

Brent Local Plan Examination
Environment Agency Statement 26 August 2020

Introduction

The Environment Agency has a responsibility for protecting and improving the environment as well as contributing to sustainable development. We have three main roles; we are an environmental regulator, an environmental operator and an environmental advisor. One of our specific functions is as a Flood Risk Management Authority. We have a general supervisory duty relating to specific flood risk management matters in respect of flood risk arising from Main Rivers or the sea.

The London Borough of Brent is situated in the upper reaches of the River Brent catchment and is at risk primarily from surface water but also fluvial (river) flooding. The West London Strategic Flood Risk Assessment (Level 1) was published in 2018 and identifies the flood risks across 6 London Boroughs including Brent. This also identified the areas to be defined as functional floodplain which is the zone comprising land where water has to flow or be stored in times of flood.

Our Thames Flood Risk Management Plan (2015-2021) characterises the Upper Brent catchment as a fluvial river system combined with a relatively steep gradient and large impermeable areas which result in a rapid response to rainfall. High flows can occur shortly after the onset of a rainfall event and the catchment is particularly susceptible to summer thunderstorms. Surface water flooding can also occur independently of the river system during storm events. The Brent catchment is heavily developed, particularly in the upper and middle reaches. Flooding can therefore result from channel capacity being exceeded, either from large flows or reduced capacity from blockages. Often these types of flooding happen together, which can make it difficult to determine the source.

We are submitting this statement in order to explain the stage we are at in terms of our discussions with Brent, following our objection to the proposed submission stage of the Local Plan in December 2019. Brent Council have engaged with us following the proposed submission consultation in an attempt to address our concerns. We therefore anticipate that our concerns will likely be resolved with the publication of the latest versions of the Level 2 Strategic Flood Risk Assessment and Sequential and Exceptions Test and suitable main modifications to the Local Plan. Our answers to the Inspectors questions (MIQs) on Matter 3 'Flood Risk' are as follows:

3.1 The EA has concerns regarding the Council's approach to, and methodology relating to its assessment of, flood risk and a lack of evidence demonstrating that all proposed site allocations and intensification corridors within the Plan have passed sequential and exceptions testing in accordance with Planning Practice Guidance (PPG). Have the site allocations of the Plan been appropriately tested in this respect and has this been undertaken in accordance with the PPG?

In December 2019 we objected to the proposed submission version of the Local Plan and found it unsound based on issues regarding the evidence base (Sequential Test and Integrated Impact Assessment methodology for flood risk) but also the content of Policy BSU13 Managing Flood Risk. Without an evidence base demonstrating to us that the Sequential Test had been applied, our view was that the Local Plan didn't meet the requirements of paragraph 157 of the National Planning Policy Framework which requires a sequential, risk-based approach to the location of development and applying the sequential test and if necessary the exceptions test. We also did not consider this approach was justified as it was not based on proportionate evidence that was evident to us at the time (i.e. Sequential Test based on an appropriate SFRA).

Brent subsequently shared with us a link to their Level 2 Strategic Flood Risk Assessment dated September 2019. Following our feedback on this, Brent shared with us an Updated Level 2 SFRA dated March 2020 and a Flood Risk Sequential Test and Exceptions Test dated March 2020. We responded in April 2020 and raised concerns regarding the quality of the assessment within the Level 2 SFRA, and the sequential test methodology and application of the exceptions Test within the Sequential Test and Exceptions Test document.

We previously raised concerns with the methodology used within the Integrated Impact Assessment (IIA) when assessing flood risk. Sites that are less than 50% in Flood Zone 2 and less than 1% in Flood Zone 3 were categorised the same as sites wholly within Flood Zone 1. We had stated this was incorrect as when applying the Sequential Test a site wholly in Flood Zone 1 should be allocated ahead of a comparative site partially in Flood Zone 2 or 3. Brent have confirmed they are happy to change the IIA methodology so that the sites which are in Flood Zone 1 are recognised as a minor positive to distinguish between them and sites within Flood Zone 2. We welcome this, and suggest that the draft Statement of Common Ground confirms this change has or will be made.

Brent commissioned Metis Consultants to undertake a Level 2 SFRA assessment. We recently reviewed a draft Level 2 Strategic Flood Risk assessment dated July 2020 produced by Metis Consultants on behalf of Brent Council. We consider that an appropriate technical assessment of the fluvial and surface water flood risks has been undertaken for the sites and intensification corridors proposed in areas of flood zone 2 and 3 (medium and high risk zones). This also provides sufficient reassurance that with the appropriate mitigation it's possible for the sites to be designed in a way which reduces the risk of flooding. We have recommended minor wording changes to strengthen some of the recommendations made on mitigation. The Level 2 SFRA will help inform the application of the Exceptions Test at strategic level, and therefore needs to inform the Sequential Test and Exceptions Test.

