

Email: localplan@lbbd.gov.uk

26 November 2020

Dear Sir / Madam

Barking and Dagenham Local Plan: Regulation 19

Thank you for consulting on the Barking & Dagenham Local Plan. The following response is provided by James Stevens, Director for Cities, on behalf of the Home Builders Federation (HBF).

The Home Builders Federation (HBF) is the representative body of the home building industry in England and Wales. The HBF's member firms account for some 80% of all new homes built in England and Wales in any one year, and include companies of all sizes, ranging from multi-national, household names through regionally based businesses to small local companies. Private sector housebuilders are also significant providers of affordable homes, building 49% of affordable homes built in 2018/19.

The HBF would like to participate in the public examination of the plan.

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Plan period

As stated in our earlier Regulation 18 representations, the Council should include the plan period on the front cover of the local plan: the date the plan starts and finishes. At the moment, the start date of the plan is unclear. Councillor Geddes foreword says that the plan will operate over a twenty-year period. Paragraph 2.37 states that the housing target has been 1,944 dwellings per annum since December 2019. The Draft London Plan, intend to publish version, requires the Council to provide 19,440 homes from 2019/20 to 2028/29.

We assume the base date of the Plan is 2019/20 which is the date used in Figure 19 of the plan.

It would be helpful for the public if the plan period was stated clearly on the front cover.



Strategic Policy SP2: Delivering a well-designed, high quality and resilient built environment

Parts D and F are unsound because it is inconsistent with national policy.

Part D is superfluous as it is supported by more detailed policies elsewhere in the plan.

Part F encourages the adoption of appropriate technology in new developments etc.

This is vague. It is unclear what an applicant is expected to do to meet this policy requirement. National planning policy requires policies to be clearly written and unambiguous so that it is evident to the decision-taker how s/he should respond to development proposals (NPPF, paragraphs 16). This is necessary to enable decision-takers to approve applications for sustainable development as quickly as possible (NPPF, paragraphs 38 and 47). Policies should serve a clear purpose and avoid duplication.

We consider that these are issues for the Building and Regulations and it is inappropriate for the Council to make policy in this area.

Policy DMD 1: Securing high quality design

Part 3 b) is unsound in requiring major developments to be subjected to independent design scrutiny by the Council's Quality Review Panel (QRP). This is contrary to national planning policy.

HBF acknowledges the importance the Government attaches to improving the design of new homes and neighbourhoods. Design review can prove a valuable part of this. However, national policy does not require design review to be a mandatory part of the planning application process. What national policy does require is that plan-makers provide the maximum clarity for applicants, to develop design policies with local communities, and set out a clear design vision and expectations for design in the local plan. This is so that applicants have as much certainty as possible about what is likely to be acceptable (NPPF, paragraphs 124-126).

The risk with the Council's approach is significant delay with progressing planning applications as applicants engage with the Quality Review Panel without any sense of what the Council expects.

The solution is to provide a design guide for development in Barking and Dagenham, so that applicants have a clear understanding of what is expected.

Part 3 f) is unsound because it is inconsistent with national planning policy.

Part 3 f) requires applicants to achieve the highest standards of sustainable design etc. This is vague. It would be unclear to an applicant what the 'highest standards' are that they are expected to achieve. These standards are set out elsewhere in the local plan through specific policies.

Strategic Policy SP3: Delivering homes that meet peoples' needs

The policy is unsound in parts because it will not provide an effective framework for delivering homes up to 2037.

For the first decade, we assume that the Council will defer to the GLA SHLAA. This is a higher-level study that makes generalised assumptions about the capacity of sites and the timing of when they will come forward. These assumptions should be revisited by the local plan to make sure there is enough deliverable land for housing in line with paragraph 67 of the NPPF. We note the Housing Delivery Test results for 2019. Lambeth has delivered only 51% of its requirement in the three previous years. This hints at previously over-optimistic predictions about the ability to recycle land in the borough.

We have been unable to locate a supporting document that examines the housing land supply for the first ten years. We have only been able to locate a strategic housing land supply method statement, not the SHLAA itself. It is important that future housing land supply assumptions are based on realistic assessments of deliverability.

