. This is crucial as we currently do not have much confidence in the existing EA Lee model as there are known inaccuracies and it is outdated. Therefore, a comparison is not worthwhile. Once the model is reviewed, subject to approval, it can be used as part of this draft local plan and future planning applications in the areas as the most up-to-date data.

Why the above is important

It is important that all flood modelling used in the SFRA is as up to date and as reliable as possible. If the modelling isn't up to date or reliable then flood risk could be underestimated which could lead to sites being allocated where they shouldn't be. Paragraph 31 of the NPPF states that 'The preparation and review of all policies should be underpinned by relevant and up-to-date evidence'. If an SFRA isn't using the most recent modelling or if the modelling being used isn't fit for purpose then it is not possible to demonstrate that that evidence base is relevant and up-to-date.

Finally, paragraph 35 (b) of the NPPF states that 'Plans are 'sound' if they are: **'Justified** - an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence'. If the evidence base is not based on relevant and up-to-date flood modelling then it is not proportionate and therefore the **test of soundness** cannot be passed which would render the local plan **unsound** at examination.

Draft local plan policies

Please see our comments on the policies within the draft Local Plan regulation 19 submission, below.

BFN1: Spatial strategy

We are pleased to see that the plan now makes references to the declared climate emergency in the implementation section. We are also pleased to see that the importance of development to be net zero, designed to mitigate the impacts of a changing climate and deliver spaces for biodiversity is recognised. Recognising the importance of these matters should help the council tackle the twin challenges of the climate change and biodiversity emergencies. It is also good to see that these matters are now covered by policy in this section of the local plan.

In our Reg 18 response we recommend this policy is strengthened to encourage the improvement of essential infrastructure, and not just protection. We are pleased to see that Point 7 of this policy has been amended so that development is now required to not only protect but to also support improvements to the borough's strategic and utilities infrastructure.

The Implementation section from BFN1.1. refers to development being required to comply with 'site specific development and design principles'. We previously recommended that the LPA clarifies what this means and recommended that this is anchored to the Local Plan's design policies, and the London Plan's design guidance (in reference implementation section D1.1.). We can see that the council has provided clarity on this matter and anchored it onto the Plan's site allocations. This makes it even more important to incorporate design principles which protect and enhance the environment in the site allocations. Please see attached Excel sheet which contains a list of aspirational ecological improvements (known as mitigation measures) for the Tidal Thames along the banks through the London Borough of Newham. In addition to this we have included further comments in the site allocations section of this response.

BFN2: Co-designed masterplanning

It is positive to see that Point 2 requires all major applications and applications on site allocations to undertake co-designed site masterplanning, through engagement with different stakeholders.

BFN4: Developer contributions and infrastructure delivery

We would like to remind you that within our remit, a key concern here will be to ensure that flood risk management (flood defences) infrastructure and any needs for improvements have been identified and inform the evidence base’.

Policy D1: Design standards

In our Reg 18 response we stated that ‘We welcome that the Council have developed a Newham Characterisation Study (2022) and support the policy principles set out. However, it is not clear how these principles are expected to contribute to climate resilience and net zero commitments contained with the Plan’. It is still not clear how these principles are expected to contribute to climate resilience and net zero commitments contained with the Plan.

In our Reg 18 response we also stated that this policy should be improved so that it makes clearer reference to the role and requirement of green infrastructure. It does not appear that this has been done as part of the Reg 19 draft.

Policy D2: Public realm net gain

We are pleased to see that Point 1.e has been amended to also include delivering biodiversity net gain in addition to addressing urban cooling and flood risk.

We are also pleased to see the addition of Point 2.C which states ‘maximising green infrastructure within or abutting the public realm, including street trees’. In our Reg 18 response we said that ‘under implementation section D2.2, there is an opportunity to include a new theme on green infrastructure and refer to Natural England’s Green Infrastructure Framework guidance. With the addition of Point 2.C we believe that it is even more important to include a reference to Natural England’s Green Infrastructure Framework guidance in the implementation section.

