

LONDON BOROUGH OF NEWHAM

LOCAL PLAN INDEPENDENT EXAMINATION IN PUBLIC

WRITTEN STATEMENT

MAIN MATTER 1:

LEGAL AND PROCEDURAL REQUIREMENTS AND

OTHER GENERAL MATTERS

WE ARE NEWHAM.

Duty to cooperate

Q1.1. Is there any substantive evidence to indicate that the Council failed to comply with the duty to cooperate during the preparation of the Plan up until the date on which it was submitted for examination?

Council Response:

- 1.1 No, the Council has met its duty to cooperate under section 33A of the 2004 Act. As set out in the Duty to Cooperate Statement (SD051) and Addendum (SD052), a rigorous, effective and ongoing process of engagement was undertaken with local planning authorities and prescribed bodies across the duration of the Local Plan preparation process, including development of evidence base and policy formulation. Duty to cooperate partners were consulted effectively through each of the three public consultation stages undertaken. Meetings and written engagement were also arranged at key stages to clarify the scope of strategic issues and to share and progress evidence base and policy development.
- 1.2 All strategic matters have been identified and defined as per Section 33A (4) of the Planning and Compulsory Purchase Act 2004. These are clearly identified through themes and sub-themes set out in the Duty to Cooperate Statement under Chapter 4 and have been carried through into the Addendum. The reports provide an effective summary of the engagement undertaken, conclusions reached and next steps in our further engagement with Duty to Cooperate partners.
- 1.3 As demonstrated further through the signed statements of common ground (SD053 - SD069) with individual duty to cooperate partners, we have sought to work positively and collaboratively to resolve strategic matters ahead of the Local Plan examination Hearings (see also proposed modifications resulting from duty to cooperate engagement set out in the 'Schedule of proposed modifications to the Regulation 19 Draft Submission Local Plan', SD004), and to create a framework for ongoing engagement (see governance sections of the statements of common ground). Where the process has been slower towards signing a statement of common ground, in relation to the GLA and Thames Water, this is due to our shared desire to provide an effective outcome through the process, including by progressing relevant evidence base, as will be evident from the finalised statements of common ground.
- 1.4 Agreement on the Statement of Common Ground with Thames Water was achieved on 4th November, and we continue to expect to also finalise the process with the GLA by 27th November.
- 1.5 The above demonstrates how the Council has proactively engaged on an ongoing basis on strategic matters under the duty to cooperate on the preparation of its Local Plan, sharing evidence base and the process of policy development.

Public consultation

Q1.2 Was the consultation carried out by the Council during the preparation of the Plan in compliance with the statement of community involvement and relevant legal requirements?

Council Response:

2.1 Yes, The Council considers that the public consultations have been undertaken in accordance with the Statement of Community Involvement (SCI) (SD050) and the requirements of section 19(3) of the 2004 Act with regard to conducting consultation in accordance with the Statement of Community Involvement.

2.2 The Council exceeded the number of times that it engaged with local residents as there were three stages of community consultation on the Local Plan including the two formal stages of engagement. For ease of reference the key stages have been set out in the table below including the number of comments that have been received as part of the extensive Local Plan public engagement process that has been followed.

Key Stage	Date	Number of comments received
First Engagement- Issues and Options Consultation	18th October to 17th December 2021	5,207
Statutory Consultation on the Draft Local Plan (Regulation 18)	9th January and 20th February 2023.	3,353
Statutory Consultation of the Submission Local Plan (Regulation 19	19th July to 20th September 2024	3,272

2.3 The Council's Regulation 22 Statement of Consultation clearly sets out how the Council has undertaken public consultation and stakeholder involvement in the production of the Local Plan, including at the Regulation 18 and Regulation 19 stages, in accordance with the Council's adopted SCI. The statement also sets out how consultation has shaped the Plan, along with the main issues raised by representors and the Council's response.

