



10<sup>th</sup> July 2025

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## 1. Introduction

- 1.1. This Written Statement has been prepared by Savills (UK) Limited on behalf of our clients, Investra Capital in consideration of the forthcoming examination of the London Borough of Ealing ('LBE') Local Plan 2024 to 2039 (the 'Plan'), in the context of their land ownership at The Arcadia Centre, The Broadway, Ealing, W5 2ND ('the Site').
- 1.2. The Arcadia Centre forms part of the proposed site allocation '**Ealing 01EA Broadway Connection and Arcadia Shopping Centre**', within the Plan.
- 1.3. This Statement should be read in conjunction with the previous representations dated 8<sup>th</sup> February 2023 submitted to the Council in response to 'Ealing's Local Plan Initial Proposals (Regulation 18), November 30<sup>th</sup> 2022' and letter dated 2<sup>nd</sup> April 2024 submitted to the Council in response to 'Ealing's Local Plan Final Proposals (Regulation 19), 28<sup>th</sup> February 2024'.
- 1.4. Investra Capital is a bespoke real estate advisor who strives to make long-term improvements to the local surroundings in the areas in which they work, with emphasis placed on the well-being of the local community. Broadway Capital Investments Limited, the freeholder of the Site, as advised by Investra Capital, have united as business partners to fulfil the potential of the Site by taking a comprehensive approach to mixed-use development.
- 1.5. This Statement has been drafted on behalf of Investra Capital with regard to **Matter 6 – Design and Amenity, Tall Buildings, and the Historic Environment** and proposes modifications that are required to ensure the policies are justified, effective, and consistent with national policy.

## 2. Policy Context

- 2.1. The National Planning Policy Framework (NPPF) sets out how local plans and spatial development strategies are to be examined to assess whether they are 'sound'. Specifically, it requires plans to be '**positively prepared**' (to meet objectively assessed needs), '**justified**' (based on proportionate evidence), '**effective**' (deliverable over the plan period) and '**consistent with national policy**' (NPPF Paragraph 36).
- 2.2. The Planning Practice Guidance (PPG) provides further guidance on how Local Authorities should plan to meet objectively assessed housing need, using the standard methodology, and use financial viability evidence to ensure policy requirements strike an appropriate balance with the potential effects on scheme viability. More specifically, the PPG confirms in setting local policy an authority must use a viability assessment to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan (Ref ID: 10-002-20190509).

- 2.3. The policies in The London Plan are also of direct relevance to the tests of soundness. In summary these are policies D9 (Tall Buildings), D3 (Optimising site capacity through the design led approach), GG2 (Making the best use of land) and SD7 (Town centres: development principles and Development Plan Documents).

### 3. Detailed Response

- 3.1. The EiP Inspectors questions regarding tall buildings in terms of the local variation to Policy D9 of the London Plan are set out below (in bold italics), with our responses provided below.
- 3.2. A response to the Inspector's addendum to the previously published Matters, Issues, and Questions [EX16], in light of the recent appeal decision (reference APP/A5270/W/24/3347877), is provided below at paragraphs 3.49 to 3.53.

#### ***Matter 6, Question 2***

##### ***a. What is the background to the variation and why is it proposed?***

- 3.3. Policy D9 *Local Variation* outlines the criteria for taller buildings within the borough in Table DMP1, stating that buildings exceeding the specified height threshold should be situated on allocated development sites identified in the development plan.
- 3.4. Policy D9 *Local Variation* is considered to be unduly restrictive and appears to undermine several of the Plan's wider strategic objectives, most notably, the objective of promoting growth in sustainable locations across the Borough. This rigid approach to tall buildings also diverges from the intent of regional policy. In contrast, **Policy D9 of the London Plan (2021) does not preclude tall buildings from being brought forward outside of designated 'appropriate locations'**<sup>1</sup>. Instead, it permits local authorities to define suitable building heights while allowing for flexibility in decision-making through the Development Management process, enabling context-specific assessments of what constitutes an acceptable height (under part C of London Plan policy D9).
- 3.5. Part A of Policy D3 of the London Plan provides important context to the application of London Plan Policy D9 Part C and states that '*All development must make the best use of land by following a **design-led approach that optimises the capacity** of sites, including site allocations.*' Part B states that '*Higher density developments should generally be promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling.*'
- 3.6. In this context, we consider the approach to tall buildings set out in Policy D9 *Local Variation* to be **overly rigid** and ineffective for enabling the borough to deliver appropriately optimised development. This is especially pronounced in relation to housing delivery given the acknowledged "colossal"<sup>2</sup> need for housing, the Borough's Housing Delivery Test results and lack of a 5 year supply.
- 3.7. The optimisation of sustainable brownfield sites is a key principle supported by both Policy D3 of the London Plan and NPPF paragraphs 124 and 130 criterion c). By constraining this optimisation, Policy D9 *Local Variation* lacks the necessary flexibility and risks discouraging

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<sup>1</sup> See R(LB Hillingdon) v MoL & Ors

<sup>2</sup> Appeal Decision APP/A5270/W/23/3347877 para 66.

development, ultimately rendering the wider policy objectives of the plan undeliverable and ineffective.