D4: Tall buildings

In our Reg 18 response we advised that this policy is amended to note the negative impacts of tall buildings on riparian habitats and the amenity of main rivers. We are pleased to see that an addition has been made in the implementation section of point D4.3 includes the wording which reads ‘Development proposals for tall buildings should avoid overshadowing’. We can also see that some of the tall building zones in Table 1 include further guidance on avoiding overshadowing impact on watercourses, such as TBZ15: West Ham Station, TBZ16: Abbey Mills and TBZ18: Stratford High Street. This is positive to see, however it doesn’t look like all riverside tall building zones include this guidance. For example, TBZ4: Beckton and TBZ5: Gallions Reach don’t seem to include this guidance even though they appear to be next to watercourses.

In our Reg 18 response we stated that 'for sites in locations within Source Protection Zones (SPZs) where groundwater is vulnerable, we recommend an additional point is added to the implementation section for Policy D4 to support the importance of managing risks to groundwater resources associated with deep piled foundations which are typically required for tall buildings. We can see that a new point has been added to the implementation section of D4.3. This is positive to see however this should be amended to read as follows' Development with tall buildings in locations within Source Protection Zones (SPZs) should preserve, ~~where possible,~~ the groundwater resources. If piling in contaminated and layered ground is necessary, the development should manage the risks on groundwater flow and contamination'. Protecting SPZs is crucial because these areas are set up to safeguard the quality and safety of drinking water sources used for human consumption.

D6: Neighbourliness

In our Reg 18 response we said that 'We are also pleased to see Policy D7.2. advocates Agents of Change, and recommend that the significance of this approach in the context of regulated industry activities and operations is noted in the implementation section for D7.2. This does not appear to have been done.

GWS1: Green spaces

We note that the wording for Point 1.g has been changed from 'requiring all development to consider *from the outset* the form, function, and extent of green infrastructure opportunities' to 'requiring all development to consider *at the earliest* opportunity the form, function, and extent of green infrastructure'. We are concerned that if green infrastructure needs are not considered from the outset, they risk being overlooked by developers. This could lead to planning applications being submitted with minimal green infrastructure, especially in areas around main rivers. Once a planning application is submitted, developers are often less willing to incorporate additional green infrastructure, or what is proposed tends to be of lower quality, as their plans are already detailed and costly to modify. By integrating these considerations from the outset, the occurrence of such issues could be reduced. Therefore, we strongly recommend changing the wording from 'at the earliest opportunity' back to 'from the outset'. The provision of green infrastructure is important as it can provide benefits for wildlife as well as people. We believe that this is especially important for Newham as section 3.205 of the Local Plan states that 'the overall provision of publicly accessible green space in Newham is low, with a rate of just 0.72 hectares per 1,000 residents, far below neighbouring boroughs'.

We are pleased to see that Point 4.d has been strengthened to read 'Where a development is providing publicly accessible green space, it should: maximise biodiversity, delivering a minimum 10 percent Biodiversity Net Gain'.

We would like to point out that the implementation table is missing a title for this policy section.

We are pleased to see that a reference to Natural England's Green Infrastructure Framework (GIF) has been included in the implementation section for GWS1.1.

Under the GWS1.4 implementation section titled 'Connectivity', it would be useful to mention that protecting wildlife access routes can improve the habitat availability and foraging capabilities of species. Green spaces can also provide connectivity between watercourses/blue spaces which will improve both habitat types.'

GWS2: Water spaces

We note that the wording for this policy could be strengthened, and some points may seem to be advocating for increased development and engineering by edges of waterbodies, rather than reducing development in the riparian zone to protect and enhance the aquatic environments. The effects of development and urbanisation have resulted in a huge percentage of the UK's biodiversity to decline or disappear, especially related to river habitats. The policy on water spaces should influence developers to consider this from the outset, as well as environmental obligations for betterment, thereby supporting the UK to meet national and international targets on wildlife protection and recovery.

We recommend making the following change to Point 2: Development affecting and/or adjacent to water space should improve the existing water space network, including navigation, biodiversity (including *undeveloped areas of riparian buffer zone*, riparian trees and wet woodland)(...).

