

Ealing LPA Local Plan (Regulation 24) 2025

Matter 7: Climate Change, the Environment and Healthy Places

Issue:

**[Focus – Policies G4, G5, G6, S5, OEP, ECP, WLC, SI7]
Whether the Plan is justified, effective and consistent with national policy and in general conformity with the London Plan in relation to climate change, the environment, and healthy places.**

Written Statement on Behalf of Ealing Council



{This page is intentionally blank}

Questions

Climate Change:

1. What is the background to the local approach to operational energy performance set out in Policy OEP and what is the evidence to justify it?

LPA Response: Local Policy OEP operates within a suite of policies which aim to re-define what qualifies as zero-carbon developments in Ealing, and drive development which is genuinely net zero. The policy responds to a number of challenges as follows:

- An over reliance on off-setting permissible under the current policy framework.
- Issues with the metrics utilised as part of the current policy framework:
 - Performance in the current policy framework is measured utilising the Part L Building Regulations framework. Proposed buildings are compared with a baseline (a notional building), which represents a fictional building created by the compliance software for building regulation purposes. For the purpose of planning when appraising proposed buildings, this approach frequently provides an unreliable measure of the building's performance and can therefore give a false impression of policy compliance. Often this results in a performance gap whereby the actual built development underperforms relative to the performance estimated at the design stage.
 - Tying policy performance to a regulatory framework operating outside of planning is not ideal and makes it difficult to future proof policy. Updates to Building Regulations often require us to re-conform/reframe our policies post adoption.
 - Approved Document L of the Building Regulations uses carbon emissions as the basis to determine compliance. Carbon as a measure has proven to be particularly sensitive and volatile.
 - The current policy framework utilises a single relative metric, and it does not always reward good design. A compliant scheme may not therefore always represent the best outcome. A percentage improvement over a notional building is an intangible requirement and cannot be measured post occupancy.

In responding to these challenges but working within the established policy framework set through the London Plan {EB13}, our initial focus was to explore what options exist through the implementation of this policy (SI 2) to incentivise greater savings on-site. To this end Ealing participated in an initial study in 2019 {EB36}, with four other London authorities. This study investigated how the carbon offset price could be used to incentivise new buildings to achieve greater carbon reductions on-site and recommended the introduction of a stepped carbon price. The findings of this study also reinforced concerns around the metric employed.

Building from this initial study, and constituting evidence for emerging Local Plans, a follow up study {EB34} commenced in August 2022 whose scope was wider exploring different policy options. Prepared jointly with 17 other London authorities, the study examined two policy choices.

- **Policy Option 1** involves continuing to use the same Part L framework, as established through London Plan policy, but updating this to account for the latest

Part L updates (2021), and for most typologies setting higher on-site improvement levels than those currently established in the GLA's latest energy assessment guidance.

- **Policy Option 2** is a new approach focusing on absolute energy-based metrics. Performance is measured against multiple metrics (e.g. space heating demand, Energy Use Intensity, and a minimum renewable energy generation target). The use of multiple metrics as proposed is designed to incentivise and reward better designed schemes. It requires applicant to use predictive energy modelling tools and methodologies.

The key differences between policy options 1 and 2 can be summarised as follows:

Policy Option 1	Policy Option 2
A relative target – not a physical metric	An absolute target – a tangible physical metric
A single metric	A suite of metrics
Part L energy modelling	Predictive energy modelling
Considers regulated energy use only	Considers all energy, including unregulated energy
Carbon based offsetting expressed as £/tCO ₂	Energy based offsetting expressed as £/kWh
Cannot be measured post-occupancy	Can be measured post-occupancy

For each policy option and noting their respective metrics, the study has utilised modelling to understand what level of performance is expected against the metrics (i.e. percentage improvement beyond part L baseline, the predicted space heating demand (expressed in kWh/m²/yr.), and the Energy Use Intensity), based on a range of specification scenarios for buildings. 24 scenarios were identified based on different combinations of fabric and ventilation specifications, heating systems and solar PVs. The scenarios ranged from business-as-usual approaches to ultra-low energy design.

To reflect the wide range of building types proposed in London, 8 building archetypes were identified – four domestic and four non-domestic. Each of the 24 specification scenarios were modelled for each of the 8 archetypes, using the respective modelling tools for each policy option. For policy option 1 Part L 2021 software was utilised, to calculate % improvement over Part L. For policy option 2 the building scenarios were modelled using predictive energy modelling tools to calculate the SHD and EUI. All scenarios were also costed, to understand uplift in (construction) cost relative to a baseline position.

The findings of this modelling were then used to inform the process of target setting based on what is achievable practically and what is reasonable in respect of cost.

For each policy option the study has also scoped out the content of a future Local Plan policy(ies), defining the key ingredients.

This study has provided the council with the evidence needed to move forward on the basis of policy option 2 and has informed the scope and content of policy OEP. Local Policy OEP directly addresses many of the challenges noted above and comprises a number of core elements.

It mandates the use of more accurate metrics, requiring applicants to undertake predictive energy modelling of their proposal to assess performance/compliance against both space

heating demand and EUI targets. The target levels specified for both have been informed by the archetype modelling undertaking for the study, and mirror the minimum recommended levels identified in the study, recognising that some authorities may choose to specify more stringent target levels. Absolute targets are specified, which specify maximum space heating demand and EUI levels for different uses, which are intended to drive forward better designed schemes which minimise their heating and energy demand, encompassing both regulated and unregulated energy use. Having minimised the energy demand, the policy requires schemes to deploy renewable energy technologies on the site which are sized to meet or exceed the minimised predicted EUI on site – which is described as achieving an energy balance. Whilst the target levels have been set to ensure that the EUI should typically be small enough to be capable of being matched through renewable energy generated on-site, the policy builds in some flexibility recognising that practical factors in limited circumstances may make it impossible to reach an energy balance on-site. Where it is proven that an energy balance cannot be achieved on-site, applicants are required to establish the shortfall in renewable energy generation needed to meet the predicted EUI and pay a contribution equivalent to the cost of generating energy off-site through renewables.