2.4 The Regulation 18 statutory consultation invited a diverse range of stakeholders including residents, statutory consultees, infrastructure providers, developers, community groups, neighbouring Local Authorities, landowners, business owners, elected officials, and Council staff to comment on the details of draft policies and provide feedback on what they would keep, change, or add to the policies. This six-week consultation period also provided an array of engagement activities following the requirements of Newham Statement of Community Involvement.

2.5 At the Regulation 19 statutory consultation, the Council consulted a diverse range of stakeholders and statutory bodies, local amenity and residents' groups, businesses and individual residents in accordance with the Statement of Community Involvement. This nine-week consultation period also provided an array of engagement activities through organised drop-in sessions, community events and an online informative session to answer questions from residents and other interested parties on how to respond to the consultation. Overall, it is considered that consultation efforts have been met and indeed exceeded those that have been set out in the Council's SCI.

Equalities

Q1.3 Is there any substantive evidence to indicate that the requirements of section 149 of the Equality Act 2010 have not been met?

Council Response:

- 3.1 No. The Council has taken all reasonable steps to meet its Public Sector Equality Duty through the preparation of the Local Plan.
- 3.2 The Plan seeks to ensure that due regard is had to the three aims expressed in s149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic by following a formal process of completing an Equalities Impact Assessment, as demonstrated through the Integrated Impact Assessment findings (SD006, sections 4.6 and 5.11) and evidenced through the detailed Equality Impact Assessment report (Appendix J to the Integrated Impact Assessment, SD007). For each protected characteristic, an assessment has been made as to how each of the Plan's policies contribute towards this characteristic in meeting the three main duties set out in the Equality Act 2010.
- 3.3 The objectives that have structured the Equalities Impact Assessment have informed the Local Plan's seven objectives, which in turn have been woven into the policies across the plan, to ensure that matters of equality inclusivity and diversity are proportionally and effectively addressed.
- 3.4 While some responses have raised equality-related concerns (see our response to PQ3), there has not been any substantive evidence submitted that would indicate a different context or outcome than that set out through the Council's Equality Impact Assessment. The Council considers that the process undertaken as part of the Equality Impact Assessment and the Integrated Impact Assessment demonstrates that the Council has had due regard to the Council's Public Sector Equality Duty. Building on the Corporate priorities of the Building a Fairer Newham Strategy (2022), the Local Plan, as a whole, provides a positive framework for development that has been identified to benefit protected characteristic groups.

Superseded policies

Q1.4 Will the Council's proposed main modification be effective in ensuring compliance with regulation 8?

Council Response:

- 4.1 The Council acknowledges the requirement of Regulation 8(5) of the 2012 Regulations to clearly identify any superseded policies. To address this clarity concern, the Council has put forward a modification to the Introduction section, after paragraph i.4, which is set out in the Schedule of proposed modifications (sd004), under reference MO2.1.
- 4.2 Note: Where modifications are proposed as part of the responses, text to be removed is set out in strikethrough font and new text is set out in bold font.

**This Local Plan replaces the following Development Plan Documents for Newham:
Newham Local Plan 2018, Newham Gypsy and Traveller Development Plan Document 2017
and London Legacy Development Corporation Local Plan 2020.**

- 4.3 The Council consider that this main modification (M02.1) set out above and in the Schedule of proposed modifications (sd004), will ensure that the plan is compliant with regulation 8(5).

Strategic and non-strategic policies

Q1.5 Do all of the strategic policies in the Plan, including those in part 2 relating to neighbourhoods and allocations, meet the relevant criteria in the NPPF and PPG?

Council Response:

- 5.1 Yes, all policies identified in the Plan as strategic meet all the relevant criteria in the NPPF and PPG. They play a key role in delivering the Plan's vision, establishing a clear spatial strategy for the pattern, scale and design quality of places, and guiding approaches to housing, the economy, and infrastructure such as transport, utilities, waste, water, green and social infrastructure. Additionally, they place a strong emphasis on sustainable development and the protection of both the natural and historic environment.
- 5.2 The delivery of the neighbourhood policies and site allocations identified in Part 2 of the Plan are central to achieving the vision, by allocating sufficient sites to deliver the strategic priorities of the area/neighbourhood in accordance with NPPF23. They provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development.
- 5.3 Further details are set out in the Council's response to the Inspector's Further Preliminary Questions PQ16.