Brent are in the process of updating their Sequential Test and Exceptions Test document to ensure it is in line with the recent Level 2 assessment and to take into account our previous feedback. We are waiting for the updated version to be sent to us.

3.2 What evidence is there to support the Council's methodology and approach set out in its Strategic Flood Risk Assessment Level 2

(SFRA2)? Is the SFRA2 evidence and assessment of the likely effects of the Plan's allocations adequate, appropriate, effective, justified and sound in this regard?

We believe the most recent draft Level 2 SFRA undertaken by Metis Consultants provides a detailed assessment of the flood risks, which is more in line with our guidance on SFRA's. The site assessments undertaken do provide an adequate, appropriate, effective and justified assessment of the likely effects of the site allocations.

3.3 In relation to EB_SI_03 - Sequential and Exceptions Test, March 2020, does the methodology clearly follow the steps identified within the PPG? If not, what are the differences and is the approach justified?

As the application of the Sequential Test by the Local Authority includes numerous issues such as defining the area of search and the availability of alternative sites, it can be difficult for us to critique the test as most of the issues fall outside our remit and area of expertise. We are best placed to provide advice on the impacts of fluvial flooding. However, we will object to Local Plans where it's not clear to us how the Sequential Test has been applied to a Local Plan. Our view is that the Sequential and Exceptions Test does generally follow the guidance within the PPG, but that further clarity was needed to explain their approach.

The explanations within paragraphs 2.10 to 2.15 appear to follow the steps within Diagram 2: application of the Sequential Test for Local Plan Preparation within the Planning Practice Guidance (PPG). For example, paragraph 2.10 explains that the identified sites and windfalls produces 17,064 dwellings which does not meet the needs of the Intend to Publish London Plan target and the minimum objectively assessed needs (both with the 10% buffers). As such sites outside Flood Zone 1 need to be considered. Henceforth the paragraphs continue to explain how Flood Zone 2 and Flood Zone 3 sites had to be considered in order to meet the housing targets.

The PPG also states that "As some areas at lower flood risk may not be suitable for development for various reasons and therefore out of consideration, the Sequential Test should be applied to the whole local planning authority area to increase the possibilities of accommodating development which is not exposed to flood risk." However, the PPG doesn't provide any further prescriptive guidance on how this should be done. Our general view is that to increase the effectiveness of the Sequential Test, that it is applied at the earliest stages of site selection to provide the best chance of prioritising the lowest risk sites over those with high risk. This is what we would consider to be 'best practice.' Paragraph 2.7 of the March 2020 Sequential Test states that through the SHLAA process and call for sites the most realistic deliverable sites with appropriate levels of capacity have been identified, and there have not been reasonable alternatives in terms of specific sites or a strategy proposed.

Brent appear to demonstrate that they have no alternative other than to allocate sites in areas of Flood Zone 2 and 3, but we have asked Brent to clarify further within the amended Sequential Test how flood risk was considered in the early

stages of site selection and why other sites were deemed unsuitable. This would provide further reassurance that the sites that have been chosen which are at a higher risk of flooding, have been selected because of the specific circumstances Brent find themselves to be in and having no reasonable alternatives in Flood Zone 1.

The Sequential Test is also being updated to reflect the findings and recommendations from the Level 2 SFRA. We have also recommended minor wording changes on the application of the exceptions test where sites have not been assessed by the Level 2, and where they have been assessed. We are expecting the amended Sequential Test and Exceptions Test to be submitted to us shortly for review.

3.4 Does the evidence base support the position that there are no other reasonable options to meet the Councils development land targets other than to allocate sites within fluvial Flood Zone 3? If so, is this approach consistent with national policy? What evidence is there to demonstrate that this approach will not increase the risk of flooding to people or property on or off-site?

Please see our answers to 3.1-3.3 above.

We are expecting to receive an amended Sequential Test and Exceptions Test report and a draft Statement of Common Ground. The final draft Level 2 SFRA will also be finalised by Metis Consultants soon. Collectively, we hope this will provide a sufficiently robust evidence base that justifies the allocation of sites within fluvial Flood Zone 3 (there being no reasonable alternatives) and that those sites can be developed safely without increasing flood risk.