We note that what was Point 2.a has become Point 2.c and the policy wording has changed from 'not result in the loss or covering of any water space unless it is a water-related or water-dependent use' to 'requiring no loss or covering of any water space unless it is a water-related or water-dependent use'. This policy implies that developers proposing water dependant uses can freely encroach into rivers and cover them, through culverting for example. Loss of water space is considered encroachment and should not be allowed even if it is for a water-dependent use. This can lead to increase in flood risk and loss of biodiversity. This point should be amended to read as follows 'not result in the loss or covering of any water space ~~unless it is a water-related or water-dependent use~~ through culverting or encroachment. Developments involving culverting of the rivers will not be accepted, and opportunities to de-culvert should be explored and implemented where feasible'.

We are pleased to see the council included the Point 2.e which states 'maximising biodiversity, delivering a minimum 10 percent Biodiversity Net Gain (see Local Plan Policy GSW3). It should be noted that BNG requires both a 10% gain in riparian AND watercourse units if the development is within 10m of a watercourse. We encourage the local authority to change policy/ guidance in order to reflect the requirement to provide 10% gain in riparian habitat. We would also like to point out that often developers do not factor in the watercourse units when required, this should be highlighted in the policy as well as implementation section for point 2.e. We note that Point 2.e has become Point 2.g. In our Reg 18 response we stated that this policy requirement should be amended to include that 'the setback should be 16 metres for intertidal/tidal waters measured from the landward side of the flood defence or an 8 metre setback is required and measured from the landward side of any flood defence.'. This change has not been made. We suggest that the council makes the following modification to this policy: 'providing ~~suitable setbacks from water space~~

~~edges~~ 8 metres setback for fluvial watercourses and 16 metres setback for intertidal/tidal watercourses. Where defences are present setback should be measured from the landward side of any flood defence including any buried elements. This is necessary to mitigate flood risk, to protect the riparian buffer zone and habitat availability, supporting water quality, and to allow waterside walkways and cycle paths where appropriate

We recommend that Point 3.b is amended as follows: 'it can be demonstrated that the activation of the water space is appropriately scaled and located and does not negatively impact on flood risk, navigation, ecological value, water quality, the openness and character of the water space and the amenity of surrounding residents.

We recommend that Point 4.b is amended as follows: 'it can be demonstrated that residential and visitor moorings are appropriately located and do not negatively impact on flood risk, navigation, water quality, the openness and character of the water space and the amenity of surrounding residents.

Implementation section comments:The implementation section for GWS2.2 states that 'River re-naturalisation will be encouraged (see Local Plan Policy CE7), wherever feasible'. We recommend that this is changed to the following 'River re-naturalisation will be required encouraged (see Local Plan Policy CE7), wherever feasible'. This section on re-naturalisation could also include setting back existing flood defences in order to create more space for water and biodiversity wherever feasible. This implementation section suggests including flood tolerant trees, bushes/shrubs and other plants. Where trees are proposed within close proximity to a tidal defence we would typically require an assessment on proximity to any structural elements of the defence. We may also ask for root protection to be included in order to protect the flood defence structure. We advise that this is mentioned in the implementation section.

The Environment Agency should be mentioned as a key stakeholder in the implementation section for GWS2.2 on accessibility.

We are pleased to see that the section on biodiversity includes the following 'Planting should include only species suited to the on-site conditions (types and maturities) and be managed appropriately to achieve maximum benefit for biodiversity and river health. Invasive non-native species must be avoided, and where possible, reduced.

The section on flood risk provides information on buffer zone requirements. The section should be updated to include the following: 'Where defences are present setback should be measured from the landward side of any flood defence, including any buried elements'.

Finally we advise that the council incorporates further guidance regarding new Clippers/Ferry services. We expect that any proposals for new Clippers/Ferry services to be accompanied by a foreshore monitoring and mitigation strategy.

GWS3: Biodiversity, urban greening, and access to nature

In our Reg 18 response we said that we are pleased to see the Urban Greening Factor (UGF) requirements of London Plan Policy G5 are recognised in GSW3.5. We also added that the Natural England's Green Infrastructure Framework should be referenced here and used to inform implementation guidance. We note that the framework has been referenced in the evidence base but there is no mention of it in the policy or implementation section.