HBF agrees with the Draft London Plan that housing land supply beyond 2028/29 is uncertain, and that this makes it difficult to 'roll-forward' the London borough housing targets in table 10.1. Nevertheless, since this is an 18 or 20 year plan (a point to be clarified), we agree that it is necessary to roll-forward LBBDC's apportioned target of 1,944dpa for the years 2029/20 to 2036/37.

It is unclear whether there is an adequate land supply in Barking and Dagenham to deliver these targets beyond 2028/29. We have considered the evidence base. We have only been able to locate a strategic housing land supply method statement, not the SHLAA itself. It is therefore difficult to scrutinise the housing land supply beyond 2028/29.

Small sites

The Draft London Plan requires the Council to deliver 199dpa on small sites on 0.25ha in size or less. This is set out in table 4.2. It is not clear from the supporting evidence base whether the Council is able to do this. We have noted the Council's *Interim Five-Year Housing Supply Statement* dated 1 April 2019. This indicates an insufficiency of homes on small sites in the first five years. The table shows fewer than the 199dpa requirement in the first five years. We have reproduced part of the table below:

Total strategic allocation²	977	1325	1622	2609	3196	
Total small sites allocation³	91	153	159	30	0	
Windfall sites projection	69	69	69	69	69	

It is possible that the windfall projection will include some small sites, but that cannot be guaranteed. Consequently, HBF is concerned that the Council has not identified and allocated sufficient small sites to meet the Draft London Plan requirement in the first five and ten years of the plan.

National policy attaches importance to the increasing the supply of small sites through local plans. This helps to diversify the housing market and suppliers and will contribute to better build-out rates through greater competition. National policy requires that the number of small sites should be equivalent to 10% of the overall housing requirement (para. 68).

The Council should identify and allocate more small sites to support 199dpa.

Five-year land supply statement

We have noted the Council's *Interim Five-Year Housing Supply Statement* dated 1 April 2019. An updated statement will need to be provided in time for the examination.

We agree that the Council will need to apply a 20% buffer to the five-year housing land supply to compensate for previous under-delivery.

Windfall

The Council has included a windfall allowance of 69dpa. National policy requires compelling evidence for this. It would be helpful if the Council provided the evidence for this. Otherwise the inclusion of this allowance is unsound.

Housing trajectory

On page 77, Figure 19 provides a phased programme for delivery. This allows for more homes to be delivered towards the midpoint of the plan. In the short-term the Council expects to provide 2,163dpa. This exceeds the annual average requirement of 1,944dpa. Although HBF would prefer a flat trajectory to avoid pronounced peaks and troughs we are generally content with this approach. However, this is subject to more analysis of the yield assumptions and built out rates of its strategic allocations.

Part 1 a) states that the Council will support applications for housing that are in 'general accordance' with the delivery phases outlined in table 2 (we think it means Figure 19). This is unsound because it is unjustified. It is unclear how the Council would operate this in practice. This suggests that the Council would operate a moratorium on the determination of new planning applications if it has granted enough permissions to meet or exceed a delivery phase. If development is in accordance with the local plan (i.e. sustainable) then there is no reason to refuse to determine an application. This clause should be deleted as unnecessary.

Part f) is unsound because it is contrary to the London policy. This requires developers to market new homes first to residents of Barking and Dagenham and then London more widely.

In 2018 HBF worked closely with the Mayor of London to introduce his 'First Dibs' scheme. This is a voluntary commitment involving most of the major private sector housebuilders operating within Greater London, where they commit to market homes to Londoners first, before marketing to residents elsewhere in the UK or overseas. These homes are advertised on the Mayor's Homes for Londoners website for three weeks before they are advertised elsewhere. Adding a further restriction whereby homes have to be marketed to residents of Barking and Dagenham first, would potentially delay to delivery. Furthermore, this Mayor, as with previous Mayors, has taken the view that Greater London represents a single housing market area. Therefore, moves within London have little regard for local authority boundaries, and the GLA apportions new housing supply across London on the basis of capacity not need.

