

## **Examination of the Ealing Local Plan 2024-2039**

### **Hearing Statements relating to Matters 6,8, 9 & 10 made on behalf of Leisure & Entertainment Ltd (“L&E”).**

In this hearing statement we refer to the detailed representations submitted by L&E to LBE on 3 April 2024 in relation to the Barclays Sports Club site, allocation 21 EA (“L&E Representations”).

#### **Matter 6: Design and Amenity, Tall Buildings, and the Historic Environment**

Issue [Focus – Policies DAA, D9] Whether the Plan is justified, effective and consistent with national policy and in general conformity with the London Plan in relation to design, the historic environment, and tall buildings.

#### **Design and amenity**

1. In terms of the local variation to Policy DAA of the London Plan:

- a. what is the background to the variation and why is it proposed?
- b. what is the evidence justifying it?
- c. does it clearly articulate the adverse impacts which it seeks to manage and, where necessary, secure the appropriate type and level of mitigation for any adverse effects?
- d. is it consistent with national policy and in general conformity with the London Plan?
- e. are any modifications needed to the variation to Policy DAA for soundness?

#### **L&E Response**

- 6.1.1 L&E consider that local variation Policy DAA should be deleted to make the plan sound.
- 6.1.2 This is because the policy criteria (i) identifies protection of “sensitive” land uses. Given this seems to include all land uses, the Policy could then – intentionally or inadvertently – be used as a policy tool to prevent the delivery of the plan’s identified housing and other needs on allocated sites.
- 6.1.3 This proposed policy approach is also in conflict with London Plan Policy D1 - *London’s form, character and capacity for growth* and D3 - *Optimising site capacity through the design-led approach* - which states that:

*A: “All development should make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site’s context and capacity for growth, and existing and planned supporting infrastructure capacity (as set out in Policy D2 Infrastructure requirements for sustainable densities), and that best delivers the requirements set out in Part D.*

*B: 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, in accordance with Policy D2 Infrastructure requirements for sustainable densities*

6.1.4 L&E also consider that because the policy duplicates London Plan Policy D4 – *Delivering good design* – the policy should be deleted.

## **2. Tall Buildings**

In terms of the local variation to Policy D9 of the London Plan:

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

### **L&E Response – no comment**

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

### **L&E Response**

6.2.1 L&E do not consider that there is evidence justifying Table DMP 1. This table identifies within Ealing Town, 14 sub areas where restrictions on building heights are identified and allocated Site EA21 lies within Ealing site E9 – Hangar Hill where only 6 storeys – 21 m in height- is identified as the ceiling for tall building policy compliance. The Council's tall building assessment has failed to consider the evidence provided by L&E in their representation of the potential of having a taller building component at the Barclays Sports Club site which is within Ealing Town Area 9 within Table DMP1. Building heights should be determined by reference to actual harm, in this location and otherwise, and not by reference to an arbitrary limit.

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?

### **L&E Response**

6.2.2 Section 3 of L&E representation specifically refers to the Local Plan variation to Policy D9.

6.2.3 L&E submitted evidence in their representation in Appendix 5 – Feasibility Assessment by Brydon Wood; Appendix 6 – Townscape and Visual Appraisal (TVA) undertaken by FPCR and in Appendix 7 a Heritage Assessment - by Cogent Heritage- which demonstrate that the former club house site within site allocation 21 EA – which is within Table DMP1 Area E9 - is also an appropriate location for a taller building.

6.2.4 LBE's evidence base for appropriate locations for tall buildings has not specifically assessed the club house site within allocated site 21EA. Further, LBE have not responded to L&E's submitted tall building evidence. However, LBE's own housing trajectory evidence identifies allocated site 21 EA as having the capacity to provide 97 housing units.

6.2.5 In light of the evidence provided by L&E in the representation by Appendices 5,6, and 7, it is considered that a taller building component at the former club house site (which component would exceed 6 storeys) is supported by the London Plan's good growth/design policies D1, D3 and D4.

