

# Enfield Local Plan 2019 – 2041 Examination

---

**Our ref** 60325/01/MS/HBe  
**Date** 7 January 2025  
**From** Lichfields obo Berkeley Homes (North East London) Ltd

## Subject Matter 1: Legal, Procedural and Other General Matters

---

This Hearing Statement has been submitted by Berkeley Homes (North East London) Ltd. ('Berkeley'); promoting land interests in the Crews Hill area (Policy PL11) including the Owls Hall Estate immediately west of Crews Hill station (Policy SA11.1) as well as the Enfield Garden Centre (Policy SA11.4) on Cattlegate Road. The Crews Hill area is a proposed allocation for approximately 5,500 homes.

### 1.0 Issue 1.1: Duty to Co-operate

#### Q1.1 – Q1.6

1.1 No comment.

### 2.0 Issue 1.2 – General Conformity with the London Plan

#### Q1.7: In overall terms, is the Plan in general conformity with the London Plan?

2.1 **No**, Berkeley does not consider the plan is in general conformity with the London Plan but only insofar as it relates to Tall Buildings, on which the Council is now suggesting Main Modifications to address this issue (see E3.2).

2.2 In respect of Green Belt and the interlinked issue of housing requirement – the other area where non-conformity is alleged – these were matters addressed in Berkeley's Regulation 19 representation response to Policy SS1. However, since then, the Council and the GLA have published an SoCG (E3.1) and the Council has published a Conformity Topic Paper (E3.2) which sets out new information. Berkeley has concerns related to that new information, which is addressed in Berkeley's hearing statements as follows, albeit for clarity we do consider the Plan as submitted can be (and is) in general conformity with the London Plan whilst containing Green Belt release.

2.3 For context, the Courts<sup>1</sup> have found that the test of whether the Plan is in 'general conformity' with the London Plan is a matter of degree and of planning judgement. It should therefore be approached with a level of flexibility that is relatively loose (as opposed to a tighter approach) to reflect that, for example, the implementation of policies between

---

<sup>1</sup> See the analysis within the Judgment of the Court of Appeal in Persimmon Homes (Thames Valley) Ltd & Ors v Stevenage Borough Council [2005] EWCA Civ 1365 (22 November 2005), notably paras 22 and 25.

tiers of plans is subject to long lead in times, and that over such periods of time the needs and demands to achieve good planning are liable to change.

- 2.4 In considering this question, Berkeley notes that the Greater London Authority ('GLA') – as set out within both the Statement of Common Ground ('SoCG') between LBE and the GLA (E3.1) and the London Borough of Enfield ('LBE') 'Conformity Paper' (E3.2) – considers that the submitted Plan to not be in general conformity in two respects<sup>2</sup>:
- 1 Tall Buildings; and
  - 2 Green Belt.
- 2.5 Berkeley agrees with the GLA that the Plan as submitted is not in general conformity with the London Plan only in respect of its Tall Buildings policy. However, it disagrees with the GLA in respect of Green Belt, the policies for which are in general conformity with the London Plan (see Berkeley's response to Matter 4 and in particular Issue 4.3 for detailed consideration of this point). Berkeley also considers that the plan more generally conforms with the London Plan, for example, in respect of the interlinked matter of setting the proposed housing requirement<sup>3</sup>.
- 2.6 Notwithstanding, Berkeley **disagrees** with points set out within the SoCG and Conformity Paper, because in Berkeley's view they do not reflect the correct approach. This is because:
- 1 We are not clear in what context the application of paragraph 4.1.11 of the London Plan is a "*change since the regulation 19 representation*" (see paragraphs 3.2-3.4 of E3.1 SoCG). Paragraph 4.1.11 remains a part of the London Plan (LP2021), is not intrinsically inconsistent with either the NPPF (2023) nor NPPF (2024), and – irrespective of the evident likely future increase in Enfield's housing need figure – does not alter, or cut across, the correct approach to be taken to setting the housing requirement in line with the LP2021, which inevitably needs to recognise development needs, and consider local evidence of capacity to meet those needs. (See Berkeley Reg 19 response to Policy SS1). Conversely the GLA approach – articulated within the SoCG - of advising Boroughs to "*roll over their current housing target*" (which the Enfield Plan correctly does not seek to do) appears to lack conformity with its own policy position within the LP2021. Berkeley was not aware of this advice from the GLA at the point of the Regulation 19 response, but notes the response of LBE at paragraph 26 of the Conformity Topic Paper.
  - 2 We note LBE's position as set out at Paragraph 2, Bullet 4 of the 'Conformity Topic Paper' (E3.2) which states that the Council considers that demonstrating exceptional circumstances is a soundness matter and not a matter of general conformity with the London Plan. Whilst we agree with the proposition (at E3.2 paragraph 21) that release of Green Belt sites is not, as a matter of principle, an approach which is out of general conformity with LP2021, we disagree insofar as it is theoretically possible that specific releases could be. This is because if exceptional circumstances have not been demonstrated - overall and/or for specific sites - then an attempt to remove land from the Green Belt would not be in general conformity issue with the LP2021 (e.g. due to a

<sup>2</sup> Para 9, Page 4 (E3.2) & Para 2.2, Page 2 (E3.1).

<sup>3</sup> See Berkeley's response to Matter 2.

breach of its Policy G2(B) requiring exceptional circumstances to be demonstrated. Berkeley is therefore of the view that the demonstration of exceptional circumstances is the material test for both soundness and general conformity in this respect (as suggested in the Conformity Topic Paper para 21 second sentence). Berkeley’s view on the exceptional circumstances that exist for the release of Green Belt (and the specific release of Crews Hill) is contained in our Matter 4 statement. In light of the above, we do consider that the Examination of the plan will need to arrive at a conclusion on the soundness of the Exceptional Circumstances case put forward by the Council prior to, and in order to arrive at a position on whether general conformity with the London Plan exists (i.e. it is not an issue within a vacuum).