We are pleased to see that the council has changed the wording of Point 4 from 'Development should deliver a Biodiversity Net Gain' to 'Development must deliver a Biodiversity Net Gain'. However the council had omitted a part of the policy which states 'secured in perpetuity (at least 30 years)'. 'Secured in perpetuity (for at least 30 years)' is a key element of BNG and should be incorporated back into the plan. This section should seek to encourage developers to consider BNG and the 30-year management obligation from the initial inception of the development idea, particularly when considering location and the possibility of achieving on-site improvements in biodiversity. Furthermore, In order to secure the maximum benefit for both people and the environment, schemes should consider the ecological value of a given site at the conceptual stage of a development proposal, considering the potential to achieve on-site net gains in biodiversity (BNG), protect and enhance the existing ecology, and incorporate environmental benefits throughout all stages of the development process. This addition should be incorporated into the policy.

In our reg 18 response we said that it is important to also mention other benefits that biodiversity net gain can bring such as improving the water environment and preventing deterioration of water bodies in line with WFD requirements, managing flood risk and addressing climate risks. It does not appear that there is mention of these wider benefits in the Reg 19 submission.

Finally, it looks like there has been a typing error in this section 'Where it can been demonstrated'.

The Policy section covers BNG in Point 4 and Urban Greening Factor (UGF) in point 5, however the implementation section for GWS3.4 seems to discuss UGF while the implementation section for GWS3.5 seems to discuss BNG.

CE1: Environmental design and delivery

In our Reg 18 response we said that 'We argue that there is a clear need for groundwater protection, and not just the remediation of land. We strongly advise that consideration is given to whether a separate policy is needed for contaminated land and groundwater protection'. We note that Point 3 has been changed from 'Development should remediate contaminated land' to 'Development should remediate contaminated land and address groundwater pollution'. We can also see that additional guidance has been added to the implementation section which states that 'The protection of controlled waters – such as regulated groundwater and surface water – fall under the remit of the Environment Agency. Proposals on sites situated in a vulnerable groundwater area within Source Protection Zones (SPZs) or on an aquifer must protect the underlying groundwater. This is especially important

where the previous land use at the site suggests the potential presence of contamination, or if the proposed land use is potentially contaminative.'

In our Reg 18 response we said that 'It should be clarified here that the risks associated with contaminated land extend beyond environmental health and include the protection of controlled waters which falls under the Environment Agency's remit'. We are pleased to see that the council has updated the implementation section for CE1.3 and it now states 'The protection of controlled waters – such as regulated groundwater and surface water – fall under the remit of the Environment Agency'.

In our Reg 18 response we also said that 'there is currently no mention of Source Protection Zones (SPZs) or aquifers in the Local Plan, and this must be addressed'. We are pleased to see that the council has updated the implementation section for CE1.3 and it now states 'Proposals on sites situated in a vulnerable groundwater area within Source Protection Zones (SPZs) or on an aquifer must protect the underlying groundwater. This is especially important where the previous land use at the site suggests the potential presence of contamination, or if the proposed land use is potentially contaminative'.

In our Reg 18 response we also said that 'For sites where piled foundation works are proposed in a Source Protection Zone, a Foundation Works Risk Assessment (FWRA) will be required to ensure that the risks to groundwater are minimised'. We are pleased to see that the council has updated the implementation section for CE1.3 and it now states 'For sites where piled foundations are proposed in a SPZ, a Foundation Works Risk Assessment (FWRA) will be required to ensure that the risks to groundwater are minimised'.

In our Reg 18 response we also said that 'It should be noted that site investigations and subsequent remediation should be undertaken by a competent person, in line with NPPF paragraph 183. A 'competent person' is defined in the NPPF as 'A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution and land instability, and membership of a relevant professional organisation'. We are pleased to see that the council has updated the implementation section for CE1.3 and it now state 'A desk study and site investigation verification report by a competent person will be required in order to provide confirmation that work has been undertaken in line with best practice'.

Finally we are pleased to see that a reference has been made to The Environment Agency's Approach to Groundwater Protection as we requested in our Reg 18 response. We also note that the implementation section is now referencing the London Borough of Newham: Contaminated Land Strategy (2023) instead of the 2003 Contaminated Land Strategy however this document doesn't appear be hyperlinked.

CE6 Air Quality

In our Reg 18 response we said that 'We encourage consideration to be given to how an air quality positive approach can be linked to other policies within the Plan'. The council may wish to explore how this can be further linked into policies within the plan. For example, policies GWS3 and GWS4.