2. Is Policy OEP consistent with the parameters set out in the Written Ministerial Statement on Energy Efficiency (December 2023) (the EEWMS) in terms of:

a. the proposed target levels;

LPA Response: Yes, Policy OEP is consistent with the Written Ministerial Statement (WMS) in respect of its intent and scope and more importantly is supported by the general power flowing from the duty in Section 19(1A) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”). Please note the answer given here also draws from legal advice requested by the consultant team who prepared the evidence base considering the implications of the WMS on the implementation of the two policy options.

Policy OEP specifies absolute targets in respect of space heating demand and Energy Use Intensity for the main building types and requires the use of renewables at a level which achieves an energy balance. Whilst it is difficult to make direct comparisons with policy OEP and current and planned building regulation standards, given the use of distinct metrics, it would be reasonable to characterise policy OEP as going beyond building regulations in so far as it is intended to deliver better outcomes.

Whilst the WMS states that it does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations, significantly it does not close off this possibility providing certain conditions are met.

This includes ensuring that robust evidence exists to prove that development would continue to remain viable under the operation of such local policy standards. This is addressed via the Delivering Net Zero study {EB34} which provides detailed cost modelling for the various archetypes and scenarios. This demonstrated that policy option 2 would result in modest uplift in construction costs relative to a Part L baseline. Viability has also been tested in the round alongside the full suite of local plan policies as part of a whole plan viability assessment. Further detail is also contained in response to Q2d below. This evidence base robustly demonstrates that the operation of Policy OEP would not make development unviable.

The second condition in the WMS specifies that any uplift should be expressed as a percentage uplift against the established building regulations carbon-based metric. At face value this appears to prevent the use of absolute energy-based metrics as proposed under policy option 2 and reflected in policy OEP. Regard should be had to intention and status of the WMS, which has been clarified through recent court judgements.

In early 2024, Rights Community Action Ltd (“RCA”) brought a legal challenge contesting the lawfulness of the 2023 WMS on grounds which included that it unlawfully restricted the powers of local authorities under the Planning and Energy Act (PEA) 2008 and misdirected local authorities regarding their statutory duties. RCA contended that the result of the 2023 WMS would be that local planning authorities would be prevented from bringing forward energy efficiency policies based on the London Energy Transformation Initiative (“LETI”) metrics (as per policy option 2 and Ealing policy OEP).

In responding the Secretary of State rejected the contention that the 2023 WMS sets a “*default instruction*” to inspectors. Instead, the Secretary of State argued that “*the policy is simply setting out guidance on what the Secretary of State considers to be reasonable. In evidence before the High Court, the Secretary of State explained that the 2023 WMS was aimed at “encouraging” a particular approach rather than ‘compelling’ or ‘constraining’.* They advised that they would still wish to allow local innovation and ambition where viable, to avoid conflicting with the government’s commitment to ensure that planning policy contributes to climate change mitigation as fully as possible.

The judge (Lieven J) also did not accept RCA’s evidence that the 2023 WMS would prevent local authorities from using LETI metrics in their proposed policies.

More generally the obligation to have regard to national policy and guidance including Written Ministerial Statements has been considered by the Courts on a number of occasions, where it has been confirmed that guidance does not need to be slavishly obeyed if there is good reason to depart from such guidance.

The status of the WMS must also be considered in the context of wider legislative duties, which Ealing’s Local Plan is required to meet. Specifically, Section 19(1A) of the PCPA 2004, imposes a general requirement that development plan documents must include policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change. Policy OEP directly responds to this duty. Moreover, the power for LPAs to set their own energy efficiency standards derives from the Planning and Energy Act 2008. The WMS does not constrain or limit the extent of the duty in section 19(1A) of the Planning and Compulsory Purchase Act 2004.

In summary the December 2023 WMS does not prevent Ealing from setting its own local policy which utilise an energy-based metric which is distinct from the Part L framework. The 2023 WMS is policy guidance only, it does not constitute a default instruction, and it can be deviated from where robust evidence is provided as is the case in this instance. Moreover, the WMS does not constrain or limit the extent of the duty in Section 19(1A) of the Planning and Compulsory Purchase Act 2004.

b. the robustness of the submitted evidence supporting any proposed uplift;

LPA Response: As explained in the answer given to Q2a, the WMS itself acknowledges the scope to ‘depart’ from this guidance, where there is clear evidence justifying this approach.

The Council contends that the evidence underpinning local Policy OEP is robust and supports a deviation which is necessary to ensure that the Council is responding effectively to our wider legal duties and to ensure that the planning process is securing actual net zero carbon developments.

The answer to Q1 outlines the evolution of the evidence base, which has culminated in the preparation of the Delivering Net Zero (DNZ) study {EB34}. This study builds on the earlier Cost of Carbon study (EB36). The DNZ study forms a technical evidence base intended to inform the local plan policy making process. As explained previously the study assessed two policy options for achieving net zero carbon standards in new development, providing a detailed analysis of their implications for building performance, energy use and costs. The analysis and specifically the modelling undertaken as part of the study is comprehensive in scope and thorough. All steps have been rechecked and sense-checked by a highly experienced and qualified consultancy team. The consultant team comprised five different organisations including architects, engineers, cost consultants and energy specialists.

The robustness of the process was also aided through the involvement of a large client team involving 18 separate London authorities. It represents the largest joint evidence base study underpinning this Local Plan. This evidence has also been shared more widely with other authorities in and outside of London and the Greater London Authority, where it has been welcomed and received with interest. More generally this study builds from and contributes to a growing suite of evidence, and it aligns with the emerging industry definition of net zero buildings.

