



Canal &  
River Trust

19 April 2017

Isle of Dogs Neighbourhood Planning Forum  
12 Neptune Court,  
Homer Drive  
London  
E14 3UQ

Dear Sir/Madam,

### **ISLE OF DOGS – NEIGHBOURHOOD PLAN (REGULATION 14 CONSULTATION)**

Thank you for the opportunity to comment on the draft Isle of Dogs Neighbourhood Plan Policies (Regulation 14 consultation).

The Trust is the guardian of 2,000 miles of historic waterways across England and Wales, of which approximately 60 miles are within our London Waterway. This includes the West India and Millwall docks. We are among the largest charities in the UK. Our vision is that “living waterways transform places and enrich lives”.

The Trust has a range of charitable objects including:

- To hold in trust or own and to operate and manage inland waterways for public benefit, use and enjoyment;
- To protect and conserve objects and buildings of heritage interest;
- To further the conservation, protection and improvement of the natural environment of inland waterways; and
- To promote sustainable development in the vicinity of any inland waterways for the benefit of the public.

The Trust owns, manages and maintains the majority of the waterspaces within the West India and Millwall docks in the Isle of Dogs. These form a key part of the Blue Ribbon Network within an area of high density development, which is identified by the Mayor of London and LB Tower Hamlets as a strategically important location for growth.

Our waterspaces and adjacent dockside walkways in Docklands provide important areas for recreation, biodiversity, sustainable transport, business, tourism, a focal point for cultural activities and, increasingly, a space where Londoners are choosing to live. They also provide a resource that is used to heat and cool buildings, a corridor in which new utilities infrastructure can be installed and a way of sustainably draining surface water away from new developments. We believe that there

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are opportunities to increase the contribution that the docks make to the sustainability and attractiveness of the Isle of Dogs as a place to live, work and visit.

The Trust recently commented on Tower Hamlets' draft local plan to, amongst other things, make the case that:

- Our waterways and waterspaces should be seen as part of the public realm and should benefit from the requirement to be placed on new development to optimise active frontages, create natural surveillance and ensure public spaces are attractive, comfortable and useable.
- Proposals for tall buildings should respect the character of their context and demonstrate that they do not adversely affect biodiversity or watercourses and water bodies, including through the impact of wind on navigation.
- The Local Plan should include a policy setting out the circumstances in which support will be given to the development of new residential moorings and the provision of appropriate facilities.
- Encouraging a range of on-water uses is an important part of creating thriving waterways and active dock waterspaces, more in keeping with their heritage.
- The towpaths (and dockside walkways) of the Blue Ribbon Network provide a network of attractive and car-free routes that support sustainable journeys across the borough. New development will undoubtedly place increased pressure on this network and improvements may be required to ensure that its full potential is realised.

You may find these points helpful in developing your Neighbourhood Plan, given that it will need to be in general conformity with the strategic policies of the development plan.

Much of the draft Neighbourhood Plan sets out policies that are not relevant to the Trust as a statutory consultee or landowner within the Isle of Dogs. We would like to make the following comments on specific policies and sections of explanatory text contained within the draft Neighbourhood Plan.

#### ER8 – Public Profit Reinvestment

The draft policy states that “any profit generated by public bodies in the Area should be re-invested in the Area, either through infrastructure investment or additional affordable housing in the Area. Where such a profit is generated, the public body must indicate in advance to all directly affected parties and to the Forum how it intends to deal with that profit”. The plan goes on to state that the “Canal & River Trust is a public body that also generates large sums in the Area which has historically been spent elsewhere”.

The Trust is a national charity, responsible for 2,000 miles of historic waterways, including canals, rivers or docks. We are not a public body but we do receive a significant level of grant from the public sector to enable us to meet our obligations as a statutory undertaker and to deliver our

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charitable objects. We aim to reduce our reliance on public sector grant and to reinvest as much as possible to further our charitable objectives through a range of measures, including generating the best returns reasonably obtainable from our investments and by growing charitable donations.

Our statutory predecessor, British Waterways, took over ownership of much of the West India and Millwall docks from the London Docklands Development Corporation in 1997. With this transfer came not only a significant historic and environmental asset but also significant liabilities. These liabilities relate not just to the upkeep of the assets themselves but to the wider impacts of any failure. To provide an example, the “Banana” dock walls in parts of the West India Dock system were constructed to rely on an appropriate level of water pressure to maintain their stability and, therefore, the stability of surrounding land. We believe that the maintenance of the docks also contributes positively to the character of the area as a place to work, live and visit and that their upkeep helps to encourage investment in the area.

The Trust has regularly made funding available for work to be carried out on operational infrastructure in the docks. In the last 5 years, approximately £2,500,000 has been spent by the Trust on works to the Manchester Road bridge, the West India lock, the Docklands lead-in jetty, the impounding station, lighting and footbridge repairs. This is in addition to annual maintenance and operating costs.