6.2.6 Therefore, to make the plan sound, site allocation 21 EA needs to identify the former club house site as being an appropriate location for having a taller building component of over 6 storeys and Table DMP1 amended accordingly.

d. Is the differential between the definition of a ‘tall building’ contained in the Policy D9 of the London Plan and the measurements which are referred to in criterion E and specified in Table DMP1 justified and in general conformity with that adopted strategic plan?

**L&E Response – No comment**

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?

**L&E Response**

See response to question (c) above.

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?

**L&E Response**

See response to question (c) above.

**Historic Environment**

6.3.1 L&E submitted a heritage assessment in Appendix 7 of the club house site at site 21EA as part of their representation. This assessment concluded in section 6 that *“there is a sound case in heritage terms for an allocation of this land for development of up to 10 storeys.*

6.3.2 Therefore there are no heritage constraints preventing the development of a taller component on the former club house site within allocated site 21EA.

**Supplementary Questions Tall Buildings**

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.

4. Are any modifications needed to the Plan for soundness

**L&E Response**

6.3.3 L&E notes the following paragraphs made by the Planning Inspector in relation to this appeal which was allowed and planning permission granted:

19 *“Policy D9 of the London Plan deals with tall buildings in the capital. These are defined under A. Under B: Locations, the policy says that Boroughs should determine if there are locations where tall buildings may be an appropriate form of development and that any such locations and appropriate building heights should be identified on maps in Development Plans. Moreover, tall buildings should only be developed in locations that are identified as suitable in Development Plans. Under C the various potential impacts of tall buildings that development proposals should address are set out. I deal with these further below. “*

*20. The context provided by the London Plan is not limited to that, however. Following on from London Plan Policy GG2 that stresses the importance of making the best use of land, London Plan Policy D3 seeks to optimise site capacity through the design-led approach and makes the point 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.*

*26. In particular, I am not at all convinced that, in the emerging context of the appeal site, an upper limit of 13 storeys upon, as set out in the allocation in the new Local Plan, can realistically be said to optimise site capacity. I note that representations to this effect have been made on behalf of the appellants in this case, to the examination, on that basis.*

6.3.4 Therefore, in light of this appeal decision and the Inspector's assessment relating to the submitted plan's proposed tall building planning policy, L&E consider that the plan is not sound because:

- The proposed tall building policy is not compliant with London Plan Policy D3.
- With specific reference to allocated site 21 EA – the proposed imposition of Enabling Policy EA – see L&E representation to Question 41 Matter 9 – paragraphs 41.1 to 41.5 actually seeks to minimise - and not optimise - the site's capacity for the development of much needed new housing at site EA21 within the boundaries of former club house site.

**Matter 8:** Town Plans Issue [Focus – all Town Plans] Whether the Town Plans are justified, effective, in general conformity with the London Plan, consistent with national policy and positively prepared.

## **Town Plan Visions and Spatial Strategies**

### **Spatial Strategy – General Issues**

1. For each Town, are the issues to address and opportunities set out in the plan based on a sound understanding of each place and clearly articulated?

**L&E Response** – see reply to question Ealing Town Plan E1

2. Will the Spatial Strategy and policies for each Town be effective in addressing the issues and capitalising on the opportunities of each place in a way that supports the delivery of sustainable development, clearly setting out deliverable planning related policy expectations and/ or proposals in a manner which gives certainty in future decision taking in the Borough?

**L&E Response** – see reply to question relating to Ealing Town Plan E1

3. Is each Town Plan Spatial Strategy aligned with Policies SP1 to SP4 and, for effectiveness, do the policies in the Plan support their delivery? Is the purpose and scope for each policy sitting within the Town Plan Spatial Strategy justified?

### **L&E Response.**

L&E have submitted Hearing statements regarding policies SP1 to SP4 in relation to Matter 3 – Vision, Objectives and Spatial Strategy Issues.