Policy DMH 1: Affordable Housing

Part 1 c) of the policy is unsound because it is unjustified.

Part 1 c) requires applicants to demonstrate through an Affordable Housing Statement how the affordability of the proposed tenure mix compares to local average income levels.

Applicants should not have to demonstrate whether the local authority's affordable housing objectives are effective. It is the function of the local authority to specify a tenure mix that addresses local needs. Requiring such statements will add delay to the planning determination process if the Council disputes the evidence. If the Council does not believe that its specified tenure mix will be effective then it should specify a different one and take account of this through its viability assessment.

This part should be deleted.

First Homes

We recommend that the Council refers to First homes in part 1 of the policy. This is soon to be a requirement of national policy. This is a matter that may need to be discussed at the examination-in-public.

Policy DMH2: Housing Mix

Part 1 of the policy is unsound because it is contrary to national policy and ineffective.

Part 1 requires applicants to provide a dwelling mix in accordance with the table in the policy. This is reproduced below:

Bedrooms/Dwelling size	Private	Intermediate	Social
1 bed	39%	17%	10%
2 bed	26%	44%	40%
3 bed	25%	19%	40%
4+ bed	10%	19%	10%

This is a very detailed breakdown of dwelling types. It is difficult to imagine how smaller developments would be able to adhere to this precise breakdown. Applicants unable to meet this precise breakdown would be compelled into negotiation with the Council and this will introduce delay. A recent report by Lichfields titled *Small sites: Unlocking Housing Delivery* (September 2020) observes that it takes an average of 71 weeks for developers of small sites (10-150 units) to complete affordable housing negotiations and secure planning permission where the policy on tenure mix is complex. Where policy on affordable housing is less complex it still takes 56 weeks. By comparison, the statutory timetable for the determination of applications is 8 and 13 weeks.

Introducing such a precise type mix will militate against delivery at a time when London as a whole, and Barking and Dagenham, is falling behind in the delivery of homes against target. It will also militate against the ability of developers to respond

to changing market needs, especially for a plan that is expected to operate over a twenty-year period.

We recommend that this part of the policy is amended so that the Council only specifies the size mix of the affordable housing element.

Part 1 of the policy also refers to the Council requiring compliance with any updated information on affordable housing needs. This is unsound because it is contrary to national policy. Decisions need to be made in accordance with the development plan. If the Council wishes to change its policies then it will need to do so through a revision to the local plan. Paragraph 11 of the NPPF requires decision-takers to approve development proposals that accord with an up-to-date development plan without delay.

Policy DM3: Specialist housing

The policy is unsound because it is ineffective.

Part 2a) refers to the supply of older persons housing. The policy refers to the London Plan policy H13. This is welcome. However, to ensure the policy is truly effective, the policy should refer directly to the requirement for 70 units of older persons housing a year. This is set out in table 4.3. This is not a 'binding' target. It is an indicative monitoring target. Nevertheless, national and London Plan policy attaches considerable importance to addressing the needs of older people (NPPF, paragraph 61).

Direct reference to the indicative monitoring figure of 70 units a year, will help ensure that the Council delivers against this requirement. Also, as the target is non-binding, part 2 a) of the policy should include the following additional text to help ensure that some of this annual requirement is delivered:

a 'presumption in favour' of older persons housing schemes will operate if the indicative benchmark older persons requirement of 70 units per annum has not been achieved in a previous year.

Part 2 b) is unsound because it is unjustified and contrary to the development plan for London.

Part 2 b) states that development for specialist housing, which includes older persons housing, will be supported if it meets an identified need within the borough based on an up-to-date evidence base.

The evidence for the need for older persons housing has been established in the GLA SHMA for London. This has informed the Draft London Plan. This is a strategic matter. London is a single housing market area and the work of establishing London's housing needs is carried out by the GLA. This obviates the need for separate studies this at a local level. The Council's policy implies that it might have regard to its own evidence of older persons need, rather than the evidence contained in the London SHMA, and policy H13 of the Draft London Plan. Considering new local evidence is unnecessary. Part b) should be deleted. Retaining this clause would result in uncertainty for applicants.