C. how the proposed targets are expressed within Policy OEP;

LPA Response: In specifying that any additional requirement should be expressed as a percentage uplift of the TER, and calculated using SAP, the WMS at face value appears to prevent the use of absolute energy-based metrics as proposed under policy option 2 and reflected in policy OEP. As previously outlined in response to Q2 a above, the WMS does not have this effect.

Recent Court Judgements have confirmed the intention and status of the WMS. Specifically, the judgement in R (Rights Community Action) v SSLUHC (2004) EWHC 1693, and proceedings, have confirmed that the WMS is policy guidance only, and should not be interpreted as a binding instruction, and the WMS does not prevent LPAs from using absolute energy-based metrics in their proposed policies.

It is also significant that a number of other authorities have had local plans found sound which also contain similar metrics (space heating demand, Energy Use Intensity and renewable energy generation) including Cornwall, Bath & North East Somerset and Central Lincolnshire.

The Delivering Net Zero study {EB34} explains the rationale for moving towards energy-based metrics, and provides the evidence needed to prove that this is achievable and viable in practice. Continuing to operate within the part L framework, expressing an improvement against the TER, would compromise our ability to respond effectively to our duty under Section 19 of the PCPA 2004, and in achieving our ambition to secure genuine net zero developments.

d. the viability implications on future development proposals when assessed cumulatively with other development plan policy requirements, in terms of the effect on the delivery of future housing units, including affordable homes; and

LPA Response: As explained in the answer given to Q2a above, the WMS itself acknowledges the scope to 'deviate' from this guidance, where there is clear evidence justifying this approach including robust costings to demonstrate that development would remain viable under an alternative policy approach.

As detailed in response to Q1 above, the study examined 24 specification scenarios for each of the eight archetypes, and the associated modelling (energy and cost) has formed the core focus of this evidence base, informing a relative understanding of the performance of policy options 1 and 2 and providing the information needed to determine appropriate target levels tied to practical examples built to differing specifications.

Cost modelling has been undertaken for each of the scenarios to understand the capital (construction) costs associated with building to these specifications and achieving specific performance levels (indicative targets) against the relevant metrics (i.e. part L uplift, SHD or EUIs). The cost modelling also examined the energy costs from the perspective of what residents have to pay.

Each specification scenario was compared against a baseline or cost reference scenario for that archetype. The baseline was chosen to represent a part L 2021 compliant specification for that building archetype, and the construction cost per square metre were estimated for the baseline.

Construction costs were then determined for all the specification scenarios for each archetype and presented as a percentage uplift relative to the baseline cost, and in terms of the added cost in £ per square metre. This information has then been used to understand the range of costs associated with those scenarios which were deemed to be compliant with the indicative targets (SHD & EUI target levels for policy option 2).

The findings demonstrate that the uplift range varies between the archetypes, but minimum compliance with the indicative target levels can be achieved within a modest uplift range of 1% to 4% across the eight archetypes.

Taken in isolation this evidence demonstrates that Policy OEP, which is modelled on policy option 2 and incorporates the target levels recommended in this study, does not negatively impact on viability. Further detail regarding the methodology and findings of the cost modelling can be found in Chapter 9 of the Delivering Net Zero (DNZ) report {EB34}.

Viability has also been tested in the round alongside the full suite of local plan policies as part of a whole plan viability assessment {EB120}. This assessment has employed a slightly more cautious estimate, applying the higher end of the range, and assuming an uplift of 5% in respect of the additional construction costs associated with achieving our operational energy net zero carbon policy.

Again, as with the findings of the DNZ study, the cost implications vary between the scenarios. Overall, however and when viewed in the round with the other Local Plan policies, the assessment concludes that the impact is relatively modest. It notes that the reduction (in the

residual land value) is unlikely to have a significant impact on the deliverability of developments.

e. providing flexibility to respond to the viability findings of individual schemes?

LPA Response: Having tested a wide range of scenarios and archetypes and demonstrating that this policy is not a significant factor impacting deliverability, it isn't anticipated that the implementation of this policy would need to be applied more flexibly than is already permissible under the policy as written.

Specifically, the policy allows for a higher level of off-setting where there are clear practical challenges preventing the achievement of an energy balance on-site. This is consistent with the guidance given in the WMS which emphasises the need for decision makers to be flexible when operating these policies where the applicant can demonstrate that meeting the higher standards is not technically feasible.

It is considered significant that the statement does not reference viability in the context of operating the policy, as viability needs to be addressed at the policy making stage. Moreover, the policy is clear that decision makers will be able to use discretion when applying the EUI archetype types, where a proposed scheme doesn't quite fit the target groups.

It is important that the policies are expressed clearly. Writing in additional flexibility into the policy would impact on the achievement of our overall goal and introduce unnecessary uncertainty. Ultimately it will be a matter for the decision makers to apply the policies and the planning balance. It is intended that further guidance will also be published to support the implementation of this policy. This approach to flexibility is not inconsistent with national policy guidance, including the WMS.

3. Are any modifications needed to Policy OEP for soundness?

LPA Response: No.

4. In terms of Policy ECP:

a. what is the background to this policy;

LPA Response: Policy ECP is a new local policy which operates within a suite of energy policies, covering operational energy performance, embodied carbon and whole life cycle carbon. Together these policies aim to re-define what qualifies as a zero-carbon development in Ealing and drive forward development which is genuinely net zero.

The introduction of an embodied carbon policy reflects the increasing significance of embodied energy as a factor in delivering net zero carbon buildings. Policies aimed at addressing climate change have historically focused on reducing carbon emissions from operational energy consumption. However, as buildings have become more energy efficient and electricity generation decarbonises, the operational carbon of new buildings will reduce. This means that embodied carbon will represent a higher proportion of whole life carbon associated with buildings, and therefore there is a pressing need to reduce the embodied carbon embedded into new buildings/developments, and to maximise the reuse of this material resource for as long as possible.