L&E consider that the Ealing Town Spatial Strategy is not in alignment with SP4.1 – good growth where the policy states:

*B - Directing development to sustainable locations that are well connected to sustainable transport modes or within close proximity to town centres, and thus deliver patterns of land use that reduce the reliance on the car and facilitate making shorter and regular trips by walking and cycling.*

*C. Ensuring that the most efficient use of land is made so that development on sites is optimised, which will contribute to more sustainable patterns of development and land uses.*

*D. Following a character-led and contextual approach to growth that optimises the capacity of sites while reflecting the valuable components of the built environment.*

L&E consider that Ealing Town Plan's allocation of Site 21EA does not comply with SP4.1 good growth policies; the proposed site allocation policy restricts redevelopment of the former club house site unnecessarily by imposing an enabling policy and tall building restrictions to site 21 EA even though, as evidenced in L&E's representation Appendices 5,6 and 7, the former club house site within site 21EA:

- is a brownfield site
- is within walking and cycling distance to Ealing town centre and public transport interchanges at Ealing Broadway.
- can accommodate higher density development which maximises – not minimises - the development of much needed housing within a well-designed development.

- can include a taller building component of over 6 storeys high with no adverse environmental, visual or heritage impacts

4. Are the key Infrastructure Delivery Schedules for each Town justified by and consistent with the evidence base, including where critical infrastructure is needed to support the delivery of individual allocations?

**L&E response**

L&E note that Table E1 – Key infrastructure delivery schedule – for Ealing Town Plan - states “new sports facilities at the former Barclays Sports Ground” that the infrastructure provider is “Ealing Council.” However, the Barclays Sports Ground is not owned or controlled by Ealing Council and so any sports facilities at the site would not be provided by Ealing Council.

The delivery of the sports fields, previously used only by employees of Barclays Bank at site EA21, for access by members of the public is dependent upon the owner of the site, L&E, being willing to deliver the new sports facilities as part of the proposed site allocation at 21 EA.

For delivery of the sports fields by L&E to take place, a viable development is required which necessitates the allocation of the former club house site within 21 EA for residential development.

Given that the club house site within EA21 is a brownfield site within a sustainable location, redevelopment of the club house site for residential use needs to be maximised in order to both help the London Borough Ealing deliver its housing needs – including the provision of affordable housing - as well providing access to the sports fields by the local community.

5. Are the boundaries of all town centres clearly defined, including any proposed alterations? Where alterations are proposed are they supported by evidence in development capacity assessments and town centre health checks and subject to assessments of retail impact? Taken as a whole, is the Plan clear about the applicable policies that will apply in different centres?

**L&E Response – no comment**

6. What is the latest position on the preparation of the Ealing Metropolitan Town Centre Growth Strategy [EB57], and does it have any implications for the Spatial Strategy or individual policies in the Plan?

**L&E response – no comment**

7. For deliverability, are the town-based Spatial Strategies built on an appropriate understanding of where public realm/space interventions are reliant on development finance or general spending unrelated to development management activities?

**L&E response**

**L&E response** - see response to question to question 4.

8. Are each of the town-based Spatial Strategies aligned in respect of articulating and promoting the existing and proposed cycle network, other strategic routes and local and green links across the Borough?

**L&E response – no comment**

9. Are the instances where open space is proposed to be protected clear, both in terms of the identification of such sites and the policy mechanism for protecting

**L&E Response**

L&E consider, for the reasons in given in their representation and response to Matter 3 – Metropolitan Open Land (MOL) – that using MOL designation to protect the sports fields is not the appropriate planning policy mechanism.

For the reasons given in the representation made by L&E and Hearing statements to Matter 3 – site EA21 does not meet MOL policy designation criteria and should be de-designated as MOL.

To protect the former sports fields the plan can continue to designate the area of EA21 which comprises the former sports fields as either community open space or local green space.

**Ealing Town Plan**

16. In terms of Policy E1:

a. is the Vision and Spatial Strategy for Ealing effective in terms of its clarity and content?

**L&E response**

L&E consider that the policy fails to recognise that, to be effective, the vision and spatial strategy for Ealing Town Plan is also dependent upon the delivery of the allocated sites within Ealing.