- 3.8. London Plan Policy D9 Part B (2) states '*Any such locations and appropriate tall building heights should be identified on maps in Development Plans.*' This provides Local Plans with the ability to define what height may be considered 'appropriate' in specific locations. However, we maintain that the height parameters should remain flexible, allowing the Development Management process to assess acceptability on a case-by-case basis, with reference to the impact tests set out in Part C of the policy.
- 3.9. Planning application ref. 223774FUL was granted planning permission (14<sup>th</sup> February 2024 ) for the partial demolition, refurbishment and development to provide between 2 and 21 storey office-led mixed use scheme with flexible retail, restaurant and cafe uses, a music venue and leisure use at lower levels, with a new area of landscaped public realm and pedestrian route and other associated works. This approval clearly demonstrates that a 21-storey building can be successfully accommodated on the Site. Accordingly, a maximum height threshold of 21 storeys should be considered appropriate for the Site.

***b. What is the evidence justifying it? Are the proposed parameters with the available evidence?***

- 3.10. The evidence underpinning the threshold for the definition of a tall building within different areas of the Borough has been subject to variation. The first Tall Buildings Assessment ('TBS') gave a range of 9-21 storeys for tall buildings within sub area E14 of Ealing Town Centre. It then set the threshold height for a tall building at 21 storeys. This was then amended without any explanation to 9 storeys in later drafts.
- 3.11. Table DMP1 of the Reg 19 policy D9 Local Variation defines a tall building in sub area E14 as 21 storeys.
- 3.12. In the Main Modifications (ref SMM131) this changes to 13 storeys. There does not seem to be any basis for this change based on the TBS.

***c. Does the character led approach of the Plan to determining building heights strike an appropriate balance with the 'Good Growth' and appropriate densification principles of the London Plan?***

- 3.13. No.
- 3.14. The character-led approach to determining building heights can play a valuable role in ensuring that new development responds sensitively to valued local context and townscape. However, for it to strike an appropriate balance with the 'Good Growth' agenda, and the principles of appropriate densification in the London Plan, it must be applied with a strategic view of growth potential.
- 3.15. The London Plan promotes optimising site capacity, particularly in areas with good public transport accessibility, to support sustainable growth and address housing needs. A rigid application of character-based height restrictions risks constraining development in precisely these well-located areas, undermining the delivery of homes and jobs and the optimisation of sustainable sites for development.

- 3.16. To be consistent with the London Plan, the character-led approach should not serve as a cap on development but rather as a guide to what constitutes a tall building for the purposes of applying Policy D9C of the London Plan. This is achieved *in principle* in part E of the D9 local variation, notwithstanding our objections to how the heights have been derived – see answer to question (b) above.
- 3.17. However the remainder of the Policy, specifically Part F and the resulting site allocation height limits, appears to conflate two separate issues. Firstly, Part E defines what a tall building is in different parts of the Borough as required by London Plan Policy D9 A.
- 3.18. Secondly, for the site allocations it then appears to take the lowest end of the range identified by the TBS and sets this as the *maximum* height for the site allocation. This would appear to therefore only consider a very conservative interpretation of the character led approach (adopting the lowest range of the height ranges in the TBS) and ignores site optimisation and good growth principles required by the London Plan, i.e., it does not show heights that should be achievable to enable good growth on site allocations.
- 3.19. Thirdly, by stating that tall buildings above the thresholds are “exceptional” the policy seeks to overwrite the allowance made by London Plan policy D9 Part C which allows for tall buildings to come forwards outside of defined areas subject to detailed justification.
- 3.20. As such an appropriate balance is not struck.

***e. Do criterion E, Table DMP1 and Figure DMP1 provide sufficient clarity on what is meant by a ‘tall building’ in an Ealing context for each of the Town Plan areas?***

- 3.21. No.
- 3.22. While these attempt to define tall buildings by setting threshold heights, they fall short in offering a nuanced or locally contextualised interpretation of what constitutes “tall” in relation to the varied character and scale of the area. The current approach, particularly in relation to Ealing Town Centre, risks applying a uniform definition to a part of the Borough with diverse built environments, where there is already an established pattern of built and consented tall buildings significantly exceeding 9 storeys.
- 3.23. Furthermore, the thresholds outlined are not clearly justified through character assessments or evidence-based townscape analysis, making it difficult to understand how or why certain height limits have been set for specific areas.
- 3.24. The TBS includes Zone D (essentially Ealing Town Centre) within the wider neighbourhood area of E14. As the TBS states, E14 covers a wide area with a large variety of building heights. Naturally, the tallest existing/ permitted buildings (21m) are located towards the town centre and the western extent of the area as it moves towards West Ealing, but the area also includes many lower buildings in more traditional residential street patterns – largely 2 storey terraced housing. The TBS therefore gives a wide range of 9 – 21 storeys for E14.
- 3.25. The threshold height for the whole area is then set by table DMP1 at the lowest end of this scale at 9 storeys (or 13 storeys in the Main Mods). This is therefore somewhat simplistic, and in our view, artificially low. It would be more accurate to show a higher threshold height for the town centre.