CE7: Managing flood risk

In our Reg 18 response we said that ‘We would like to see stronger wording in the Local Plan to demonstrate the Council’s commitment to managing flood risk, to ensure that the requirements of the NPPF and Planning Practice Guidance are adhered to, so that development remains safe for its lifetime and does not increase flood risk elsewhere. Developers will need to demonstrate that any new developments will be safe for their lifetime without increasing flood risk elsewhere, by assessing flood risk, residual risk, and safe access and egress’. It doesn’t look like there is any mention of new developments being safe for their lifetime without increasing flood risk elsewhere. There also doesn’t appear to be any mention of residual risk or breach apart from in section 2.d which talks about basement locations providing internal access and egress which is a major concern. It is essential that flood risk resulting from a breach in the tidal flood defences is considered when locating bedrooms on the ground floor as there must be no sleeping accommodation located below the tidal breach flood level.

We can see that the wording for Point 2 has changed from ‘Developments within Flood Zones 2 (medium probability of flooding) and 3 (high probability), or where detailed more up to date modelling shows it will be at increased risk of flooding due to the impacts of the climate emergency, should: ‘ to ‘Developments within Flood Zones 2 (medium probability of flooding), or where detailed more up to date modelling shows it will be at increased risk of flooding due to the impacts of the climate emergency, should:’. The council should use the original wording which includes ‘and 3 (high probability)’ in order to avoid any confusion. We also suggest that climate emergency is changed to climate change as this is what it is normally referred to in the modelling. Finally we suggest that Point 2 is amended to include tidal breach too. Although rare, some areas may be located in flood zone 1 but inside the tidal breach extent.

We recommend that Point 2.b. is amended as follows: ‘be designed and constructed to be flood **resistant and** resilient’.

We recommend that Point 2.c is amended in order to clarify what is considered to be a ‘vulnerable’ use.

Point 2.e states ‘ensure all ‘more vulnerable’, ‘highly vulnerable’ and ‘essential infrastructure’ uses have finished floor levels no less than 300 millimetres above the one per cent annual probability flood level and an allowance for the impact of the climate emergency’. There are a number of issues with this policy. Firstly this policy should be amended to also include ‘less vulnerable’ development. Secondly, ‘Highly vulnerable’ development is not allowed in Zone 3a/ one per cent annual probability flood event as per Table 2: Flood risk vulnerability and flood zone ‘incompatibility’ in the [Flood risk and coastal change guidance](#). We note that this is recognised in the implementation section of CE7.1 which states that ‘this is not permitted in Flood Zone 3a or 3b’. Thirdly it will be worth clarifying that we would ask for finished floor levels to be set above the 1 in 100 flood level where a site is in the fluvial flood extent. If development is proposed in the tidal flood extent and is in an area affected

by tidal breach we would request that finished floor levels for sleeping accommodation to be set above the modelled tidal breach level.

We are pleased to see that point 3 has been changed from 'Developments (including redevelopment of existing buildings and sites) will be set back a minimum of 16 metres from tidal flood defences and eight metres river defences' to 'Developments (including redevelopment of existing buildings and sites) must be set back a minimum of 16 metres from the landward side of tidal flood defences and eight metres from the landward side of river defences'. For further clarify we suggest that this policy is amended as follows: Developments (including redevelopment of existing buildings and sites) must be set back a minimum of 16 metres from the landward side of tidal flood defences and 8 ~~eight~~ metres from the landward side of ~~fluvial~~ river defences to future proof against increased risks of ~~fluvial~~ flooding., ~~taking into~~ Developers would need to take into account the requirements set out in the Thames Estuary 2100 Plan ~~when proposing development within 16 metres of the landward side of tidal flood defence~~. Where no formal defences are present, development must be set back eight metres from the top of the river bank.

In our Reg 18 comments regarding Point 4 we said that 'The wording of policy requirement CE7.4 should be strengthened by adding that for residential developments a lifetime of at least 100 years is required, and 75 years for commercial developments. It does not appear that the changes to policy wording have been made however we note that the implementation section for CE7.4 mentions this. This policy also provides details on timings of any works where it says 'If any improvements are required, these should be made at the earliest possible stage'. This should be changed to 'If any improvements are required, these should be ~~completed prior to development~~ ~~made at the earliest possible stage~~'. This change should also be reflected in the implementation section for CE7.3 and CE7.4 which currently reads 'earliest possible stage'.