For reasons given in L&E's representation and Hearing Statement to Matter 3 – L&E consider that the full development potential of site EA21 to deliver much needed housing and also new sports facilities for the local community is dependent on having a viable development which maximises residential development at site EA21 rather than minimise any such development by application of the enabling policy and restrictive wording on quantum which is currently proposed.

b. has the potential for cumulative effects of the Vision and Spatial Strategy been considered and if so, what was the outcome?

**L&E response** – see answer to (a) above

c. has consideration of any sewerage and water supply constraints in the area informed the content of Table E1?

**L&E response** – no comment

d. is the approach to bus stopping and standing arrangements effective?

**L&E response** – no comment

e. are any modifications needed to Policy E1 for soundness?

**L&E response**

Modifications to Policy E1 to refer to the delivery Ealing Town Centre site allocations and sought modifications to site EA 21 as made L&E's representation and Hearing statements to Matters 3 and 4.

17. In terms of Policy E2:

**L&E response** – no comment regarding Policy E2.

- a. is the policy approach based upon up-to-date evidence relating to the health and opportunities for this town centre?
- b. is the strategy for the Town Centre sufficiently clear?
- c. is the response to the role and character of the Town Centre and identified opportunities for social and economic regeneration, growth, transport and permeability clear, coherent and justified?
- d. will the policy approach be effective in delivering the ‘office corridor’ and positively contributing to the vitality and viability of the Town Centre?
- e. are any modifications needed to Policy E2 for soundness?

18. In terms of Policy E3: Northern Ealing

- a. Is the term ‘character-led growth and intensification’ in an Ealing context clearly articulated?
- b. are any modifications needed to Policy E3 for soundness?

**L&E response**

For reasons given in Section 3 L&E’s representation, to make policy E3 sound, the former club house site within site 21 EA needs to be identified as a site appropriate for a high quality, taller building providing at least 100 residential units, conditional on the delivery of sports facilities with community access utilising the former sports fields.

19. In terms of Policy E4: Southern Ealing

- a. Is the term ‘character-led growth’ in an Ealing context clearly articulated?
- b. are any modifications needed to Policy E4 for soundness?

**L&E Response** – No comment.



## **Matter 9: Development Sites**

### **Issue**

Whether the development sites proposed for allocation in the Plan are justified, effective, in general conformity with the London Plan, consistent with national policy and positively prepared.

Town Plan Development Site Allocations – general

**L&E general response** – see Section 4 relating to Policy ENA – Enabling Development and Section 5 - Site allocation 21 EA of L&E's representation.

1. For effectiveness, is it sufficiently clear that the Plan seeks to formally allocate the Development Sites as land for development?

#### **L&E Response:**

The site allocation should identify the whole of the Barclays Sports Club Site as an allocation – which therefore includes both the former sports fields and the brownfield club house site. The club house site is within the allocated site but any new built development is to be confined within the former club house site which is proposed to be removed from the MOL.

2. Are the overarching principles for the Development Sites (set out at the start of each section, e.g. Action is at para 4.1.61) justified and deliverable, including the expectation that key infrastructure is expected to be delivered in early phases of development?

#### **L&E response**

L&E note paragraph 4.2.52 re Ealing Development sites that states

*“Development Sites have development potential that could support the delivery of the spatial strategy whilst ensuring the borough meets its housing and employment space requirements, alongside the delivery of any necessary and appropriate infrastructure.”*

However, for reasons given in L&E representation Section 3 and 4, it is considered that the proposed wording of Policy Allocation 21 EA does not assist delivery, in particular by the imposition of an Enabling Policy, reinforced by wording specifying “the absolute minimum” necessary. In fact, the Tall buildings restrictions within Policy EA 21 actually hinder the delivery of the residential element to meet the Borough's housing needs and the delivery of the former sports fields for local community sports use.

3. For effectiveness, is it clear how a decision maker should respond to the contextual considerations and design principles for each Development Site and the overarching principles? Is modification needed to clarify policy from guidance?