- 2.7 In respect of the Tall Building policy, Berkeley notes that LBE has proposed modifications<sup>4</sup> that would in the Council’s view ensure the Plan’s tall building policy is in general conformity with the London Plan. Berkeley considers that modifications (as proposed by LBE or otherwise agreed through the examination) can be made to ensure the plan is in general conformity with the London Plan in this respect.

**Q1.8: What, if any, modifications have been proposed to address any issues of general conformity? What is the current position of the Mayor of London in light of these suggested modifications?**

- 2.8 As set out above, LBE has proposed modifications<sup>5</sup> that would in the Council’s view ensure the Plan’s tall building policies are in conformity with the London Plan. With these or otherwise agreed suitable modifications in respect of Tall Buildings, the Plan can be found to be in general conformity with the London Plan.

**Q1.9: Are any further discussions with the Mayor of London taking place, when is it expected those discussions would be concluded and what is the intended outcome?**

- 2.9 This is considered a question for the Council.

**Q1.10: Are any main modifications proposed to address issues of general conformity?**

- 2.10 Yes, as described above in respect of Q1.8.

**Q1.11: Is it clear how the individual policies of the Plan relate to the those of the London Plan? Is there any duplication between the policies of the Plan and the London Plan? If so, does this impact on the effectiveness of the development plan as a whole?**

- 2.11 There is currently duplication between Policy DE6 (Tall Buildings) – specifically Criterion 10 – and London Plan Policy D9 (C1d). LBE has suggested a modification to delete this criterion to avoid duplication<sup>6</sup> that Berkeley supports to ensure the Plan is effective.

<sup>4</sup> Modifications proposed to Policy DE6 (amending page 193 of the submitted Plan). See Pages 31 to 34 (E6)

<sup>5</sup> Modifications proposed to Policy DE6 (amending page 193 of the submitted Plan). See Pages 31 to 34 (E6)

<sup>6</sup> Modification proposed to Policy DE6 (Paragraphs 9 and 10). See Pages 32 to 33 (E6)

**3.0 Issue 1.3 – Public Engagement**

**Q1.12 – Q1.15:**

3.1 No comment.

**4.0 Issue 1.4 – Sustainability Appraisal**

**Q1.16: As part of the integrated impact assessment (IIA), has the formulation of the Plan been based on a sound process of sustainability appraisal?**

4.1 Yes. Berkeley considers the formulation of the plan has been based on a sound process of sustainability appraisal: arriving at a spatial strategy that, inter alia, proposes the release of land at and around Crews Hill station as a location for growth from the green belt. See Berkeley’s Matter 5 Statement for additional commentary.

**In particular:**

**a) Has the IIA been prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004?**

4.2 No comment.

**b) Does the IIA test the Plan against reasonable alternatives, including in terms of the scale of housing and employment growth, the broad distribution of development and site allocations and policies?**

4.3 Yes. In respect of the overall spatial strategy, the IIA tested 16 different strategies of which 15 were considered ‘reasonable alternatives’ (with Option 4 being discounted). Of the 15 options tested as reasonable alternatives, different scales of development (for housing, options were tested in terms of delivering between 17,000 34,500 new homes) distributed in different patterns across the district (from within different parts of the urban areas of the Borough [including, focusing development in certain areas], with and without the release of Strategic Industrial Land [‘SIL’], and potentially using the Green Belt if exceptional circumstances existed).

**c) Has the IIA been robustly prepared with a comparative and equal assessment of each reasonable alternative?**

4.4 No comment.

**d) Is the IIA decision making and scoring robust, justified and transparent?**

4.5 No comment.

**e) Has the Council provided clear reasons for not selecting reasonable alternatives?**

- 4.6 Yes. Both Table 2.1 in and Section 2 more generally in the IIA (SUB8) – as well as the Non-Technical Summary (SUB9) – clearly summarises (1) why certain growth options were considered reasonable alternatives and others not, and (2) for those that were, why they were or were not preferred.
- 4.7 The ‘Spatial Strategy and Overall Approach Topic Paper’ (TOP1) also provides additional narrative as to how the proposed spatial strategy was arrived at (and by extension why certain options were discounted).

**f) Is it clear how the IIA has influenced the Plan strategy, policies and proposals and how mitigation measures have been taken account of?**

- 4.8 No comment.

**g) Have any concerns been raised about the IIA and, if so, what is the Council’s response to those?**

- 4.9 This is considered a question for the Council.

**5.0 Issue 1.5 – Habitats Regulations Assessment****Q1.17 – Q1.20:**

- 5.1 No comment.

**6.0 Issue 1.6 – Other Issues****Local development scheme****Q1.21:**

- 6.1 No comment.

**Equalities****Q1.22:**

- 6.2 No comment.

**Superseded policies****Q1.23:**

- 6.3 No comment.

**Q1.24: Is the suggested main modification necessary to make the Plan sound and legally compliant?**

- 6.4 The suggested modification to Paragraph 1.15 of the submitted plan will ensure the plan is more effective (NPPF Para 35c). Moreover, the updated text proposed by the Council will ensure the plan is clearly written and unambiguous (NPPF Para 16d).

**Climate change****Q1.25: Does the Plan accord with s19(1A) of the Planning and Compulsory Purchase Act 2004 by including policies that are designed to secure that the development and use of the land in the London Borough of Enfield contribute to the mitigation of, and adaptation to, climate change?**

- 6.5 Berkeley supports the plan in respect that the delivery of the wider Crews Hill placemaking area (Policy PL11) will support LBEs mitigation of, and adaptation to, climate change.

**Word Count:** [1138]