We note that Point 5.b which reads as follows 'Proposals within Gallions Reach, North Woolwich, Royal Victoria, Royal Albert North Canning Town and Custom House and Manor Road Neighbourhoods must have regard to: the emerging Riverside Strategy to ensure flood defence requirements are delivered to improve flood risk management and maximise multifunctional benefits including public access to the river and an improved the riverside environment' has been removed. We would recommend that reference to the Riverside Strategy is made as per Reg 18 submission.

In our Reg 18 response we advised that policy CE7.5 includes specific requirements for development along the tidal riverside. It does not appear that these suggestions have been taken on board. The specific requirements we suggested included:

- Maintain, enhance, or replace flood defence walls, banks, and flood control structures to provide adequate protection for the lifetime of the development, including ensuring adequate provision of space for this in regeneration or Local Plan site allocations.

- Demonstrate how the tidal flood defences can be upgraded to the required Thames Estuary 2100 levels in the future through submission of plans and cross-section of the proposed raising. Where opportunities exist, this could be achieved through developers raising defences now to the required heights, as long as these are able to be adapted if required in future.
- Demonstrate the provision of improved access to existing defences, or where opportunities exist, to realign or set back defences.
- Provide associated landscape, amenity and habitat improvements alongside defence improvements where appropriate, in line with the riverside strategy approach.
- Safeguard and protect land for future defence raising and possible modification to the existing Thames Barrier.
- Secure financial contributions from partners in order to enable flood defence works.

In our Reg 18 response we said that 'Policy CE7 needs to be amended to specifically acknowledge the presence and importance of the Thames Barrier. The TE2100 Plan contains a number of high-level options to manage flood risk in London and the estuary to the end of the century and beyond. One of these options is to modify the existing Thames Barrier, and if chosen, we want to ensure that no proposed developments or land uses, within the vicinity of the Thames Barrier site, prevent this modification from occurring. This should be reflected either in CE7.4 or as a new part CE7.6. within the policy'. This has not been done.

CE8: Sustainable drainage

In our Reg 18 response we said that 'Policy CE8 can be strengthened by referencing sustainable drainage in the context of groundwater protection'. We note that the policy itself has not been strengthened by referencing sustainable drainage in the context of groundwater protection however the implementation section for CE8.1 and CE8.2 has. We also note that this section now discusses Environmental Permit for discharges of surface water run-off.

Point 3.d states that 'where culverted watercourses are present, investigates opportunities for de-culverting'. This however does not put any obligations on developers to actually carry out any de-culverting. This Policy should be amended in order to require de-culverting where feasible.

W4: Utilities and Digital Connectivity Infrastructure

In our Reg 18 response we stated that 'There are number of misconceptions within the borough which contribute to diffuse pollution in our waterbodies We recommend

the inclusion of a retrospective recognition of this in your policies, ensuring new developments aim to clean up misconceptions in their proposal of works and ensure new ones are not created'. We are pleased to see that Point 3 has been amended to read 'All new development, including road and rail schemes, should incorporate future-proofed ducting to accommodate utilities connection requirements, rectify existing, and avoid future, pipe misconceptions'.

New site allocations:

The council appears to have allocated two new sites which are N11.SA3 (Alpine Way) and N2.SA5 (Excel Western Entrance). Both of these sites have environmental constraints which fall under our remit. These environmental constraints include:

- Flood zone 3 & tidal breach
- Secondary aquifer

We believe that the site allocations document presents an opportunity to encourage developers to undertake environmental improvements. As part of this response we have provided an Excel sheet which contains a list of aspirational ecological improvements (known as mitigation measures) for the Tidal Thames along the banks through the London Borough of Newham. We suggest that these measures are implemented where they are present on an allocated site.

In our Reg 18 response we said that 'The following four site allocations fall within Source Protection Zone 1 (SPZ1): N8.SA1, N8.SA2, N8.SA5 and N15.SA2'. We are pleased to see that SPZ1 has now been identified in the 'Natural environment Designations' for these 4 sites.

