

**Post Consultation Statement**  
**Last Orders? Preserving Public Houses**  
**Supplementary Planning Document**  
**June 2014**

## **Last Orders? Preserving Public Houses – Supplementary Planning Document**

### **Purpose**

Between 15 January 2014 – 26 February 2014 the London Borough of Barking and Dagenham consulted on a draft Supplementary Planning Document (SPD) which regarded the protection of public houses. The name of this SPD was ‘Last Orders? Preserving Public Houses – Supplementary Planning Documents’.

The purpose of this statement is to set out details of the consultation process and how it informed the further refinement of the Supplementary Planning Document (SPD). This document sets out:

- Details of early consultation which took place prior to the formal consultation with selected internal and external stakeholders
- Details of the SEA screening which took place prior to the formal consultation
- Details of the formal consultation, including who was consulted, how and when
- What main issues were raised and how these were addressed

The Statement has been produced in order to demonstrate to stakeholders and the community how their comments have been taken into account. As well as this it demonstrates compliance with regulation 12 of the Town and Country (Local Planning Regulations) 2012 which sets out the requirements for public participation and for preparing a consultation statement.

The SPD provides further guidance to Local Plan policies CC2 as well as policies CM1, CM5, CE1, CP1, CP2, BE2, BP11 and BC6, It sets out guidance on the protection of public houses within the London Borough of Barking and Dagenham.

Importantly, the SPD does not create new policy but provides details on how relevant planning policies will be applied.

### **Early Consultation**

During the preparation of the draft SPD there has been informal consultation with the following internal stakeholders; the development management team, regeneration team, environment licensing team and public health team. Also advice was sought from English Heritage and additionally, between 4 – 11 November 2013 a formal in-house consultation took place with relevant internal departments, prior to taking the SPD to Cabinet. This early consultation led to revisions to the SPD before it was made available to public consultation.

In terms of the changes as a result of this early consultation the following revisions were made; a further emphasis on the importance pubs play to preserving local history and character, clarifying the requirements of the NPPF regarding listed buildings, amending terminology relating to historic assets to ensure consistency with the NPPF and reference to the paragraph 141 of the NPPF which deals with building recording.

### **SEA Screening Consultation**

The requirement for a Strategic Environmental Assessment (SEA) stems from the European Directive 2001/42/EC “on the assessment of the effects of certain plans and programmes on

the environment” (SEA Directive). This Directive was transposed in law by the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations).

This legislation places an obligation on local authorities to undertake a SEA on any plan or programme prepared for town and country planning or land use purposes and which sets the framework for future development consent of certain projects (which includes development sites over 0.5ha).

Section 180 of the Planning Act 2008 removes the requirement for a sustainability appraisal report to be prepared for all SPDs. This is reflected in the Town and Country Planning Regulations 2012. Despite no longer requiring a Sustainability Appraisal, SPDs may require screening, to ensure that legal requirements for Sustainability appraisal are met where there impacts that have not been covered in the appraisal of the parent Development Plan Document (DPD) or where an assessment is required by the SEA Directive.

As a consequence of the need for a screening statement the Council produced a Screening Statement which concluded that the Public House SPD was unlikely to have significant social or economic effects beyond those of the policies it supplements. This document also concluded that there is no statutory reason to undertake an SA for this document.

In line with regulations the Council consulted with the specified statutory organisations (English Heritage, Environment Agency and Natural England) for the prescribed period of five weeks. This was between the 9 December 2013 - 13 January 2014.

**Table 1: Summary of SEA consultation**

<b>Organisation Consulted</b>	<b>Response</b>	<b>How Addressed in the SPD Process</b>
<b>English Heritage</b>	Having viewed the draft SPDs concerned we are of the opinion that SEA is not required for either SPDs. This is because the policies contained within the SPDs supplement Local Plan policies which have already been subject to sustainability appraisal incorporating SEA.	No issues to address.
<b>Natural England</b>	Having checked the screening document included with this consultation Natural England would be agreeable with the conclusion drawn that no further assessment would be required at this stage.	No issues to address.
<b>Environment Agency</b>	I can confirm that we have no comments to make with regards to the SPD.	No issues to address.

### **Formal Consultation on the Draft SPD**

As noted, formal public consultation on the SPD was undertaken from 15 January 2014 – 26 February 2014.

A press notice was published and an advertisement was set out in the Barking and Dagenham Post. Alongside this, a webpage on the Council's website went active to publicise the consultation.

The draft SPD alongside the SEA Screening Statement were published on the Council website.

Copies of the SPD alongside the appendix document and the Screening Statement were placed in Council's libraries. Hard copies of these documents were also made available in Barking Town Hall and Dagenham Civic Centre.

Selected individuals and organisations on the Local Plan database were notified via email or letter. In addition, all known landlords or owners of pubs were notified via email or letter as well as other interested stakeholders, such as Campaign for Real Ale (CAMRA) and the British Beer and Pubs Association (BBPA). Additional to this, statutory consultations were notified via email or letter.

People and organisations were invited to send feedback in the following ways:

- By email to [planningpolicy@lbbd.gov.uk](mailto:planningpolicy@lbbd.gov.uk)
- Or in writing to: Planning Policy Team, Planning and Regeneration, Room 104, Barking Town Hall, 1 Town Square, Barking, IG11 7LU

### **Results of the formal consultation**

The Council received formal written consultation responses from six respondents this included a member of the public, a planning consultant, statutory bodies as well as the Greater London Authority.

