



GL Hearn

# Ealing Local Plan Examination Response to Matter 5

**Hovedean Properties (DM9)**

Middlesex Business Centre  
Southall

May 2013

## **Prepared by**

GL Hearn Limited  
20 Soho Square  
London W1D 3QW

T +44 (0)20 7851 4900  
F +44 (0)20 7851 4910  
glhearn.com

## **Contents**

<b>Section</b>		<b>Page</b>
<b>1</b>	<b>INTRODUCTION</b>	<b>4</b>
<b>2</b>	<b>MATTER 5.1</b>	<b>5</b>
<b>3</b>	<b>MATTER 5.3</b>	<b>6</b>
<b>4</b>	<b>MATTER 5.4</b>	<b>7</b>
<b>5</b>	<b>MATTER 5.5</b>	<b>8</b>

## Quality Standards Control

The signatories below verify that this document has been prepared in accordance with our quality control requirements. These procedures do not affect the content and views expressed by the originator.

This document must only be treated as a draft unless it has been signed by the Originators and approved by a Business or Associate Director.

DATE  
18 May 2013

ORIGINATORS  
Claire Morison  
Senior Development Planner



APPROVED  
Shaun Andrews  
Planning Director



### Limitations

This document has been prepared for the stated objective and should not be used for any other purpose without the prior written authority of GL Hearn; we accept no responsibility or liability for the consequences of this document being used for a purpose other than for which it was commissioned.

## 1 INTRODUCTION

- 1.1 This Statement to the Ealing Local Plan Examination in Public (EiP) Hearings is submitted by GL Hearn on behalf of Hovedean Properties. It relates to the following key issues identified by the Inspector for Matter 5.

### 5. Matter 5 – Development Management DPD

*5.1 Are the policies clearly worded? Will they be a succinct and easily understood guide to development? Do they need more explanatory text? Do they need to refer to other directly relevant policies in the CS? Do they unnecessarily repeat policies from the London Plan or requirements from other legislation?*

*5.3 Do they rely on standards or requirements set out in untested documents?*

*5.4 Are the policies relating to employment (4A), retail (4B), density (3.4), living conditions (7A C, 7B), open space (7D) too prescriptive, failing to take into account individual site and development circumstances. Will these policies be effective in encouraging development in Ealing?*

*5.5 Do the policies relating to affordable housing (3A), carbon dioxide emissions (5.2), green roofs (5.11) and open space (7D) place an unreasonable burden on development, affecting their viability in the current economic climate. Will these policies be effective in encouraging development in Ealing over the next five years and throughout the plan period?*

- 1.2 This statement references the earlier representations submitted by Barton Wilmore on behalf of Hovedean Properties. GL Hearn has taken over representing Hovedean Properties in relation to its land interests in Southall.

## 2 **MATTER 5.1**

**Are the policies clearly worded? Will they be a succinct and easily understood guide to development? Do they need more explanatory text? Do they need to refer to other directly relevant policies in the CS? Do they unnecessarily repeat policies from the London Plan or requirements from other legislation?**

- 2.1 The approach of the Development Management DPD is to reproduce the policies of the London Plan 2011 and add local variations to the London Plan policies alongside new local policies. The inclusion of the London Plan policies is repetitive and the addition of local variations to the London Plan policies provides for a confused format with the numbering not following a sequential pattern. Repeating the numbering of the London Plan policies will make it difficult to quote the policies clearly. Also the explanatory text beneath the policy does not have a paragraph number making it difficult to quote, particularly when there is more than one paragraph of text. In summary, the documents could more clearly set out local planning policy requirements.
- 2.2 One of the core planning principles of the NPPF is that planning should be genuinely plan-led through 'succinct' local plans (paragraph 17; page 5). The London Plan 2011 forms part of the Development Plan for all London boroughs thus it is not necessary to repeat the provisions of the London Plan in local planning policy, The inclusion of the London Plan policies within the DM DPD is unnecessarily repetitive and cannot be considered 'succinct' as envisaged by the NPPF.
- 2.3 Specifically, the Local Variation to London Plan Policy 3.4 sets out how this policy will be applied at a local level by identifying which areas are considered to fall within the central, urban and suburban settings. The Variation does not set new policy, rather it explains how London Plan policy will apply within the borough. A Development Plan Document is not the correct document to explain how the regional policy framework will apply at a local level. This policy would be more effective if it reviewed the London Plan density ranges and identified where additional flexibility could be applied. For example, the policy could set out which areas/ development sites are appropriate for development with a density at the higher end of the London Plan range.
- 2.4 Policy 3.5 G is another example of repetitive policy. It sets a minimum floor to ceiling height of 2.5 metres and explains in the supporting text that this is necessary 'to provide certainty'. It is unclear why this height is required to provide certainty. The supporting text highlights that this height standard is in line with the London Housing SPG. It is therefore considered repetitive to include it within Policy and should be deleted.

### **3 MATTER 5.3**

#### **Do they rely on standards or requirements set out in untested documents?**

- 3.1 Policy 3.5F states that development should be in accordance with the detailed provisions of the London Housing Design Guide and the London Housing SPG. The London Housing Design Guide was published as an interim guide for Homes and Communities Agency (HCA) schemes and development on London Development Agency (LDA) land. This document is not policy, has not been subject to independent examination and testing and was not written to be applied to all schemes. On the basis that the policy seeks to apply the Guide as planning policy, the soundness of the Interim Guide also falls to be considered at the Examination. In this respect, the Guide has not been tested independently and it is not clear from the Council's evidence base whether the implications of imposing the standards within the Guide in general or in terms of scheme viability have been assessed.
- 3.2 For the policy to be sound, the Council should identify the standards within the Guide and SPG that are to be applied within the borough and set out evidence to justify the application of these standards within Ealing. Alternatively, Part F should be omitted and the Council should rely on the standards set out in the London Plan 2011 as these have been subject to independent testing and found to be sound.