Policy ECP sets embodied carbon limits for common building types/uses, which major developments should not exceed. The carbon limits specified in the policy are based on LETI best practice targets. Reflecting the LETI targets the limits specified in Policy ECP are also stepped, with lower more stringent limits applying after 2030. These are based on the LETI best practice targets for the 'upfront embodied carbon stages' (modules A1-A5) of a whole life cycle carbon assessment as defined under British Standard BS EN 15978:2011.

The intention is that compliance with these carbon limits will be assessed and confirmed via the established WLC assessment process, as specified through London Plan policy SI2(F). Currently London Plan policy requires applications to be supported by WLC assessments for all referable schemes only. Local Policy WLC lowers the threshold and extends this requirement to major developments.

The GLA have published guidance and supporting material (reporting template) to support the support the completion of this process, covering all module stages A to D. The GLA guidance aligns with the requirements of BS EN 15978: 2011 and the RICS WLC methodology (first edition).

Whilst the assessment process covers all stages (modules A to D), the guidance requires each module to be presented separately. The GLA guidance was published in 2022 and contains benchmarks for most typical typologies and broken down into the life-cycle modules. The guidance contains both basic benchmarks and aspirational benchmarks. The carbon limits specified in Policy ECP match the aspirational benchmark limits for modules A1-A5). Applicants are expected to compare their WLC baseline against the relevant benchmarks and provide an explanation where a development falls outside of the range of the benchmarks. Whilst this process can encourage applicants to improve their scheme in line with the benchmarks, as it sits in guidance it is considered less effective than it would be if these were expressed as carbon limits in policy itself.

b. what is the evidence justifying it?

LPA Response: As detailed in the response to Q4a above, the carbon limits have been taken directly from the LETI best practice targets. These limits are also consistent with the aspirational benchmarks for modules A1-A5 as specified in the GLA's WLC assessment, which were based off the World Green Building Council's target to achieve a 40% reduction in WLC emissions in 2030. The GLA's benchmarks have been operational since 2022, in a London and Ealing context. No specific factors unique to Ealing have been identified which establish the need for alternative targets or more local evidence.

As with the operational energy policy this policy has also been considered as part of the whole plan viability assessment {EB120}. Considering both OEP and ECP together this assessment assumed an uplift of 15% in respect of the additional construction costs. The assessment concludes that whilst the cost uplift will impact residual land value, most schemes will remain viable after the requirement has been applied.

c. is the EEWMS relevant to this local approach to embodied carbon reduction? If so, is Policy ECP consistent with the parameters set out in that WMS?

LPA Response: No, the EEWMS is concerned more narrowly with the regulated component of operational energy performance, in that it promotes and is tied to the continued use of the Part

L Building Regulations framework, and the associated national calculation methodology for domestic buildings (SAP). Given the different scope, the EEWMS does not impinge on Ealing's ability to set policies around embodied carbon.

Whilst Policy ECP operates alongside a suite of policies, including policy OEP, and contributes collectively to securing genuine net zero buildings, it nonetheless can operate independent of Policy OEP and therefore is not tied to the outcome of that policy approach.

Policy ECP also responds to the duty in Section 19(1A) of the Planning and Compulsory Purchase Act 2004.

d. are the proposed targets set out in Table DMP4 clearly expressed in policy and are they justified through evidence?

LPA Response: The policy has been written to be clear and simple in its ask and derives from evidence as detailed in the answer to Q4b above. Stepped embodied carbon limits are specified for common building types/uses, covering two periods – the first table specifies the targets to be applied until the end of 2030, and the second table specifies those to be applied after 2030 covering the remaining life of the plan. The policy indicates that where proposals do not fit with the defined target group, that applicants should use the nearest equivalent to determine the target level.

Having revisited the policy in the context of this question, whilst nothing of substance is noted regarding the content of the policy, it is acknowledged that some minor additions/changes could improve clarity and aid implementation. In particular, it would be helpful to clarify in the supporting text that compliance with these targets will be considered as part of the Whole Life Carbon assessment process, and that the specified targets relate to Building Life Cycle Stages A1-A5 of this process. The implementation dates in Table DMP4 could also be expressed more clearly perhaps as precise dates (i.e. 'From 1st January 2030'). A typographical error is also noted in the second part of the table where it should read 'From 2030'.

The Council has separately committed to prepare carbon optioneering guidance to support policy WLC. This could be broadened to include guidance around the application of the embodied carbon limits.

e. are any modifications needed to Policy ECP for soundness?

LPA Response: No material changes have been identified, but as referenced in the answer to Q4d a number of minor changes are recommended to improve clarity. These include:

- Expanding supporting text, to note that compliance with these targets will be considered as part of the Whole Life Carbon assessment process.
- Either within the supporting text or Table DMP4, specify that the embodied carbon limits are to be taken from the results of the building life cycle stages A1-A5 of a whole life carbon assessment.
- Correct a minor typographical error in respect of the implementation date as detailed in the green heading of the second part of the table. The text 'Until 2030' should be corrected to read 'From 2030' as proposed in the Schedule of Suggested Modifications {S24 - reference SMM145}.

5. In terms of Policy WLC:

a. what is the background to the local approach to whole life cycle carbon reduction set out in Policy WLC?

LPA Response: The requirement to undertake Whole Life Cycle Assessments for referable schemes has been operational since 2021. Albeit this process has been limited to referable schemes it is an effective tool in improving both the operational energy and embodied carbon performance of schemes. The application of this tool and wider research has highlighted some marked performance differences in respect of the different life cycle stages between demolition and rebuild schemes and retention & retrofit projects.