Areas in SPZ1 are the catchment areas for sources of potable, high quality water supplies usable for human consumption. As such, sites within SPZ1 are particularly sensitive with respect to groundwater. Additional constraints will be placed on development proposals in these areas. With respect to the Environment Agency's Approach to Groundwater Protection, the following position statements would apply:

- D1-General principles-all storage facilities
- D2-Underground Storage (and associated pipework)
- D3-Subwater table storage
- G2- Sewage Effluent Discharges within SPZ1
- G4- Trade effluent and other discharges within SPZ1
- G8-Sewage pipework
- G13- Sustainable Drainage systems
- N7- Hydrogeological risk assessment
- N8-Physical disturbance of aquifers in SPZ1

Please note, we would recommend planning conditions for any piled foundation proposals for allocated sites within SPZ1. The use of piled foundations would require

a robust supporting Foundation Works Risk Assessment demonstrating that they are appropriate at the particular location and would not result in a deterioration of groundwater quality. Without such a risk assessment we would object to the use of piled foundations. For allocated sites in close proximity to potable groundwater abstractions, we would strongly advise that the abstraction licence holder are also consulted with respect to piled foundation proposals.

Finally we have attached an excel document which contains our aspirational ecological improvements (known as mitigation measures) for the Tidal Thames along the banks through the London Borough of Newham. Some of these ecological improvements may fall on allocated sites. Where an improvement falls on an allocated site we would like the council to outline the improvement as a requirement in the site allocations document.

Integrated Impact Assessment

In our Reg 18 response regarding section 3.20 on Water quality we said that ‘we recommend reference is made to the Water Framework Directive (WFD). The status of Newham’s main rivers should be considered in reference to the current WFD management cycle’. We are pleased to see the addition of ‘Water quality in Newham’s three rivers – the Thames, Lea and Roding – has improved dramatically over the last 50 years, assisted by the decline in heavy industry - however data from the Environment Agency show that river quality has not improved in recent years. All in land waterbodies are protected under the Water Framework Directive not just main rivers. Of the three rivers in Newham, the Lea is noted to have the worst overall water quality, with the EA 2019 assessment rating it ‘Bad’. The Thames and the Roding May 2024 Doc Ref. 62281192_P01.01 Page 57 are both rated ‘Moderate,’ however neither river has improved its overall rating in the last 6 years.’

In our Reg 18 response regarding section 2.23 on water use we said that ‘it should be noted that Newham is located in an area of serious water stress, as identified by the Environment Agency’s Water stressed areas - final classification. We recommend that water resources are more clearly be identified in the Local Plan as a challenge and opportunity’. We note that more detail has now been provided including future water needs.

In our Reg 18 response regarding section 3.26 on Contaminated Land we said that ‘LBN’s Contamination Land Strategy was published in 2003. The IIA should consider whether this evidence base is still up-to-date and whether additional research is needed to better understand Newham’s environmental constraints. It doesn’t look like there is any discussion regarding this however we note that a newer strategy titled ‘London Borough of Newham: Contaminated Land Strategy (2023)’ was referenced under policy CE1 however the 2003 version is still being referenced in section 3.26 of the document titled ‘Newham Local Plan (Regulation 19) – Integrated Impact Assessment (Final Report)’ prepared by WSP (dated: MAY 2024, ref: 62281192_P01.01).

In our Reg 18 response regarding section 3.27 on Flood Risk we said that ‘there are locations within the borough that are within flood zones and are not within areas that

benefit from flood defences'. However the updated report referenced above still states that 'Thanks to formal flood defences (including the Thames Barrier) all properties in the borough are protected from tidal and fluvial flooding. This statement is incorrect as there are residential properties in undefended areas. We also said that this section should reference the risk of flooding from groundwater however it doesn't look like this has been done.

We note that the changes we recommended to 3.30 Key Sustainability Issues have been made.

With regards to the Table 4.1 Sustainability Objectives we recommended that SO13 should be expanded to include groundwater vulnerability. The wording we suggested was 'mitigation of adverse effects on contaminated land on human health and controlled waters'. However it does appear that this has been taken onboard.

Final comments

Thank you for contacting us on this document. Our comments are based on our available records and the information submitted to us. Please quote our reference number in any future correspondence.

Yours sincerely,

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