#### **L&E response**

L&E consider that the proposed site allocation at 21 EA unnecessarily restricts the height of development to 6 storeys despite the evidence provided by L&E in Appendices 5,6 and 7 that the site's context is appropriate for a higher density development of up to 10 storeys and comprising at least 100 units. This needs to be clarified in policy 21 EA.

4. For soundness, is it necessary for individual site allocations within the Plan to set out the anticipated yields for numbers of housing units and/or commercial floorspace to be delivered?

**L&E Response**

Yes, since otherwise there is material risk that inadequate housing quantum will be delivered. L&E consider that site 21 EA should be allocated delivery of at least 100 residential units as supported by the Council's own capacity assessment and for reasons given by L&E in their representation and Hearing Statement relating to Matter 4.

5. Is the methodology for determining building heights robust and are the building height limits for each site allocation consistent with it?

**L&E Response**

See answer to question 3.

6. Is the methodology for assessing heritage impacts of site allocations robust and is each site allocation consistent with it?

**L&E response**

No it is not. L&E are not aware of any heritage impact assessment undertaken by LBE or contained their evidence base relating to 21 EA. This is in contrast to L&E who submitted a Heritage Impact Assessment as Appendix 7 to their representation which concluded that "*a sound case in heritage terms for an allocation of this land for a development of up to 10 storeys.*" There is no transparent assessment of impacts by the Council which has been made available; certainly no substantive assessment.

7. Given the identified deficiencies in access to open space in the evidence base, how do the policies in the Plan assist with addressing this issue and will they be effective?

**L&E response**

L&E note that Table E1 – Key infrastructure delivery schedule – for Ealing Town Plan - states "new sports facilities at the former Barclays Sports Ground" that the infrastructure provider is "Ealing Council." However, delivery of the sports facilities is not Ealing Council.

The delivery of the sports fields, previously used only by employees of Barclays Bank, at site EA21 for access by members of the public is dependent upon the owner of the site, L&E, being willing to deliver the new sports facilities as part of the proposed site allocation at 21 EA.

For delivery of the sports fields to take place by L&E, a viable development is required which necessitates the redevelopment of the former club house site within 21 EA for residential development.

Given that the club house site within EA21 is a brownfield site in a sustainable location, redevelopment of the club house for residential use needs to be maximised in order to both help the Council deliver its housing needs, including the provision of affordable housing, as well providing a sports facility available for use by the local community.

8. Given the number of allocations affected, how has flood risk been taken into account, both in terms of assessing the capacity of site and any measures necessary to manage the issue? Will the measures be effective and are they consistent applied across the relevant proposed allocations in the Plan?
9. How have air quality issues been considered, evidenced and reflected in the choice of site allocations and any necessary mitigation?

**L&E response to questions 8 and 9 – no comment.**

#### **Site specific questions**

10. For each proposed development site, please set out:
  - a. the background and how it was identified;
  - b. the uses to be permitted and how they are justified;
  - c. how the boundaries and extent of the site have been defined and justified;
  - d. for housing allocations, the anticipated capacity of the site and whether this is justified;
  - e. for commercial development, the estimated floorspace and whether this is justified;
  - f. evidence of the expected timescale and rate of development, and how assumptions are justified and deliverable;
  - g. whether any relevant technical constraints have been identified and how appropriate mitigation will be secured;
  - h. how the relevant design criteria are justified, and whether they appropriately address any technical constraints in line with the development plan as a whole;
  - i. the specific infrastructure dependencies necessary in order for the site to be deliverable, whether the infrastructure needs to be in place upfront and the assumed timescales for delivery;
  - j. how any site-specific recommendation on building heights is justified in terms of local context, including character, heritage and living conditions;
  - k. whether the allocation will result in the loss of any industrial floorspace and, if so, the specific designation (SIL/LSIS/non-designated) and how any loss is justified;
  - l. whether the site has been taken forward for targeted assessment in the Level 2 - Strategic Flood Risk Assessment [EB99] and, how that assessment affects the assumed capacity or delivery rate of the site and how any identified mitigation will be effective;
  - m. where applicable, evidence of how the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 and national planning policy approach on heritage will be met;
  - n. how measures designed to promote sustainable travel will be effective;
  - o. clear evidence of whether the site is viable and developable at the scale of development expected; and
  - p. any modifications that are necessary for reasons of soundness.