***f. Is the local approach to defining the parameters for tall buildings across the Borough consistent with evidence base documents EB42, EB44, EB45, EB45A, EB45B, EB46, EB47 and EB48?***

- 3.26. No.
- 3.27. For example, the Site is identified as being within area E14 in Ealing's TBS (September 2024) (EB44), where the tall building threshold defined on page 9 sets a definition of tall as 9 storeys despite a range of 9-21 storeys being considered appropriate based on a character based assessment alone.
- 3.28. A recent permission on part of the 01EA site allocation (reference 223774FUL) found a 21 storey building acceptable. This is a large/ wide building and so conceivably it may be equally as acceptable as two more slender tall buildings or a group of tall buildings with height variation.
- 3.29. The Waitrose appeal decision also allows for a range of tall buildings up to 20 storeys, far exceeding the definition of a tall building or the site assumptions regarding appropriate capacity.
- 3.30. The approach taken within the TBS and TBS Appendices therefore appears wholly conservative in light of several planning permissions.
- 3.31. To help illustrate this, the images below show our client's Site in red, with recently consented schemes in yellow, under construction/ implemented in blue and completed sites in grey. This demonstrates that a threshold height for a tall building at 9 storeys does not reflect the reality of the town centre.



*Figure 1: View West along The Broadway*



*Figure 2: View East along The Broadway*

- 3.32. In summary, the local approach to defining tall building parameters across the Borough is not consistent with the referenced evidence base documents. The significant variation of what might be considered appropriate in sub area E14 (i.e. 9 – 21 storeys) and the fact that the TBS identifies sub areas (Zone C and D) for the town centres suggests that a higher threshold should be applied. Aligned to this, if the D9 Local Variation is applied to the threshold heights, this would essentially serve as a cap on site capacity within Ealing Town Centre for any application coming forward.
- 3.33. As demonstrated in Figures 1 and 2 above, the 9-storey limit is not consistent with the prevailing building heights in the area, where numerous recent and consented developments exceed this threshold. This inconsistency, combined with recent planning permissions for adjacent developments exceeding the current height limit, undermines the credibility and robustness of the Council's position. Therefore, the current tall building parameters cannot be considered fully reliable or evidence-based, and further review is required to align policy with the prevailing urban context and planning precedents.

***g. Are the Council's suggested modifications [S24] for the design principles of specific allocations throughout the Plan to refer to 'up to' a given number of storeys needed for the allocations to be justified by evidence, effective, and therefore sound?***

- 3.34. This matter is largely covered by our Site Allocation hearing statement where we explain our objection to the amended wording. In summary, and in response to Development Site 01EA Broadway Connection and Arcadia Shopping Centre, this **does not** include 'up to' in the suggested modifications. The Council's main modifications amended the tall building' text of the policy is as follows:

*The site is in principle suitable for a tall building **with an appropriate height up to 21 storeys (73.5 metres)**. The threshold height for a tall building is ~~21 storeys (73.5 metres)~~ **9 storeys (31.5 metres)**.*

- 3.35. We maintain that the Site's strategic position close to the new Crossrail Station and within Ealing Town Centre, on the junction of The Broadway and Spring Bridge Road, presents an exciting opportunity to deliver larger scale buildings, contributing towards the emerging cluster of taller buildings.
- 3.36. Due to the changing context around the Arcadia Centre, there is a great opportunity to deliver new buildings of greater architectural quality in lieu of the current building, which itself offers no townscape or architectural benefit to the town centre and is a low density use of land in a highly sustainable location.
- 3.37. We have recommended alternative text for the site allocation based on either the Reg 19 version of the plan or using an up to requirements that fits with the town centre location and ranges in the TBS:

*The site is in principle suitable for a tall buildings up to ~~with an appropriate height up to 21 storeys (73.5 metres).~~ The threshold height for a tall building is 21 storeys (73.5 metres) ~~9 storeys (31.5 metres).~~*

- 3.38. This would allow for the site optimisation and for a comprehensive, design led approach to be taken to a planning application.
- 3.39. At present, the heights specified in the allocation are not justified making the policy ineffective.

