

[REDACTED]

From: [REDACTED]
Sent: 13 March 2025 15:59
To: Richmond Local Plan
Cc: [REDACTED]
Subject: Objection to Main Matter MM44 Policy 8 Flood Risk and Sustainable Drainage
Attachments: JSH EPI planning objection.docx

Categories: Consultation Response

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Hello

I wish to object to the proposal to include the words “For the River Thames, the functional floodplain is defined as land riverward of Thames Tidal Flood Defences” at paragraph 16.66 which supports Policy 8 Flood Risk and Sustainable Drainage, of the Draft Local Plan.

Please find my written objection attached.

I would be very grateful if you would be so kind as to acknowledge receipt of this email and its attachment.

With thanks

Sebastian Head

J. S. Head

Twickenham

13th March 2025

Objection to Proposed modification to Policy 8 (MM44) of the draft Local Plan

I am Sebastian Head and I am writing this letter of objection to the above proposed modification, which seeks to change the flood plain status of, *inter alia*, Eel Pie Island. I do so as an occupier of an office on the Island. I have past professional experience in the planning world.

I have had the opportunity of reading a planning report prepared by Valerie Scott Planning on behalf of Henry Harrison. References to page and paragraph numbers below are references to that Report, save as otherwise specified. I write this objection in support of the approach that the Report states should be taken in relation to proposed modification.

Although that Report has a wider scope, my comments below are confined to the impact of the proposed modification on Eel Pie Island and its occupants.

It is the sea in which all planners swim, that in order to be defensible, any planning policy must have been formulated:

- Subject to proper public scrutiny;
- Taking all material considerations into account;
- Other than on the basis of material errors of fact;
- With a view to a consistent approach being taken by the planning authority in question and neighbouring planning authorities;
- Other than on the basis of material errors of interpretation of planning policy; and
- In order to serve a proper planning purpose.

- 1 The proposed modification seeks to include the whole of Eel Pie Island within the functional floodplain (Zone 3b).
- 2 At present only 5% of Eel Pie Island lies within the functional floodplain (see table at the foot of page 10 of the Report and the references to the flood modelling to support this at p25 (table)). The remaining 95% falls outside the functional floodplain and within Zone 3a.

- 3 Thus the impact of the proposed modification is to draw 95% of the Island into the functional floodplain and to render the Island and its occupants subject to the significantly restrictive policies that apply within the functional floodplain (water compatible developments and essential infrastructure only).
- 4 This will lead to serious harm being suffered by the Island and its occupants as summarised, *inter alia*, at page 4, paras 10 -12 of the Report (e.g. inability to develop properties, restrictions on residential and business financing and difficulties with insurance).

Public scrutiny

- 5 The proposal to include an additional 95% of Eel Pie Island within the functional floodplain, was not reached subject to proper public scrutiny, rather it was reached at a private meeting between LBRUT and the EA on 19th March 2024 (p6 para 20). The proposal had not been part of the Draft Local Plan as published in the summer of 2023 (p6 para 19).
- 6 The modification was proposed without any public scrutiny whatsoever (Report pp 7-8 paras 30 – 35).
- 7 Apart from the inherent unattractiveness of this clandestine approach, its result was also that the proposed modification was introduced with no opportunity for the public to make representations. Those proposing the modification were therefore unable to take into account material matters that the public would have raised had there been an opportunity to make such representations.

Failing to take into account material considerations

- 8 The decision to introduce proposed modification was made, failing to take into account the following material considerations:
 - (i) The impact upon occupiers of Eel Pie Island in terms of their ability to develop their properties;
 - (ii) The impact upon the occupiers of Eel Pie Island in terms of their ability to raise finance (both business and residential) on their properties;
 - (iii) The impact upon the occupiers of Eel Pie Island in terms of their ability to insure their properties, whether at all, or at a reasonable cost;
 - (iv) That Eel Pie Island is currently unaffected by the most onerous flooding policies (as it is 95% in Zone 3a), but would, by the introduction of the proposed modification, become completely subject to those policies (paras 9-11 below);

- (v) That the proposed modification would lead to a significant inconsistency of approach, whereby RBRUT would be the only London Borough to use this proposed definition of functional flood plain, all others identifying it as Zone 3b (para 12 below); and
- (vi) That there is no tenable justification for the proposed modification by reference to the public interest (paras 14 -16 below).

Material errors of fact

- 9 Paragraph 16.66 of the Draft Plan (p3 of the Report) assumes that all of the Islands affected by the proposed modification have an access to and egress from them, which lies in the functional floodplain and therefore are already within Zone 3b and will therefore be unaffected by the new definition of functional floodplain. The assumption of those formulating the modification is that those to whom it applies will be unaffected by it.
- 10 This is manifestly incorrect. 95% Eel Pie Island lies within Zone 3a and not Zone 3b (Report table at p10 and table at p25). Access to and egress from the Island are within Zone 3a and not Zone 3b. The proposed modification was made on the basis of a significant and material error of fact. The proposed modification is indefensible in this respect. The impact of the proposed modification would be profoundly different from that contemplated by those formulating it at their private meeting on 19th March 2024.
- 11 If more were needed to demonstrate the erroneousness of this approach, the Statement of Common Ground of 28.06.24 states, at para 5.11 (Report p11 para 52):

“There is therefore no change in policy or to the designation, the islands are already considered to [be] [sic] within flood Zone 3b where access and egress to and from the island is within the functional floodplain, for the purpose of new development, such islands will be considered and treated as functional floodplain ...”

The policy makers have assumed that there will be no policy change to Eel Pie Island. This is a false assumption. Access to and egress from Eel Pie Island is not within the functional floodplain at present (it is within Zone 3a). There will be a fundamental change of policy which was unknown to, ignored, or left out of account by the policy makers.

Inconsistency of approach

- 12 All other London Boroughs identify the functional flood plain as equating with Zone 3b. RBRUT would be out on a limb were the proposed modification to be made, with no justification having been given for this inconsistency of approach. Defining the flood plain as Zone 3b gives a refined and fair basis for the application of policy (as it is based on detailed mapping) that takes into account individual circumstances at a local level and avoids the harsh unfairness that follows from the sledgehammer affect of the proposed modification.

Erroneous interpretation of planning policy

- 13 The EA/LBRUT Statement of Common Ground (at SOCG -08) characterises the proposed modification as a “minor” modification (and Report p7 para 29). That is a significant misinterpretation of planning policy. A modification which draws 95% of Eel Pie Island and some 200 occupants of the Island into the new world of restriction that automatically accompanies being included within the functional floodplain, could not on any reasonable basis, be considered to be a “minor modification”. The proposers of this modification have seriously misunderstood the proper interpretation of planning policy.

No proper planning justification for the policy

- 14 If a planning policy is to be defensible, it must be justified in the public interest. That is the only acceptable basis for allowing harm to be caused by the policy to private property interests.
- 15 No justification has been put forward for the policy, apparently (save for linguistic convenience) because there is no such justification (Report p7 para 27 and p9 para 43). The proposed modification has no proper place in the forthcoming Local Plan.
- 16 I therefore object to the proposed modification because:
- (i) It will be materially and significantly harmful to the interests of the Island and its occupants;
 - (ii) It was formulated in the absence of proper public scrutiny;
 - (iii) It was formulated without taking all material consideration into account;
 - (iv) Its introduction would lead to an inconsistent approach being taken by RBRUT, to that taken by all other London Boroughs, without any justification;
 - (v) It was formulated on the basis of an erroneous interpretation of planning policy; and
 - (vi) It has not been sought to be justified by any proper planning purpose.

13th March 2025

John Sebastian Head