## L&E response to question 10

See Section 5 to L&E's representation to site allocation 21 EA

### Ealing Development Sites

#### 21EA - Former Barclays Sports Ground

40. Is the loss of Metropolitan Open land justified?

#### L&E Response

L&E consider that the loss of the Metropolitan Land at for all of the site 21 EA is justified, including the club house site, for the following reasons which were given in Hearing relating to Matter 3.

#### National Planning Policy Framework Considerations

- 40.1 Appendix 1 to this Hearing Statement reproduces paragraph 145 of the December 2023 National Planning Policy Framework as, in accordance with transitional arrangements, the Examination will be assessed against this version of the NPFF.
- 40.2 Paragraphs 2.7 to 2.9 of LE's representation make reference to paragraphs 138 and 141 of the July 2021 version of the Framework. These paragraphs are however re-numbered as paragraphs 142 and 146 in the December 2023 National Planning Policy Framework.

#### Assessment

- 40.3 Section 2 of the L&E Representations relates to the submitted Plan's proposed changes to the Metropolitan Open Land ("MOL") designation in respect of site allocation EA21.
- 40.4 L&E consider that exceptional circumstances are fully evidenced and justified to remove the designation MOL boundaries to site allocation EA21 in the plan making process because the site does not meet MOL designation criteria.
- 40.5 This is evidenced by paragraphs 2.14 to 2.27 and Table 1 in the L&E Representations which refers to LBE's own report, commissioned from Arup – *"Ealing Green Belt and Metropolitan Open Land Review Stage 1 report – November 2022. – MOL 20 Site Assessment"*. Site MOL 20 includes all of the former Barclays Sports Ground, site EA21, as well as St Augustine School and Grounds, Ealing Reservoir, Fox Wood, Hanger Hill Park and Chatsworth Wood.
- 40.6 The report's recommendation in relation site MOL 20 (including all of site allocation EA21) is that **"overall the site does not score well against MOL criteria. Alternative designations such as public/community space are considered to be more appropriate and boundary changes are to "de-designate the whole site"**
- 40.7 The report's recommendation to de-designate all parcels of land comprising MOL 20 was incorporated within the Regulation 18 submission draft as given in Appendix 3 "Atlas of Change – Map 2, page 3.
- 40.8 Paragraphs 2.28 to 2.29 of the L&E Representations highlight that the LBE decided not to take forward Arup's recommendation in the Regulation 19 submission Plan because of *"objections raised by the Mayor of London in his statement of General Conformity."*

- 40.9 The Mayor's letter to LBE in relation to the Reg 18 draft New Ealing Local Plan considered that exceptional circumstances had not been demonstrated to release sites from the MOL designations and that "*LBE should adopt a 'brownfield first' approach exhausting all brownfield development opportunities before considering the potential for development on GB and MOL sites*".
- 40.10 Consequently, the Atlas of Change – Map 35 – MOL 20, which specifically relates to the Barclays site allocation, proposes to only amend the MOL boundary for the EA21 Site to exclude the Club House Site, comprising the club house building and the surrounding hardstanding area.
- 40.11 Paragraphs 2.30 to 2.48 and Table 2 of the L&E Representations set out L&E's response to LBE's decision not to remove the MOL designation from the entirety of site EA21 due to the Mayor's objection (see further below). The position of L&E is that since, on the evidence from LBE and Arup, site EA21, as part of MOL 20, does not fulfil or no longer fulfils the criteria for MOL, then exceptional circumstances must exist for removal of the MOL designation.
- 40.12 Further, L&E considers that LBE have failed to recognise, as advised by the Mayor, that as the Club House Site, being the only part of site EA21 which is proposed to be released from MOL, is a brownfield site, every opportunity needs to be made to maximise the development potential of the site in order to deliver the Plan's housing needs.
- 40.13 L&E have submitted evidence in Appendices 5, 6 and 7 of the L&E Representations that the Club House Site is a suitable and sustainable site for the delivery of needed new homes, development of which would improve the townscape and visual appearance of the site with no impact on heritage assets, whilst still maintaining the openness of the sport grounds.
- 40.14 Further, the Plan proposes an additional MOL designation on land comprising a small part of the access road to the Ada Lovelace High School – as shown in Table B and paragraph 2.48. The land comprising the whole of the Ada Lovelace site (to the immediate south of and adjacent to site EA21) was released from MOL by an Inspector's report decision dated 2 March 2016 relating to the examination of the Ealing Planning for Schools Development Plan document – Ref PINS/A5270/429/7 and leased by L&E to the Secretary for State for Education in order to enable development of the school. Apart from the inclusion of this small parcel of land in the Atlas of Changes in the Plan, no mention or justification for the proposed designation of this land as MOL is provided by LBE, let alone any exceptional circumstances, for its proposed MOL designation.
- 40.15 L&E therefore consider that there are exceptional circumstances to justify the removal of all of site EA21, comprising the former Barclays Sports Ground, in addition to the removal of the designation from the Club House Site, as summarised in their conclusions and recommendations as given paragraphs 2.49 to 2.50 and, further, that there are no exceptional circumstances which would justify the designation of part of the Ada Lovelace access road as MOL.