#### 4 **MATTER 5.4**

**Are the policies relating to employment (4A), retail (4B), density (3.4), living conditions (7A C, 7B), open space (7D) too prescriptive, failing to take into account individual site and development circumstances. Will these policies be effective in encouraging development in Ealing?**

##### **Policy 4A Employment**

- 4.1 The proposed clarification of the policy deleting the reference to retaining employment space in Part B is welcomed. If a site is found to be unviable for employment purposes, to require the re-provision of employment space could put an undue burden on the developer with the risk that they are left with vacant units owing to the lack of demand or a planning permission that cannot be implemented. This would result in a vacant or underused site.

##### **Policy 3.4 Density**

- 4.2 The policy wording is too rigid and, if retained, should be amended to make clear that each site will be assessed on its merits and in light of the local context and character, transport capacity, existing and future PTAL and proximity to other infrastructure as envisaged by the London Plan 2011. Furthermore, the explanatory text states that: the density ranges 'apply well' to Ealing without explaining why this is the case or providing evidence to support this assertion.

##### **Policy 7D Open Space**

- 4.3 The proposed change to the policy wording (7D Part B) to remove the reference to a buffer strip is supported as the policy will be able to be applied more flexibly.
- 4.4 The proposed standards are overly prescriptive and, even with the lengthy addition of explanatory notes, the policy fails to take account of site constraints, the character of the locality or the relative shortfall/ oversupply of open space within a particular area.
- 4.5 The requirement for open/ green space should be assessed on a site by site basis taking account of existing and proposed open space within the vicinity of the site, the specific constraints of the site, the character of the area and market demand.

## 5 MATTER 5.5

**Do the policies relating to affordable housing (3A), carbon dioxide emissions (5.2), green roofs (5.11) and open space (7D) place an unreasonable burden on development, affecting their viability in the current economic climate. Will these policies be effective in encouraging development in Ealing over the next five years and throughout the plan period?**

### Policy 3A Affordable Housing

- 5.1 The requirement for affordable housing to be negotiated on the basis of a 50% provision at a 60/40 split of social or affordable rented accommodation to intermediate provision could render schemes unviable. The policy does not make clear the basis on which affordable housing provision will be negotiated.
- 5.2 The mix and split of tenures should be based on a site by site assessment of the character and tenure mix within the area to ensure the provision of mixed and balanced communities in line with Paragraph 50 of the NPPF and should not be applied rigidly across the borough.
- 5.3 The policy refers to viability appraisals but it does not include details of other factors that may influence provision. Viability assessments are based on site specific considerations and it is unreasonable to require a standard approach. The requirement for affordable housing provision viability assessments to be based on a standard residual valuation approach with the benchmark land value taken as the existing/alternative use value is unreasonable and could stymie development. This requirement does not reflect the way the market operates and will mean that developments will not come forward as there will be no financial incentive for landowners. The policy is too prescriptive and this wording should be deleted.

### Policy 5.2 Carbon Dioxide Emissions

- 5.4 The policy requirements for new development to achieve BREEAM 'Very Good' and Code for Sustainable Home Level 4 (2012 onwards) and Level 5 (2016 onwards) are onerous and there is no flexibility in the wording of the policy to take into account site specific circumstances.
- 5.5 This policy does not take account of scheme viability or the constraints of the individual site in its prescription of the Code Level or BREEAM rating. The lack of flexibility within this policy places a burden on developers that may make development on some sites unviable contrary to NPPF paragraph 173. To require stricter standards than the government's own Building Regulations is contrary to the Government's policies to encourage development, in particular new houses, in the current economic climate.



- 5.6 The Council's statement that if a scheme is unviable because it is unable to achieve *required building standards* [our emphasis] that it may simply be because it is unsuitable for its specified site fails to acknowledge Building Regulations and could stymie development of constrained sites.
- 5.7 The policy requirement to undertake post-construction monitoring to demonstrate the actual carbon-dioxide savings, requiring the installation of monitoring equipment and submission of information to the Council, is unreasonable and unnecessary. The carbon dioxide savings of any development can only be an estimate based on ideal performance of proposed materials/equipment installed. Providing a development is constructed in line with the agreed specification, it is unclear what the benefit of monitoring would be. The policy fails to state how long and how often this monitoring would be required. There will be significant difficulty in monitoring future occupiers of developments. It is considered that it would be an unenforceable requirement.
- 5.8 Furthermore, the costs of equipment and obligation to monitor and submit information could render schemes unviable.

#### Policy 5.11 Green Roofs

- 5.9 The policy requirement for green roofs on major development within 100 metres of a green buffer zone does not afford any flexibility when considering development proposals in areas where the character is such that green roofs would not be appropriate, for example within conservation areas or where it is more appropriate to use the roof as communal or private amenity space.
- 5.10 It is welcomed that the Council has taken account of the proposed rewording of the policy, as previously suggested on behalf of Hovedean. However, it should be noted that the Council should take account of scheme viability to ensure that the policy is not overly restrictive.

#### Policy 7D Open Space

- 5.11 The proposed standards are overly prescriptive and even the Council's proposed addition of significant notes to explain the policy fail to take account of site constraints, the character of the locality or the relative shortfall / oversupply of open space within a particular area.
- 5.12 The requirement for open/ green space should be assessed on a site by site basis taking account of existing and proposed open space within the vicinity of the site, the specific constraints of the site, the character of the area and market demand. The proposed standards are considered to be excessive, placing an unnecessary burden upon developments and potentially rendering sites undevelopable by not allowing for site specific circumstances to be taken into consideration.