Policy DMS 1: Protecting and enhancing existing facilities

Part 1 b) i) of the policy is unsound because it is unjustified.

Part 1 b) i) requires applicants to provide robust evidence to demonstrate that they have marketed actively over a continuous 24-month period for alternative uses on a site providing social and cultural activities.

This is an unreasonable and disproportionate amount of time. Leaving brownfield sites idle for two-years while waiting for alternative uses to be proposed will delay housing delivery in the borough. Housing delivery in London generally and Barking and Dagenham specifically has been poor, with delivery falling well-behind targets. Leaving sites dormant for two years would lend credence to the view that developers are engaged in 'land-banking'. Second, in view of the economic challenges engulfing the country, we consider such a restrictive approach is unwise and the Council should be ready to embrace development opportunities. A six-month marketing period would be more appropriate.

The Council will need to factor in the cost of marketing for a two-year period as part of its viability assessment. The viability assessment does not appear to have made a specific allowance for this.

Policy DMS 2: Planning for new facilities

We think part 1 is unsound (if we have understood it correctly) because it is unjustified.

Part 1. We are not sure what this means. We think it is saying that for all allocated sites there should be no net loss in the amount of floorspace dedicated to other activities that already take place on the site. In addition, schemes would need to meet all infrastructure and other development policy requirements. If this is not possible, then these activities should be provided off site.

If so, this would be a disproportionate and unrealistic requirement. It is also questionable whether all these activities – old and new - would happily co-exist, especially sites with a tight footprint. Furthermore, relocating some activities would be difficult given the tight supply of land for development needs in London.

While we appreciate the intent, we recommend that the policy is made less prescriptive. The Council should redraft the policy so that the ability to accommodate all these requirements will be a matter for discussion between the applicant and decision-taker. We recognise that 'negotiation' does not sit happily with the direction of travel of planning policy which requires clarity and more precision but accommodating all these requirements may be impossible.

Policy DME 1: Utilising the borough's employment land more efficiently

Designated SIL and LSIS land

This part of the policy is unsound as it is contrary to national policy.

The Council's approach to SIL and LSIS land is contrary to the Secretary of State's directed changes to the Draft London Plan. This is directed change DR4 which makes changes to Draft London Plan policy E4. This removes the Mayor's requirement that there is 'no net loss' of industrial floorspace capacity within

designated SIL and LSIS. The Panel examining the Draft London Plan concluded that this was unrealistic. In his statement of reasons, the Secretary of State refers to the potential for London Boroughs to consider the release of industrial land and replace this elsewhere, so that land may be made available for housing.

Directed change DR4, and its changes to Draft London Plan policy E5, allows London boroughs to identify opportunities to substitute Strategic Industrial Land where evidence that alternative, more suitable, locations exist.

The wording of the Council's policy implies that a more flexible approach to the use and re-use of strategic industrial land will not be supported.

Employment sites outside of SIL and LSIS

Part 6 is unsound because it is contrary to national policy.

Part 6 states that there will be no net loss of viable employment space unless there are exceptional circumstances.

The application of the principle of 'no net loss' to non-strategic employment and industrial space is contrary to national and London Plan policy. We note also that the applicant is required to demonstrate 'exceptional circumstances' for a change of use of non-strategic employment land. This is a more restrictive approach than the one in the Draft London Plan, specifically Part C of Policy E7 of the Draft London Plan which states:

C Mixed-use or residential development proposals on Non-Designated Industrial Sites should only be supported where:

- 1) there is no reasonable prospect of the site being used for the industrial and related purposes set out in Part A of Policy E4 Land for industry, logistics and services to support London's economic function; or*
- 2) it has been allocated in an adopted local Development Plan Document for residential or mixed-use development; or*
- 3) industrial, storage or distribution floorspace is provided as part of mixed-use intensification (see also Part C of Policy E2 Providing suitable business space).*

Mixed-use development proposals on Non-Designated Industrial Sites which co-locate industrial, storage or distribution floorspace with residential and/or other uses should also meet the criteria set out in Parts D2 to D4 below.