- 40.16 Paragraph 2.51 of the L&E Representations states that, in the event that the Inspectors do not agree with the assessment of L&E and Arup (and the previous position of LBE) that there are exceptional circumstances which justify the removal of the MOL designation from the whole of Barclays site, so that only the Club House Site should be removed from MOL, then the position of L&E is that the proposed boundary change to the MOL by Map 35 is too tightly drawn and the MOL Club House Site boundary should be as shown in Appendix 3 to the L&E Representations.
- 40.17 L&E also note that the London Plan is now in the process of being reviewed and, in relation to MOL, the London Mayor issued in May- June the following for public consultation
- “2.11 The Mayor will continue to give protection to MOL given its vital role for Londoners and providing a liveable city as London grows. However, some areas of MOL, such as certain golf courses are not accessible to the wider public and have limited biodiversity value. This undermines the purpose of the designation. These areas could be assessed to understand whether they should be released from MOL. They may be able to help to meet London’s housing and accessible open space provision (for example opening up strategic new open spaces accessible to Londoners alongside new homes). At the same time, they could improve biodiversity through landscape-led redevelopment.”*
- 40.18 Although not having the status of adopted London wide planning policy, nevertheless the Mayor’s statements do give an indication of “the direction of travel.” In particular, although the former Barclays Sports Club site is not a golf course, it nevertheless has similar characteristics in terms of not being accessible to the wider public and having limited biodiversity value and development of the site could further help to meet London’s growing housing needs in the later plan period of the LBE Local Plan. In these circumstances, the fact that LBE elected not to pursue the course of de-designating MOL20 (as advocated by its own consultant, Arup) due to its understanding of the Mayor’s position is very significant. The Mayor has unequivocally shifted his stance in relation to MOL, and accordingly the LBE’s rejection of Arup’s recommendation is simply not justified.
41. Should the Plan treat this site allocation as ‘enabling development in terms of Policy EA21 and the proposed use of the site?

#### **L&E Response**

- 41.1 For reasons given in Section 4 of L&E’s representation it is L&E opinion that application of Enabling Policy to site EA21, particularly with the reinforcing wording referring to “the absolute minimum” development, is contrary to National Planning Policy Guidance and the London Plan. In short adopting such a policy restriction unnecessarily minimises the redevelopment of the brownfield sports club site, whereas, in view of the unmet housing needs in the Borough and the need to create a viable development in order to deliver the sports fields for community use by the owner of the site, the policy for the site should seek to maximise the residential development, including affordable housing.
- 41.2 Further, since their April 2024 representation, L&E have also provided, as evidence to LBE, two viability assessments undertaken by Savills which demonstrate that, depending on the cost and revenue assumptions, the delivery of the sports fields for wider community use may be unviable unless at least 100 residential units were provided at the club house site, of which at least 35% would be affordable.