Typically, the initial embodied carbon emissions from demolition and rebuild are higher than through retrofit, although extensive retrofit can also lead to high embodied carbon emissions. On the other hand, operational carbon emissions may be lower in a rebuild scenario, although deep retrofits can often approach similar operational carbon levels. On a whole life basis, the relative position is complex and is underpinned by many assumptions. Despite this complexity it is key that decision makers are making informed decisions.

Whilst the established WLC process has proven to be effective in refining submitted schemes and securing the best outcome based on the scenario pursued, we have been less effective in 'taking a step back' and weighing up the different options and choices for a site. To redress this, local Policy WLC introduces a requirement to undertake an optioneering exercise as part of the WLC assessment for major developments involving demolition. The goal of this optioneering exercise is to evaluate in relative terms the carbon emission performance of different development options for an application site to determine the optimum option in respect of energy performance. The findings of this optioneering exercise will then be considered alongside other planning considerations to inform the choice of an appropriate option, including consideration of a retrofit first approach, and different building forms (heights). The 'options' considered may include reuse/refurb options, alongside any new build options.

It is not intended that the optioneering exercise itself will determine which scenario is appropriate, but instead the exercise aims to ensure that officers are equipped with all the necessary information to make an informed decision. This process will allow options to be appraised objectively in the round and was considered preferable to establishing a retrofit first presumption for example.

b. is it a local variation to Policy S12 of the London Plan and if so, is a modification needed to clarify this?

LPA Response: It is acknowledged that Policy WLC essentially forms a local variation to London Plan Policy SI 2, expanding clause F of that policy. Consideration was initially given to drafting this policy as a local variation; however, Policy SI 2 is already a lengthy policy with a wide scope. For the sake of clarity, it was felt that was easier to express these local requirements as a standalone policy.

c. is the EEWMS relevant to the proposed local approach to whole life cycle carbon reduction, why is this, and if so, is Policy WLC consistent with that WMS?

LPA Response: Whilst a WLC assessment covers both operational and embodied carbon, the effect of the EEWMS is not considered to impact/impinge on the specific requirements of local Policy WLC, in so far as the scope of this local policy is limited to establishing a new threshold and introducing an optioneering exercise.

d. are targets for reducing carbon clearly expressed in policy to enable the assessment of a proposal against criterion A?

LPA Response: Beyond the targets specified separately under Local Policies OEP and ECP, Policy WLC does not introduce further targets. Both local Policy WLC and clause F of London Plan policy SI2 are principally concerned with a process requirement. There is nothing in Policy SI 2 or the associated guidance which would act as a barrier to lowering the threshold.

e. is the type of development falling within its scope in general conformity with the London Plan, justified and consistent with the Framework?

LPA Response: Yes, Policy WLC expands from the requirements of London Plan Policy SI 2 (clause F specifically), and in supporting the overall goal of this policy to ensure that all major developments are net zero carbon, it is considered to be in general conformity. It is also consistent with the NPPF (December 2023). More generally, it flows from the requirement of Paragraph 158 which advises that plans should take a pro-active approach to mitigating and adapting to climate change. More specifically, this policy alongside others will ensure that new development is planned in a way which helps to reduce greenhouse gas emissions, through location, orientation and design.

f. is the scope of criterion (B) justified, effective, in general conformity with the London Plan and consistent with national policy?

LPA Response: Yes, as addressed in response to Q5e above, the policy builds from the requirements of London Plan Policy SI 2. The introduction of a requirement to undertake optioneering as part of the WLC process, should secure better outcomes and contribute to the overall London Plan objective of becoming a zero-carbon city.

As noted above it is also consistent with the NPPF (December 2023). More generally, it flows from the requirement of Paragraph 158 which advises that plans should take a pro-active to mitigating and adapting to climate change. More specifically, this policy alongside others will ensure that new development is planned in a way which helps to reduce greenhouse gas emissions, through location, orientation and design. It is significant also that Paragraph 157 in recognising the role of the planning system in supporting the transition to a low carbon future, encourages the reuse of existing resources, including the conversion of existing buildings.

g. what progress has been made in devising a carbon optioneering methodology to enable the outcomes of this policy requirement to be evaluated? will it be effective in the absence of a carbon optioneering methodology?

LPA Response: As indicated in the supporting text the Council intend to prepare guidance to support the implementation of carbon optioneering. This will principally deal with process and methodology. In scoping the content of this guidance and any supporting tools and templates, the Council has started to review guidance prepared by others. This includes guidance

published by the Low Energy Transformation Initiative - LETI ('Retrofit vs rebuild Unpicker') which provides guidance on how to compare whole life carbon for a retrofit versus a demolition and rebuild project.

The City of London have also prepared a Carbon Options Guidance Planning Advice Note supporting their emerging Local Plan (Policy DE1), which provides an outline methodology for carbon optioneering. Separately the Council has also met with a supplier who have developed a platform aimed at streamlining the process of confirming compliance with the whole life cycle assessment process, including requirements related to optioneering and embodied carbon targets. This guidance will need to be prepared ahead of implementation.

h. are any modifications needed to Policy WLC for soundness?

LPA Response: No.

6. In terms of the local variation to Policy SI7:

a. what is the background to the local variation of Policy SI7 of the London Plan to reduce waste and support the circular economy?

LPA Response: The requirement for applicants to prepare circular economy statements has been operational since 2021. This has been an effective tool in ensuring that circular economy principles and outcomes are embedded into the design of large developments. Despite this success, the application of this requirement, as specified through London Plan Policy SI 7, is currently limited to referable schemes only.

Local Policy SI 7 seeks to extend the scope of this requirement to include major developments.

b. how does criterion D vary to that adopted policy, is it broadly in conformity with the London Plan, evidenced and justified under criterion C of the adopted policy?

LPA Response: Local Policy SI 7 varies the threshold only. No other aspect of Policy SI 7 is affected. This is entirely consistent with clause C of the parent policy which encourages LPAs to set lower thresholds locally.

c. is the policy threshold effective and consistent with national policy, and why is this?