The principle of 'no net loss' is not cited. The Draft London Plan allows a more permissive approach than the Council's policy. Part C 2) is especially important where land has been allocated for mixed-use or residential development.

The Council should delete this part of the policy and cross refer instead to policy E7 of the Draft London Plan.

Policy DMNE 1: Protect open spaces and play space

Part 2 of the policy aligns with the Secretary of States Directed Changes to the Draft London Plan (DR5).

The Council maintains that the extent of Green Belt and Metropolitan Open Land will be safeguarded from development except in very special circumstances.

This policy position may need to alter if an adequate supply of land for development needs cannot be identified. This question may hinge on a consideration of the SHLAA (at the time of writing these reps, the SHLAA with sites was not available).

Part 5 is unsound because it is unjustified.

Part 5 requires that all major and strategic development should contribute to the delivery of sufficient new public open space. It is unclear how much is required. 5 a) requires that this caters for the needs of current and future residents. It is hard for an applicant to assess the needs of future residents and without clearer requirements it would also be hard for the decision-maker to judge. It would be helpful if the Council specified how much open space is required per dwelling. If this is set out in the Parks and Open Spaces Strategy (referred to in part 5 d) it would be helpful if the plan referred directly to the requirements in this policy.

Policy DMNE 3: Nature conservation and biodiversity

Part 2 b) and c) are unsound because they are contrary to national policy.

The Government's Environment Bill will introduce mandatory requirements for biodiversity gain in 2021. At the moment it is understood that this will require residential developments to provide a net improvement in biodiversity of at least 10%. The housebuilding industry is committed to delivering net improvements. As this will be mandatory we consider it is unnecessary for the Council to make policy in this area. Furthermore, it is possible that the national requirement may change between now and the Bill becoming legislation and so local plan policy could be out-of-step with national policy.

Part c) requires applicants to prepare a long-term management and monitoring plan for net gain sites for 30 years. The Council will need to quantify the cost of such management plans as part of its viability assessment. This will include setting-up management companies and how much the developer will need to invest to support management for 30 years. The viability assessment does not factor in the cost of this long-term management requirement. It does make a S106 allowance of £1,000 per dwelling (para. 4.33), but this allowance will need to absorb multiple planning obligations requirements associated with development, not just long-term biodiversity management costs.

Strategic Policy SP7: Securing a clean, green and sustainable borough

Part 1 b) is unsound because it is contrary to national policy.

Part 1 b) requires major developments to be net zero carbon. HBF is working closely with Government to devise a pathway to net zero carbon homes by 2025. At the moment, the housebuilding industry will struggle to achieve net zero carbon before this date, although the industry is committed to providing a 31% improvement on current Part L (of the Building Regulations) from 2023 onwards. We consider that the Council is unwise to demand net zero carbon in advance of this date as this could militate against housing delivery in the short term, especially at a time when the national economy will need to embrace any opportunities for development.

Policy DMS 1: Sustainable design and construction

Part 2 c) is unsound because it is contrary to national policy.

Part 2 c) requires major residential developments to comply with BREEAM Excellent rating.

National policy requires that any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards. The Planning Practice Guidance observes:

Local requirements should form part of a [Local Plan](#) following engagement with appropriate partners, and will need to be based on robust and credible evidence and pay careful attention to [viability](#). In this respect, planning authorities will need to take account of government decisions on the [Housing Standards Review](#) when considering a local requirement relating to new homes.

The Government's vehicle for improvements to technical standards is through changes to the statutory Building Regulations. HBF and the industry is committed to delivering improvements in the construction, performance and layout of homes through the Building Regulations. We have been in close discussion with Government about this through the Housing Standards Review. Requiring compliance with BREEAM will potentially add confusion.

Part 3 is unsound because it is unjustified.

Part 3 of the policy requires that new homes achieve the BRE's Home Quality Mark 3 star rating. HBF is working with Government to establish a New Homes Ombudsman. Already we have established a New Homes Quality Board that will provide customer redress. This is supported by a Code of Practice and warranty standards, and the route showing how customer concerns will be addressed. The New Homes Quality Board and the New Homes Ombudsman will be fully established next year. As such we consider that this requirement is unnecessary.