The Plan's policies, reasoned justification and other parts

Q1.6 (a) Does the Plan need to be modified to clarify (i) which parts are policies for the purposes of section 17 of the 2004 Act, and/or (ii) the purpose / status of the site allocation maps?

(b) Are the site allocation boxes in Part 2 of the Plan setting out factual information (site address, site area, PTAL, flood risk, etc) "policy"?

Council Response:

- 6.1 (a) The Council consider that the policies in Part 1 (SD002a) of the plan are clearly set out in policies boxes with policy numbering and leaves no ambiguity, for the purposes of section 17 of the 2004 Act. The Council consider that Part 2 of the Plan could be modified to clarify which parts are policies for the purposes of section 17 of the 2004 Act, this can be done by ensuring all policies are kept in a policy box with policy numbering.
- 6.2 The Council consider that the site allocation maps are not a policy map but an indicative diagram which illustrates the design principles for each site and how they could potentially be delivered. Minor modifications are proposed to label the map indicative diagram.
- 6.3 (b) The Council consider that the site allocations boxes in Part 2 of the Plan setting out factual information (site address, site area, PTAL, flood risk, etc) are not policy as such but they are often included in site allocation to justify the policy approach. For the purposes of section 17 of the 2004 Act, the Site allocation policy could be kept separate in a policy box with policy numbering. It is useful to note that the local plans that has been adopted in the last 5 years does not separate the factual information from the policies and it was not raised

as an issue at their examination, Examples are Merton Local Plan 2024 and Lewisham Local Plan 2025

Information requirements for planning applications

Q1.7 Is the approach of specifying in the Plan's policies particular information requirements for applicants consistent with national policy and will it be effective and up to date over the lifetime of the Plan?

Council Response:

- 7.1 Yes, the approach of specifying in the Plan's policies of particular information requirements for applicants aids implementation, by being clear for applicants what they are required to do and is in line with PPG (Design: process and tools) Paragraph: 018 Reference ID: 26-018-20191001 on assessment frameworks being included in policy.
- 7.2 The Council considers that publishing assessments and requirements as a separate, regularly reviewed list would be less effective, as it would not have the same legal weight as the Local Plan, could lead to inconsistencies, and would be less accessible for the long-term planning required for major development than it being integrated into the Plan.
- 7.3 By embedding assessments into policies, the council gains greater consistency and clarity to respond to proposals and, in turn, can produce decisions that are more robust and less vulnerable to appeal.
- 7.4 The requirements are included in policy for certainty that the council will receive appropriate information to determine if development is achieving policy objectives, which are set out alongside the required framework/report/assessment. The implementation sections provide further guidance and clarity to developers on what is being asked of them. The 'requirements list' will be updated every two years, providing opportunity to review implementation criteria and provide any additional clarification/guidance required for effective implementation throughout the plan period.

Integrated Impact Assessment

Q1.8 Is there any substantive evidence to indicate that the Integrated Impact Assessment fails to meet relevant legal requirements?

Council Response:

- 8.1 No. There is no substantive evidence to indicate that the Integrated Impact Assessment fails to meet relevant legal requirements, from the outset of the Local Plan's preparation, and throughout the subsequent processes, a series of iterative appraisals has been published and consulted upon.
- 8.2 At each stage, comments were considered and, where appropriate, resulted in changes to the Plan. Appendix B of the Newham Local Plan (Regulation 22) – Integrated Impact Assessment Appendices (SD007, pages B1-27) details comments received at the Scoping Report, Regulation 18 and Regulation 19 stages – and the response from LB Newham to each comment received.