LPA Response: Yes, whilst neither the NPPF or National Waste Policy include explicit references to the transition towards a circular economy they do state that 'planning policies and decisions must also reflect relevant international obligations and statutory requirements' (Paragraph 2). This confirms that planning policy and decisions should be aligned with legislation and other policy including the Government's Resource and Waste Strategy. Furthermore, the central objective of the NPPF is sustainable development (summarised as 'meeting the needs of the present without compromising the ability of future generations to meet their own needs' (Paragraph 7)) which is wholly consistent with circular economy principles.

The environmental objective of the NPPF calls for 'using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including

moving to a low carbon economy' (Paragraph 8) all of which can be helped by the transition to a circular economy.

The NPPF requires planning policy to support the transition to a low carbon future, stating that the planning system should help 'shape places in ways that contribute to radical reductions in greenhouse gas emissions, encourage the reuse of existing resources, including the conversion of existing buildings, all of which support the application of circular economy principles.

As detailed above the general provisions of London Plan Policy SI 7 are already consistent with national policy, and the decision to extend the compliance process to major developments does not change this position.

d. are any modifications needed to the local variation to Policy SI7 for soundness?

LPA Response: No.

Environment and Healthy Places:

7. In terms of the local variation to Policy G4 of the London Plan:

a. what is the background to the variation and why is it proposed?

LPA Response: Clause B of the parent London Plan Policy G4 already establishes that development proposals should not result in the loss of protected open space. Through the operation of this and similar earlier policies it is widely accepted that this is not intended to rule out all forms of development, recognising that in order to fulfil its functional purpose/potential, some ancillary facilities may be necessary and essential in open space. Ealing's local variation policy seeks to define the qualifying features and circumstances which must be demonstrated if development proposals are to be supported on open space in Ealing.

The supporting text also defines what green and open space designations are covered under both London Plan and Local Variation Policy G4. At least one of the designations referenced here is unique to Ealing (Community Open Space). It is important to note that this policy will continue to operate alongside a suite of other policies in the London Plan which address specific designations, including Policies G2 (Green Belt), G3 (Metropolitan Open Land), G6 (Sites of Importance for Nature Conservation), SI 14 & SI 16 (Blue Ribbon Network), and that the implementation of these policies are unaffected by local variation Policy G4.

Clause C (ii) of this local policy also seeks to ensure that adequate regard is given to the potential impact on visual openness when considering development proposals on open space. Both national and regional policy are largely silent in defining openness, and this local policy seeks to close this gap through qualifying that any change to openness needs to be interpreted and assessed from various positions and perspectives. This local variation adds to the established policy position, and it does not close off other consideration when evaluating impact on openness.

b. what is the evidence justifying it?

LPA Response: The content of this local variation policy is very similar to our adopted Development Management Plan Policy 2.18 (adopted 2013). Our experience of applying this

policy has shown this to be effective in managing development on or near to green spaces. Whilst still being pragmatic it has provided greater certainty to applicants around our expectations for managing ancillary development, and the need to provide this clarity remains.

- c. given its focus on keeping any impact on visual openness to a minimum and simultaneously requiring that openness be preserved and enhanced, is this local variation effective and consistent with the national policy for with sites within designated Green Belt, and why is this?**

LPA Response: Yes, the approach is consistent with national Green Belt policy. Paragraph 154 describes exceptions to the definition of inappropriate development involving the construction of new buildings. This includes: *'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;'*

Local variation policy is similarly concerned with ensuring that development is ancillary and appropriate. In the context of this exception local variation policy assists with understanding what factors are relevant to the consideration of the preservation of openness.

- d. are any modifications needed to the local variation to Policy G4 for soundness?**

LPA Response: No.

8. In terms of the local variation to Policy G5 of the London Plan:

- a. what is the background to the variation and why is it proposed?**

LPA Response: London Plan Policy G5 requires the inclusion of urban greening measures in new development to increase green cover. To this end the Mayor has developed an Urban Greening Factor tool to assist boroughs and developers in determining the appropriate provision of urban greening in new developments. As detailed in clause B of the parent policy the policy invites boroughs to consider setting local UGF targets, although recommends some target scores to be used in the interim, which the Council has effectively applied since 2021.

The GLA has also published guidance which supports the operation of the policy and the advises on the establishment of local UGF targets and a tailored approach. The guidance highlights the role of individual borough GI strategies in gathering the evidence to support target setting. Pending the preparation of a revised Green Infrastructure Strategy the Council do not presently have the evidence to support the introduction of different targets or any other variation in the application of the process. For this reason, the Council are seeking to move forward on the basis of the established factor targets, and local variation policy G5 confirms this intention.

- b. is it justified, effective and in general conformity with the London Plan?**

LPA Response: Yes, to the extent that the policy confirms a continuation of the targets operational already in Ealing under London Plan policy there is no inconsistency.

- c. in terms of the proposed approach to Use Class E (Commercial, Business and**

Service Business uses) are any modifications necessary in the interests of soundness?

LPA Response: Yes, noting that the policy carries forward the established targets from the London Plan, a modification would be necessary to indicate that the target (0.3) for commercial developments would not apply to B2 and B8 uses as proposed in the Schedule of Suggested Modifications {S24 - reference SMM142}.

9. In terms of the local variation to Policy G6 of the London Plan:

a. what is the background to it?

LPA Response: The Council declared a climate emergency in April 2019, committing to treat the climate and ecological emergency as a crisis requiring immediate action. The subsequent strategy and associated Biodiversity Action Plan, recognise the need to protect and enhance the borough's biodiversity. Strategic Policy SP2 of the Local Plan responds to this challenge providing the overall direction to protect, enhance and increase the resilience of our green network. The natural environment is also a key concern for residents, as evidenced during the response to our Local Plan consultations. In responding to the above the Council wishes to see biodiversity gains maximised in Ealing as part of the development process and this has led to the development of local variation Policy G6.