***h. Will criteria F, G and H be effective in securing an appropriate design response that is sympathetic to the character and urban grain of the Borough, as well as any site-specific constraints, in a manner that is in general conformity with the London Plan and consistent with national policy?***

- 3.40. No.
- 3.41. London Plan policy D9 already includes the assessment criteria for tall buildings, based on defining what is meant by tall (Part A), defining locations for tall buildings (Part B) and providing assessment criteria for any tall building (Part C).
- 3.42. Local Variation Criteria F, G, and H, will not be effective, nor will they ensure general conformity with the London Plan.
- 3.43. Criterion F establishes that tall buildings are exceptional and should be confined to identified Development Sites. This approach is out of step with the relevant case law<sup>3</sup> and therefore in conflict with the application of London Plan policy D9. If a local criteria is to be used, it should build upon Policy D9 Part C and enable detailed and locally specific design evidence to support applications, which sets clear analysis and justification for how proposals conform with Policies D3 and D9(c) of the London Plan.
- 3.44. Criterion G clarifies that threshold heights are not a presumption of acceptability, it does not provide robust criteria for assessing the acceptability of height in relation to townscape, heritage assets, or other contextual factors.

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<sup>3</sup> See R(LB Hillingdon) v MoL & Ors

- 3.45. Criterion H defers the consideration of tall buildings on industrial land to future masterplans, presumably to be assessed against the principles in London Plan policy D9 C. If it is appropriate here, why would this approach not be appropriate to all sites?
- 3.46. The NPPF and the London Plan both place strong emphasis on high-quality, design-led development that reflects and enhances local character. Criteria F, G, and H do not currently establish these principles as they do not set out how new development should respond to site context, contribute positively to place-making, or reflect the distinctive qualities of the Borough.
- 3.47. To be effective, these criteria should be deleted and reference made more clearly to how proposals will be assessed against the London Plan. If Borough specific criteria are to be used they should set clear expectations for how proposals should respond to the Borough's character and the need for growth in the context of Policy D9 C.

***i. Are any modifications needed to the variation to Policy D9 for soundness?***

- 3.48. For the reasons set out above, we consider this policy is not justified. The application of Policy D9 *local variation* conflicts with the London plan policy D9 and is likely to discourage development and unduly restrict "good growth" required by the London Plan.

***3. Does appeal decision Ref: APP/A5270/W/24/3347877 for Waitrose, 2 Alexandria Road, Ealing W13 0NL have any implications on the soundness of the Council's evidence underpinning Policy D9 and the policy requirements and capacities of the proposed site allocations? Please qualify your response.***

- 3.49. The Inspector's reasoning reinforces our objections to the soundness of the tall buildings policy and the associated site allocation heights. It states that the Council's approach to site capacity and tall building policy lacks consistency when assessed in light of recent planning permissions. This raises questions regarding the robustness of the Council's evidence base underpinning Policy D9 Local Variation, particularly in terms of justifying the policy requirements and the proposed site capacities. The decision highlights the need for a thorough review to ensure that the policy framework is coherent, evidence-based, and aligned with both recent precedents and strategic objectives.
- 3.50. The Inspector emphasises that both Policy D9 (Tall Buildings) and Policy D3 (Optimising Site Capacity through the Design-Led Approach) of the London Plan must be considered in assessing site allocations. In particular, Policy D3 requires development to optimise site capacity through a design-led process. The Inspector expresses doubt that the proposed 13-storey height limit for the appeal site complies with this principle, and in granting a scheme of tall buildings up to 20 storeys, highlights the misalignment between the Council's approach and the strategic direction of the London Plan.
- 3.51. The Inspector highlights two nearby schemes at 55 West (20 storeys) and 42 Hastings Road (16 storeys) as examples of developments approved at heights exceeding those indicated in the Council's emerging Local Plan. Notably, the 42 Hastings Road permission exceeds the 13-storey maximum referenced in proposed site allocation EA25. This inconsistency undermines the credibility of the Council's Tall Buildings Study, which inform the height parameters and tall building hierarchy within the Local Plan.
- 3.52. In light of these precedents, the Inspector raises legitimate concerns regarding the appropriateness and soundness of height and capacity assumptions underpinning allocations such as EA24/15EA (the appeal site).

- 3.53. The Inspector further observes the other planning decisions, including at 55 West and 42 Hastings Road, have compromised the intended hierarchy of tall buildings established in the Tall Building Study. This pattern of decision-making raises substantive questions about the coherence, consistency, and overall soundness of the Council's spatial strategy for tall buildings across the borough.

#### **4. Conclusions**

- 4.1. For the reasons explained above, it is considered that further modifications to Policy D9 *local variation*, are required to ensure that the Plan has been positively prepared, justified, effective and consistent with national policy and in general conformity with the London Plan.
- 4.2. For these reasons the draft Local Plan cannot be considered sound.