- 8.3 The Council considers that the various iterations of the IIA are accurate and robust as they have been determined by the application of a rigorous methodology that has been consistently applied. The methodology is set out and explained in Chapter 4 of the IIA Report (SD007).
- 8.4 The relevant policy context was considered alongside the key sustainability issues facing the borough, identified by the collection and review of baseline information of the IIA Report.
- 8.5 This helped to inform the development of a set of sustainability objectives (the 'IIA framework', against which the effects of the plan and reasonable alternatives were assessed.
- 8.6 Appendix A Quality Assurance of the Newham Local Plan (Regulation 22) – Integrated Impact Assessment Appendices (SD007, page A1-A3) details how the requirements for a Sustainability Appraisal and Strategic Environment Assessment have been met through the use of a quality assurance checklist.
- 8.7 No representations were made as part of the Regulation 19 consultation that stated that the Integrated Impact Assessment fails to meet relevant legal requirements.

Habitat Regulations Assessment

Q1.8 (b) Is there any substantive evidence to indicate that the Habitat Regulations Assessment fails to meet relevant legal requirements?

Council Response:

- 8.8 No. One of the assessments within the Integrated Impact Assessment (IIA) is the Habitats Regulation Assessment (HRA) (SD008), which considers the potential impact of the Local Plan on significant natural habitats. The Council has undertaken the HRA in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) as well as recent case law.
- 8.9 The assessment concluded that most aspects of the plan will have no significant effects on any European sites, alone or in combination due to the absence of effect pathways as a consequence of the policies and allocations contained within the Local Plan.
- 8.10 At the Regulation 19 consultation, Natural England raised concerns regarding the potential air quality impacts of its Local Plan on the Epping Forest SAC. In response to this, Newham Council produced the Air Quality Information report to inform Habitats Regulations Assessment Post Regulation-19 Update report (SD009). This report reviews work by WSP (SD008, pages 117-210) against other Epping Forest air quality reports recently endorsed by Natural England, to support the conclusion that there are minimal air quality impacts on the Epping Forest SAC.
- 8.11 This assessment was shared with Natural England, who were "satisfied with LBN's further analysis of the air quality modelling, and agree that trip generation resulting from the development proposed by the Local Plan is not likely to lead to likely significant effect on the Epping Forest SAC". This is detailed in the statement of common ground between the London Borough of Newham and Natural England (SD056).

Viability

Q1.9 Does the viability evidence make reasonable assumptions, including about:

(a) The cost of meeting all of the policy requirements included in the Plan along with any other relevant national standards.

(b) The value of development.

(c) Benchmark land values (the price a willing landowner would be likely to sell their land for).

Council Response:

- 9.1 Yes, the council appointed BNP Paribas Real Estate to carry out a whole plan viability assessment. The assessment takes account of the impact of the Council's planning requirements, in line with the requirements of the National Planning Policy Framework ('NPPF'); the National Planning Practice Guidance ('PPG'), the RICS Guidance Note 'Assessing viability in Planning under the National Planning Policy Framework for England (2021)' and the Local Housing Delivery Group guidance 'Viability Testing Local Plans: Advice for planning practitioners (2012)
- 9.2 The assessment tests the ability of developments in Newham to accommodate emerging policies in the Draft Newham Local Plan alongside prevailing rates of Community Infrastructure Levy ('CIL') in the Council's adopted Charging Schedule (subject to indexation). In order to assess the ability of schemes to absorb emerging plan policies, the assessment factor in the pre-existing requirements in the adopted policies as well as the adopted CIL rates. In addition to the specific policies the appraisals have regard to the cumulative impact of all plan policies which may have cost implications. In this regard, the appraisals therefore comply with the requirement in national guidance for a comprehensive assessment of all relevant plan policies in the viability assessment.
- 9.3 The assessment methodology compares the residual land values of a range of development typologies reflecting the types of developments expected to come forward in the borough over the life of the new Local Plan. The appraisals compare the residual land values generated by those developments (with varying levels of affordable housing, other emerging policy requirements and CIL) to a range of benchmark land values to reflect the existing value of land prior to redevelopment. If a development incorporating the Council's emerging policy requirements and CIL generates a higher residual land value than the benchmark land values, then it can be judged that the site is viable and deliverable.
- 9.4 The Benchmark Land Values (BLVs) contained in the assessments are based on robust evidence. The Viability Study compares the residual land value outputs to three benchmark land values, which reflect a range of property types that reflect the values of the main sources of land supply over the plan period (secondary office sites; secondary industrial land; and garden/amenity/other open land including vacant garage sites).
- 9.5 In all cases, the Viability Study applies a notional 20% premium to the existing use values to incentivise landowners to bring their sites forward for development. In practice, low quality space is likely to be difficult to let and have extensive maintenance requirements, often making them functionally obsolescent. For these types of spaces, very little incentive is usually required to incentivise a redevelopment and the 20% applied in the Study will very often exaggerate the premium required.
- 9.6 To establish benchmark land values, the LPVS also considered the MHCLG's (2019) 'Land Value Estimates for Policy Appraisal' published in 2020. This assessment indicates that the value of industrial land in Newham is £4.5 million per hectare. The study also shows that land values of offices in outer-London boroughs is up to £6.27 million per hectare.