Local policy G6 has been written to build from the mandatory BNG provisions, and it is envisaged that these local policy provisions will operate against the same framework as exists for mandatory BNG. This local policy has been progressed as a variation to London Plan Policy G6 as it was considered necessary to place BNG alongside the established mitigation hierarchy which is addressed through the parent London Plan policy.

As drafted Local Variation policy establishes a local BNG improvement target of 20% which exceeds the mandatory minimum of 10%. The policy also confirms that the net gain should be calculated using the established methodology for the mandatory requirement and directs the approach for considering off-site provision. This is consistent with the biodiversity gain hierarchy, which embeds a spatial hierarchy into habitat delivery, where there is a preference for onsite or local enhancements. This is also reflected through the Spatial Risk Multiplier which is embedded into the Biodiversity Metric which incentivises habitat delivery on or close the development site. This local policy variation addresses those limited circumstances where flexibility may be appropriate when prioritising the sequence of the spatial hierarchy noting that a case may be made to show that off-site provision can secure substantially greater gains over the available on-site enhancement opportunities. This flexibility is intended to ensure that the best outcome is secured in respect of the biodiversity gain secured. As drafted this policy also ties provision to the emerging Local Nature Recovery Strategy, to ensure that the targeting of provision is guided by the latest local evidence around opportunities and priorities.

b. is the 20% biodiversity net gain requirement justified through evidence, including for proposals of different typologies and in lower land value areas?

LPA Response: The preparation of the Regulation 19 Local Plan which incorporated the 20% target pre-dated the implementation of mandatory net gain and the publication of associated

updates to the National Planning Practice Guidance. Paragraph Six of the latter is now of particular interest, advising:

Plan-makers should not seek a higher percentage than the statutory objective of 10% biodiversity net gain, either on an area-wide basis or for specific allocations for development unless justified. To justify such policies they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impacts on viability for development. Consideration will also need to be given to how the policy will be implemented.

Paragraph: 006 Reference ID: 74-006-20240214

Prior to the publication of the latest guidance the Council had taken some comfort from earlier work undertaken by Government when establishing the initial percentage target level. Defra's own Impact Assessment indicated that the majority of costs associated with net gain are incurred to reach a no net less position. The costs associated with moving from 10% to 20% was therefore considered to be marginal. Notwithstanding this position and reflecting the advice now contained in the NPPG emphasising the need for such policies to be underpinned by evidence considering local need and viability, the Council acknowledges that additional time is needed to prepare further local evidence to support the rationale for setting a higher BNG percentage target.

Accordingly, it is recommended that the policy is amended to remove specific reference to the higher target. Whilst the recommended text removes reference to the 20% target, the policy nonetheless encourages applicants to exceed the mandatory minimum, which is entirely consistent with the national provision for mandatory BNG. As revised, the other provisions of the policy remain in-tact. The revised text is captured within the Schedule of Suggested Modifications (S24 - SMM143), but is repeated here for ease of reference:

~~F. Development proposals should achieve a biodiversity net gain of at least 20% or the advised national minimum amount, whichever is greater, as follows~~ Qualifying development proposals are required to be consistent with the biodiversity net gain standard consistent with that prescribed through National Planning Practice Guidance as follows:

~~(i)~~ (i) Biodiversity net gain will be calculated using up-to-date national calculation methodology and should normally be provided on-site.

~~(ii)~~ (ii) Biodiversity net gain above the minimum standard will be strongly encouraged and supported.

~~(iii)~~ (iii) Offsite provision may be considered where this can provide greater gains and impact.

~~(iv)~~ (iv) Any offsite provision should fall within the London Borough of Ealing boundary, and as close to the site as possible, and be guided by any potential improvement opportunities which have been identified in individual Town Plans.

~~(v)~~ (v) Provision must be consistent with the Local Nature Recovery Strategy.

The supporting text is to remain as it is – unchanged.

- c. what is effect of the policy requirement on the deliverability of housing across the Borough, and what evidence supports your stance?**

LPA Response: As revised it is not considered that the policy will impinge on housing deliverability. The expectation that applicants should maximise BNG gain is entirely consistent with the mandatory provisions already specified. The approach to targeting provision arguably provides a more pragmatic route for managing off-site versus on-site provision.

d. are any modifications necessary so that criterion F is effective in terms of:

(i) securing an appropriate contribution within a given scheme; (ii) providing sufficient clarity on how the policy will be implemented in instances when there are other competing policy requirements which affect scheme viability; and (iii) providing sufficient clarity on the circumstances in which offsite provision will be acceptable?

LPA Response: Yes, these modifications are addressed in our response to Q9b above, removing reference to the 20% target. As worded, we consider that the policy and supporting text provide sufficient clarity around the circumstances in which off-site provision would be deemed acceptable. In practice this would need to be interpreted having regard to the NPPG, legislation (specifically the Biodiversity Gain Hierarchy), the findings of the Biodiversity Metric, and local evidence of opportunities and priorities (including those documented in the Local Nature Recovery Strategy).

A further modification is also recommended in respect of the supporting text at Paragraph 5.42. This describes the approach to offsite provision as described in clause (ii) as an exception. This is incorrect, it is not the intent of the policy to depart from the sequential approach as established via the Biodiversity Net Gain Hierarchy, but rather the aim is to ensure that the decision maker applying this policy is able to consider whether onsite or offsite measures secure the best outcome overall. It is proposed that Paragraph 5.42 is amended as follows:

'The biodiversity net gain approach embeds a spatial hierarchy into habitat delivery, where there is a preference for onsite or local enhancements. ~~Exceptions to this hierarchy will only be considered where it can be shown that offsite provision can secure~~ Offsite provision should only be considered where sufficient provision or enhancement cannot be secured onsite, or where offsite provision secures substantially greater gains over the available on-site enhancement opportunities'.