- 41.3 Viability consideration and assessments are accepted as being a necessary prerequisite for site allocations as given by National Planning Policy Guidance. L&E note the following from Planning Policy Guidance entitled “Viability” updated in December 2024.

***“How should plan makers and site promoters ensure that policy requirements for contributions from development are deliverable?”***

*The role for viability assessment is primarily at the plan making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan.*

*It is the responsibility of plan makers in collaboration with the local community, developers and other stakeholders, to create realistic, deliverable policies. Drafting of plan policies should be iterative and informed by engagement with developers, landowners, and infrastructure and affordable housing providers.*

*Policy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs and allows for the planned types of sites and development to be deliverable, without the need for further viability assessment at the decision making stage.*

Paragraph: 002 Reference ID: 10-002-20190509

- 41.3 LBE’s advisors have not provided L&E with any evidence for their assertion that to be viable there is only the need to provide residential development at the former club house to address a cost of £3.5m for the delivery of the sports fields for local community use. Indeed, the figure of £3.5m is wholly unsubstantiated. Further LBE has refused to respond to or engage with the viability assessments provided by L&E.
- 41.4 L&E consider that the restrictions imposed by the Enabling Development Policy directly contradict the brownfield first policy of the London Plan and the need for the London Borough of Ealing to meet its 5 years housing needs in order to make the plan sound.
- 41.5 If the purpose of having an Enabling Development Policy applied to site allocation 21 EA is to seek to guarantee to the delivery of re use of the sports fields by the local community, and not have a stand alone residential development at the club house site, there are other means that LBE can adopt to ensure this policy delivery, namely by simply stating in the allocation that any residential development is conditional on delivery of the required sports use and a robust section 106 agreement stating that no residential development can take place without the provision of the sports uses as required by the 21 EA allocation.

42. Will the site allocation be effective in securing appropriate community sports provision?

**L&E Response**

- 42.1 Securing the appropriate community sports provision at site allocation 21 EA will be effective if (i) the enabling policy and related restrictive wording and (ii) the tall building policy restrictions are both removed and (iii) the wording of policy EA21 is amended as

sought by L&E in Section 5, Table 3 of L&E's representation, thereby achieving a viable development site allocation.



## **Matter 10: Delivery and Monitoring**

(Note - Answers to questions in this Matter, particularly around infrastructure provision, will also be informed by detailed discussions about deliverability of specific allocations and the Spatial Strategy under other Matters).

### **Issue**

Whether the Plan is effective in terms of delivery of its proposals and arrangements for monitoring.

### **Questions**

1. Does the Plan set out the contributions expected from development and is it in accordance with paragraph 34 of the NPPF?
2. What is the latest position on the examination of the draft Ealing LPA Charging Schedule [EB41] and does it have any implications for the soundness of the Plan?
3. Does Policy FLP provide a sound approach to funding? Is the approach of leaving detail to a future SPD sound?
4. In terms of Policy ENA: a. What is the background the policy and what does it seek to achieve? b. How is it justified by the evidence, including the scoring against the objectives in the IIA process? c. For effectiveness, is it clear about when the policy would apply? Does it provide certainty about how a decision maker should react to a proposal?

### **L&E response**

See L&E answers to question 41 and 42 in respect of Matter 9.

5. How has viability been considered? Is there a proportionate assessment of the viability of the Plan? Is it sufficiently flexible to respond to relevant changes which may occur during the plan period?

### **L&E Response**

See L&E answers to questions 41 and 42 in respect of Matter 9.

6. In terms of how the Plan will be monitored:
  - a. does the monitoring framework appropriately dovetail with and/ or rely upon relevant monitoring arrangements for other parts of the development plan for the Borough;
  - b. do the proposed indicators provide adequate coverage across each of the policies of the Plan?
  - c. is each indicator relevant and measurable?
  - d. are any modifications needed to the monitoring framework for soundness

**L&E response** – no comment.