- 9.7 For the purposes of establishing a benchmark land value for industrial sites, the assessment have considered the MHCLG indicative value of £4.5 million per gross hectare for sites in existing secondary industrial use. As this is the value that MHCLG assessed land will trade at in the market, this incorporates an element of premium to the landowner and this does not need to be applied separately. The LPVS also considered lower quartile rents for industrial lettings in Newham and assuming a 30% plot ratio, resulting in a capital value of £4.4 million, to which a 20% premium was added, to arrive at a BLV of £5.3 million.
- 9.8 There are no definitive guides for the value of open land, such as amenity space and other undeveloped sites. Given that they have little existing use value, as they only provide amenity to users of attached buildings, the assessment applied a value of £0.5 million per gross hectare, which provides adequate incentive to owners in comparison to the other options available. In the case of undeveloped sites, they very rarely generate an income, therefore the 'other options available' have little value.
- 9.9 Therefore three benchmark land values adopted for testing purposes are summarised as follows:
- Secondary offices: £6.3 million per hectare;
 - Secondary industrial sites: £5.3 million per hectare;
 - Garden, amenity, other open land, including vacant garage sites: £0.5 million per hectare.
- 9.10 To establish the value of developments in the Borough, the LPVS reviewed completed transactions of residential properties completed in the 24 months prior to the study being undertaken. Values of non-residential floorspace were informed by lettings of office, retail and industrial floorspace completed in the 24 months prior to the LPVS being undertaken. Development costs were informed by the BCIS database, in accordance with paragraph 014 of the PPG.

Q1.10 Does the viability evidence indicate that the total cumulative cost of all relevant policies will not undermine the viability of the development that the Plan assumes will take place during the plan period, including on each of the site allocations?

Council Response:

- 10.1 In addition to testing the emerging policies individually, the Local Plan Viability Study (LPVS) also tested their cumulative impact on the residual land values generated by the development typologies. The results with the costs of all emerging policies loaded into the appraisals present a mixed outcome, the LPVS indicates that the emerging 60% affordable housing target will be viable in some scenarios at present day values and costs. The number of scenarios which would be viable over the plan period is likely to increase if sales values increase at rates currently forecast by the main agents.
- 10.2 The Council's emerging affordable housing target is the policy that has the most bearing on the financial viability of developments in the Borough. The target in Policy H3 is expressly applied on a 'subject to viability' basis, having regard to the complex interrelations between end value, construction costs, form of development, mix of uses and benchmark land values. In common with other London boroughs, there is no 'one size fits all' approach to policy making in Newham and this is reflected in the flexible application of policy.
- 10.3 Policy H3 indicates that sites should provide 50% of units as social rent and 10% as shared ownership. However, the policy states *that "developments that do not meet these*

requirements....will not be supported unless accompanied by a detailed financial viability assessment, demonstrating that the maximum viable mix will be delivered". The Council's overall policy approach is therefore consistent with the London Plan, which makes provision for a 'viability tested' route for schemes that cannot meet the relevant affordable housing target.

- 10.4 The emerging 60% target cannot, by definition, be said to undermine the viability of development in the Borough, as applicants will be able to bring schemes forward with lower percentages on the basis of proven site-specific viability issues.