10. In terms of the local variation to Policy S5 of the London Plan:

a. what is the background to it?

LPA Response: This policy forms a local variation to London Plan Policy S5.

Clause A of London Plan policy establishes the expectation that boroughs should undertake a needs assessment of sports and recreation facilities to inform how their development plan for future provision of sports facilities.

Clause B specifies requirements related to the provision of new facilities.

Clause C addresses the approach to protecting and releasing existing facilities.

Clause D seeks to ensure that the provision of facilities is managed appropriately in the context of other open space policies.

The Council have prepared an Indoor and Outdoor Sports Facility Strategy {EB85} which was published in 2023 and is divided into two parts: a Playing Pitch Strategy and a Built Sports Facilities Strategy plus other outdoor sports. This essentially comprises an audit of existing facilities, a needs assessment, the identification of opportunities and an Action Plan, and policy recommendations. This strategy provides the Council and its partners with the evidence base to support spatial planning decisions, plan making and inform capital investment plans and external funding bids for new and/or enhanced indoor and outdoor sports facilities.

Section 4 of the Playing Pitch Strategy (outdoor) and Section 3 of Built Facility Strategy (indoor) establish the key policy recommendations which are relevant to this local variation policy.

Reflecting the findings of the needs assessment for different sports, the need to maintain existing capacity should form the starting position of any policy, whilst recognising that the distribution of facilities may change over the lifetime of the plan. This position is reflected through local clause E which states that the: *'Loss of existing sports facilities will not be supported, unless it forms part of a strategy to improve the quality and range of overall provision'*. The Facilities Strategy also addresses provision standards, providing a clear steer away from establishing quantitative standards, which historically have been expressed as a per capita requirement. Consistent with the approach now advocated by Sport England in their guidance, the Facilities Strategy favours the use of the qualitative standards tied to an understanding of site-specific needs and opportunities.

The policy and supporting text are clear that the quality of provision required to be secured through development should be established and evaluated having regard to the latest understanding of need at the time of the application. Clause E is clear that provision should align with the findings of the Sports Facility Strategy (and any future Action Plans), Sport England Guidance and any local Ealing Guidance. Reflecting the recommendations contained in the strategy, the supporting text signals when on-site provision will be sought over off-site contributions.

Finally, clause F seeks to secure community access to new sporting provision, as per the recommendations of the Facility Strategy.

Sport England have also reviewed local policy G5 and have sought a number of changes which are detailed in our Statement of Common Ground (S22c). These principally addressed the need to ensure that inactive facilities are also covered by this policy alongside those which are in active use at present, and that when evaluating provision against need, regard should be had to both existing and future needs as established at the point that the application is submitted.

b. is it in general conformity with the London Plan and justified, including in relation to the quantitative policy requirement set out in criterion E?

LPA Response: Yes. The policy builds from the provisions of the parent policy. This local policy is underpinned by a needs assessment as required under clause A. The approach to protecting existing facilities is entirely consistent with clause C. New clause E seeks to manage changes against local evidence. Whilst clause C 2) references both quantity and quality in the context of considering replacement provision to compensate for loss, the rationale for focusing on qualitative aspects of provision and change is explained already above and in the Facility Strategy itself. Clause F also complements the provisions contained in clause B in respect of

encouraging the co-location of services between sports providers, schools, colleges, universities and other community facilities.

c. is the policy variation effective in terms of how affordable community access will be determined and secured through criterion F and having the relevant development threshold contained within the supporting text?

LPA Response: Yes, whilst the policy does not specify the mechanism for securing community access, Community Use Agreements are typically used in Ealing applied by way of a planning condition. The threshold for securing on-site provision is specified in the supporting text rather than the policy, to ensure that this is applied pragmatically and having regard to the specific circumstances/opportunities associated with the scheme.

d. is it consistent with national policy in terms of the management of any proposed loss of existing provision?

LPA Response: Yes, this policy is underpinned by an assessment of need as per paragraph 102 of the NPPF. Clause B of the policy essentially mirrors paragraph 103 regarding the approach to protecting and releasing existing facilities. As noted above clause E builds from clause B and therefore the NPPF, directing consideration towards the local evidence and emphasising the quality of provision. In the context of considering loss and compensation the emphasis placed on quality in clause E does not preclude consideration of quantity as a metric.

e. are any modifications needed to the local variation to Policy S5 for soundness?

LPA Response: Yes, a number of revisions to the supporting text have been agreed as part of the Statement of Common Ground with Sport England (S22c). Beyond this Statement of Common Ground, a further amendment is also suggested in respect of Paragraph 5.47 to include reference to the Sports Facility Strategy itself and any future updates/action plans.

For ease of reference and understanding, the suggested revised text is included in full below:

5.44 – Sports facilities include all indoor or built provision, and also any existing fields or external spaces which are or were in active use or identified as being in use for sporting activities.

5.45 – Ealing’s Sports Facilities Strategy and current Sport England guidance emphasise that the provision of sports facilities is primarily a consideration of the quality of provision relative to its usage, rather than capitated provision targets. As a result, sufficient provision of sports facilities must be evaluated against a the current context understanding of existing and future needs and provision at the time of the application.

5.46 - On-site provision will not normally be sought in developments of less than 300 residential units, but must in all cases form the best type of provision based upon current needs-an understanding of need (existing and future) as established within the Sports Facilities Strategy and any future updates.

5.47 – Quality should be assessed by reference to Ealing’s Sports Facility Strategy and associated updates, Sport England guidance, or local Ealing guidance where that is available.

5.48 - This policy also supports the wider objective of creating active environments, and proposals should therefore be assessed against Active Design principles

{END}