The table overleaf provides a summary of the responses and how they were addressed in the final version of the SPD.

### **Conclusion**

The production of the Public House SPD has involved extensive and ongoing consultation. This has directly influenced both early development and later refinement of the SPD. The process has complied with all relevant legal regulations.

**Table 2 – Summary of Responses to the Consultation**

Organisation	Summary of Response	How Addressed in the Final SPD
<b>English Heritage</b>	<ul style="list-style-type: none"> <li>• English Heritage welcomes the publication of this document which will assist the Borough in conserving the historic significance of the Borough's public houses.</li> <li>• For accuracy English Heritage state that draft SPD paragraph 3.22 could be further refined to read "...In assessing any proposals for listed pubs which require planning permission, Local Authorities must give great weight to the asset's conservation." This is because the National Planning Policy Framework requires that Local Authorities refuse consent in cases of substantial harm, unless it can be demonstrated that this is necessary to achieve a number of public benefits which outweigh that harm (NPPF paragraph 133).</li> </ul>	Paragraph 3.22 has been refined further in connection with comments made.
<b>Greater London Authority</b>	<ul style="list-style-type: none"> <li>• The GLA state that the SPD appears comprehensive and is in line with London Plan (2011) Policy 4.8 and the Further Alterations to the London Plan (FALP) (January 2014).</li> <li>• The GLA state that in the FALP, the Mayor recognises the important role that London public houses can play in the social fabric of communities and encourages boroughs to bring forward policies to maintain, manage and enhance public houses.</li> </ul>	Paragraph 3.12 now makes reference to paragraph 4.48A of the FALP.
<b>Highways Authority (HA)</b>	<ul style="list-style-type: none"> <li>• The HA will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN. We have reviewed the consultation and do not have any comments at this time.</li> </ul>	No changes required.

<p><b>Gerardeve LLP (on behalf of Regents Park Properties)</b></p>	<ul style="list-style-type: none"> <li>• Gerardeve LLP considers that the draft guidance on protecting Public Houses is not in line with the adopted development plan. The adopted Core Strategy (2010) and Borough Wide Development Policies (2011) include no policies on the protection of Public Houses. No definition of community facilities including public houses is provided.</li> <li>• Strongly disagree with the context of the draft SPD and the generation of new guidance on the protection of Public Houses through a SPD rather than through the Local Plan as the draft SPD effectively seeks to generate a new policy, which will not have been subject to testing by way of examination</li> <li>• Gerardeve LLP does not agree with this wholly unnecessary blanket protection on public houses.</li> <li>• Concern that the guidance is onerous and a prescriptive restriction which will ultimately discourage investment in underused sites in the Borough which are in need of regeneration and would be better suited for alternative uses.</li> <li>• Concerns that the guidance offers no flexibility, for instances where public houses are not well used, become unviable. In some instances, the site may be better utilised for other land uses and therefore flexibility needs to remain.</li> </ul>	<p>The guidance is in alignment with policies BC6 and CC2 which regard community infrastructure. The definition of a community facility is set out in the Core Strategy. It is acknowledged that public houses are not specifically mentioned. Importantly however, the definition makes it clear that the list provided is not limited to those community facilities set out. Paragraph 70 makes of the NPPF makes it quite clear that public houses are considered community facilities.</p> <p>The SPD supplements policies in the Local Plan. It has taken into account all legal and policy requirements and as a consequence; it is considered that it is legitimate for an SPD to be used to protect public houses.</p> <p>The SPD is not a blanket protection on public houses. Existing permitted development rights have not been removed. The SPD sets out the circumstances when change of use, redevelopment or demolition may be allowed.</p> <p>The SPD is not considered onerous or prescriptive nor would it discourage investment. It is considered that the guidance will help shape investment whilst preserving valued community facilities.</p> <p>The SPD requires applicants to demonstrate that the existing pub use is not viable before a change of use is considered. Therefore it is flexible.</p>
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	<ul style="list-style-type: none"> <li>• There is no justification for this guidance point, which, even if the criteria under point 2 can be satisfied, would require the ground floor of pub uses to remain as active frontage. The wording of this guidance is inappropriate and impractical and should be deleted</li> <li>• There is no policy justification for, where a pub is demolished, the replacement development being required to make an equal or greater community benefit contribution – which in itself is not defined in terms of policy tests.</li> </ul>	<p>This is justified in paragraph 5.11 of the guidance. Here the guidance explains that with reference to paragraph 135 of the NPPF the Council regards locally listed pubs as especially significant given the number lost in recent years and their important contribution to defining Barking and Dagenham’s character. Therefore, any proposals involving listed or locally listed pubs must preserve and enhance the building’s historic significance and maintain an active ground floor frontage in a use which is accessible to the public.</p> <p>The guidance is clear that in these cases proposals will be expected to either incorporate a community use in the redevelopment or make a contribution towards enhancing community facilities in the locality where appropriate. This is consistent with paragraph 70 of the National Planning Policy Framework which requires local authorities to plan positively for the provision of community facilities and to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs.</p>
<b>Marine Management Organisation</b>	<ul style="list-style-type: none"> <li>• The Marine Management Organisation has no comments to make in relation to this consultation.</li> </ul>	No changes required.
<b>Member of the Public</b>	<ul style="list-style-type: none"> <li>• A member of the public supported the principle of protecting public houses and against conversion to residential.</li> </ul>	No changes required.