As stated above, one of the ways in which the Trust aims to become less reliant on government grant is by making sound investments, including in property. As an organisation with charitable objectives relating to the whole of our national network, it would not be lawful or appropriate for the Trust to “ring fence” any specific funds for reinvestment into a particular administrative area, particularly into areas such as affordable housing which is outside the Trust’s charitable objects. However, where the Trust’s commercial property is developed we accept that part of the uplift in value will be “captured” by mechanisms such as planning obligations or the Community Infrastructure Levy. The Neighbourhood Forum may be aware, for example, that the Canal & River Trust (and Canal & River Trust Pension Investments LP) are signatories as landowners to the Wood Wharf planning obligation, which provides for a multi-million-pound investment in infrastructure and affordable housing.

In this context, the credibility of the Trust in the eyes of our stakeholders is crucially important and we are concerned about the unwarranted reputational damage that could be done to the Trust by the inclusion of a statement within your Neighbourhood Plan that suggests that we have not invested in Docklands. It is simply not the case. We note that, despite this statement, the plan does not identify critical improvements to the Trust’s operational infrastructure that the Neighbourhood Forum consider are required to support development.

We strongly support the notion that new development should make a fair contribution to the new or improved infrastructure that is necessary to support it, in accordance with planning legislation,

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policy and guidance. The Trust has frequently made the case for developers funding or undertaking improvements to dockside walkways because of the additional usage generated by new large developments. We believe that this has directly benefitted residents, employees and visitors to the Isle of Dogs. We will continue to suggest that developers include dockside walkways within the boundaries of their sites when submitting planning applications so that they can undertake works to them directly (with our permission) and ensure that the future residents, employees or visitors to the site benefit from the improved environment. We would like to work more closely with LBTH and the Neighbourhood Forum to identify how CIL receipts can be used to improve dockside walkways that are owned by the Trust but are used by many people living and working on the Isle of Dogs every day. We consider that improvements to the public realm should be recognised as a priority area for investment within policy D1 of your draft plan.

Turning to policy ER8 itself; we suggest that a policy with this intention is highly unlikely to be found to meet the necessary basic conditions for the Neighbourhood Plan proceeding to a referendum. We believe that the policy goes beyond what can be controlled by the planning system, as established in legislation and explained by policy and guidance. One of the key basic conditions for a neighbourhood plan is that “having regard to national policies and guidance it is appropriate to make the plan”. This is treated to require general conformity with the National Planning Policy Framework. We would suggest that policy ER8 fails in this regard, possibly amongst others.

It is a central theme of the NPPF that planning is concerned with the achievement of sustainable development and that growth is central to it. It is an accepted principle that willing landowners and developers are critical to the achievement of this. Paragraph 173 of the NPPF states that:

To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

This paragraph of the NPPF does not draw a distinction between landowners and developers in different sectors of the economy. There is no suggestion that the planning system can be used to influence how landowners or developers can use their “competitive returns” after the reasonable infrastructure and affordable housing requirements have been addressed. We would strongly suggest that policy ER8, as well as going beyond the terms of what the planning system can reasonably control, would impose requirements that put at risk the willingness of landowners and developers covered by it to bring forward sites for development.

We believe that this point alone is sufficient to ensure that the policy would not succeed at examination but we would also suggest that, were such a policy to be in accordance with the NPPF

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and the accepted limits of the planning system, then this policy would be of such significance that it would qualify as a “strategic policy”. Given that it is not supported by a strategic policy in the development plan, we would argue that it fails the relevant basic condition.

Notwithstanding these points, we are also of the opinion that the policy as drafted would not apply to the Canal & River Trust as we are a private company and registered charity and not a public body.

### Policies 3D1 & 3D2 – 3D Model for Planning

We agree that the development of a 3D model for the Isle of Dogs that allows developers, LBTH and other stakeholders to assess the impacts of development would be a very valuable tool. We would be interested to see what impacts it may identify in terms of visual impact, overshadowing of our waterspaces and wind microclimate conditions generated by new tall buildings, for example.

We would suggest, however, that, in accordance with NPPF para 173 (see above), it would not be reasonable to impose a requirement on applicants for all forms and scales of development considered by LBTH’s Development Control Committee to submit a 3D model, as policy 3D2 currently suggests. Call in by a planning committee is no indication of the viability of a development to meet the cost of preparing a model for the development site. LBTH may consider that it is not the role of a Neighbourhood Plan to set validation requirements for planning applications. However, we would suggest that if the Forum do continue to propose the inclusion of this policy then it should be justified by viability evidence to set appropriate thresholds, which support, not hinder, the achievement of sustainable development.

We look forward to being consulted further as your Neighbourhood Plan progresses to examination.

Yours faithfully

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