Policy DMSI 2: Energy, heat and carbon emissions

Part 1 is unsound because it is unjustified.

As we have argued above, it will be extremely difficult for new housing developments to achieve net zero carbon in advance of the 2025 target. This is not merely an issue of cost, but the availability of a sufficiently skilled workforce that is competent to install the new technologies involved in homes. The Council should align with the Government's timetable. This will require housebuilders to achieve a 31% improvement on current Part L from next year, and net zero carbon from 2025.

Policy DMT 1: Making better connected neighbourhoods

Part 7 is unsound because it is unjustified.

Part 7 states that the Council will seek cycle facilities and cycle routes within individual development sites. It is unclear if this is a requirement of all developments or only strategic developments.

The Council will also need to be clearer about what it requires in terms of cycle facilities. If this is in line with the Draft London Plan, then the local plan should say so.

The provision of cycle facilities will have a cost implication. As far as we can see, this has not been factored-into the Council's viability assessment.

Policy DMT 2: Car parking

Parts 1 and 2 of the policy is unsound as it does not conform to national and Draft London Plan policy.

In part 1 the Council states that the starting point for development proposals is that schemes should be car free or 'car-lite'. First, this is unclear for the applicant. How light is light?

Second, the Secretary of State's directed changes to the Draft London Plan specify different standards compared to the Mayor's plan for areas with lower levels of public transport accessibility. The Secretary of State's changes are slightly more generous.

We recommend that parts 1 to 2 is removed and instead the Council refers to the Draft London Plan.

Part 3 e) is unsound because it is unjustified.

Part 3 e) requires that two-year free membership of car clubs is required for car-free and car-light developments.

First, the cost of this will need to be factored into the viability assessment supporting the plan. Second, the Council will need to be more specific about how many free car-club memberships will need to be provided per dwelling. For example, will this be for every adult, or one per home?

Policy DMM 1: Planning obligations

The Council helpfully lists some of the areas where planning obligations may be required. The list is not exhaustive as part 2 observes. In these representations we have identified other policies that will require contributions from development. Aside from contributions to affordable housing, it is notable that many of the items listed have not been separately assessed for cost by the viability assessment. The viability assessment allows for an allowance of just £1,000 to cover many of these areas.

The PPG advises:

Plans should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards including the cost implications of the Community Infrastructure Levy (CIL) and planning obligations. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and the total cumulative cost of all relevant policies will not undermine deliverability of the plan.

We are unconvinced that the viability assessment provides a reliable assessment of the true costs associated with bringing forward development in Barking and Dagenham. The delivery of housing in London generally and Barking and Dagenham

specifically, has failed to keep pace with need. As the Secretary of State commented in his letter to the Mayor (dated 13 March 2020):

Your Plan added layers of complexity that will make development more difficult unnecessarily; with policies on things as small as bed linen. Prescription to this degree makes the planning process more cumbersome and difficult to navigate; in turn meaning less developments come forward and those that do progress slowly. One may have sympathy with some of individual policies in your Plan, but in aggregate this approach is inconsistent with the pro-development stance we should be taking and ultimately only serves to make Londoners worse off.

Vacant Building Credit

Part 7 of the policy is unsound because it is contrary to national policy.

The vacant building credit applies to any building that has not been abandoned that is brought back into any lawful use, or is demolished to be replaced by a new building.

The Council states that a Vacant Building Credit is only allowed if no part of the building has been in continuous use for any six months during the last five years up to the date of a planning application. It also requires evidence that the building has been marketed for at least 24 months prior to point of occupation. This is a much tighter restriction than national planning policy. National policy does not impose such restrictions where there is an increase in floorspace associated with a new re-development.

The PPG states:

What is the process for determining the vacant building credit?

Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.

The existing floorspace of a vacant building should be credited against the floorspace of the new development. For example, where a building with a gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought.

Paragraph: 027 Reference ID: 23b-027-20190315

The Council should refer instead to national policy. Part 7 should be deleted.

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