

**REPRESENTATION TO THE HARINGEY LOCAL PLAN PRE-SUBMISSION CONSULTATION**  
**DEVELOPMENT MANAGEMENT DPD**  
**ON BEHALF OF POWER LEISURE BOOKMAKERS LTD**

**Introduction**

We write on behalf of Power Leisure Bookmakers Ltd to make representations to the Haringey Local Plan pre-submission consultation – Development Management DPD (hereafter referred to as the ‘Plan’).

Section 19 of the Planning and Compulsory Purchase Act 2004 requires that Development Plan documents or any other local development document must have regard to national policy documents and guidance as in the National Planning Policy Framework (‘NPPF’). For reasons set out below, this draft document is plainly contrary to the NPPF.

Part 4, Regulation 8 Town and Country Planning (Local Planning) (England) Regulations 2012 prescribes that that Local Plans must contain a reasoned justification of the policies. As set out in the National Planning Practice Guidance (‘NPPG’) (Paragraph 014. Reference ID: 12-014-20140306) *“appropriate and proportionate evidence is essential for producing a sound Local Plan”* and *“evidence should be focused tightly on supporting and justifying the particular policies in the Local Plan”*. Paragraph 182 of the NPPF states that a local planning authority (‘LPA’) should submit a plan for examination which it considers is sound – namely that it is: positively prepared, justified, effective and consistent with national policy. It is considered that the Plan is not justified, as it is not founded on a robust and credible evidence base and does not offer the most appropriate strategy when considered against alternatives particularly in relation to betting shops.

The London Plan forms part of the Development Plan and was adopted in March 2015. The Local Plan should be in general conformity with the London Plan. Policy 4.8 is concerned with Supporting a Successful and Diverse Retail Sector and Related Facilities and Services and states that the Mayor will, and boroughs and other stakeholders should, support a successful, competitive and diverse retail sector which promotes sustainable access to the goods and services that Londoners need. The London Plan Town Centres SPG (July 2014) states that Councils are encouraged to manage over-concentrations of activities, for example betting shops, hot food takeaways and pay day loan outlets. The supporting text outlines current and potential mechanisms for managing the over-concentration of such uses. In particular, paragraph 1.2.28 states that if the concentration of a use has reached saturation levels where the negative impacts outweigh benefits, local authorities can set thresholds at this level of saturation.

We have reviewed Policies DM42, DM43 and DM46 (and the associated supporting text) of the pre-submission version of the Development Management DPD and our response to the policies and text is set out below.

**Objection Response**

## **Policy DM42 – Primary and Secondary Frontages and Policy DM43 – Local Shopping Centres**

On review of the Council's pre-submission version of the Local Plan, it is clear that there are many hurdles that applications for betting shop uses need to overcome prior to even being assessed against Policy DM46 on 'Betting Shops'. Applications will also be assessed against Policies DM42 if located within primary and secondary frontages and Policy DM43 if located within a local shopping centre which contain thresholds for non-retail uses.

As noted above, Policy DM42 notes that within primary shopping frontages of Metropolitan and District centres, the use of ground floor units for **retail, financial & professional services, restaurants & cafes and pubs & bars** will be permitted where the overall number of units in non-retail use (including extant planning permissions) will not exceed 35% unless a number of criteria can be satisfied. It is clear, that since betting shops are now considered under Sui Generis use, betting shop uses are not even considered appropriate for these areas. It is not clear however if this is the intention of the policy wording, or whether betting shops have simply fallen off the policy due to the changes to the use classes.

In secondary shopping frontages of the Metropolitan and District town centres, it is noted that the use of ground floor units for appropriate town centre uses will be permitted where the overall number of units in non-retail use (including extant planning permissions) will not exceed 50% across the entire frontage unless a number of criteria can be satisfied.

Policy DM43 notes that in local shopping centres, the use of ground floor units for appropriate town centre uses will be permitted where the overall number of units in non-retail use (including extant planning permissions) will not exceed 50% across the entire frontage unless a number of criteria can be satisfied.

It is noted within the policy supporting text (paragraphs 6.35, 6.37, 6.45 and 6.46) that the thresholds are supported by the Retail and Town Centres Study (2013) (which was published prior to Betting Shop uses being moved to the Sui Generis so refers to them under the A2 Use Class). However, on review of this document, it is unclear how this conclusion has actually been reached. When discussing the '*Clustering of Uses*', the document is clear and it actually states:

- *"Our analysis does not suggest that there is any significant clustering of specific uses, such as betting shops, within the town centres. A higher number of these types of uses can be found in the larger centres such as Wood Green, but this reflects the centre's Metropolitan Centre designation and the proportion of units in these uses remains small"* (paragraph 15.30);
- In regards to Local centres and A2-A5 uses it is noted that *"our analysis has not identified any clustering in the Local Centres"* (paragraph 15.31). The paragraph then goes on to state that the majority of local centres have just 1 betting shop and only 2 centres have more but both are larger local centres;

- “We therefore do not consider that there is any requirement to control the amount and location of Class A2 and A5 uses at this stage either through an Article 4 Direction or new planning policies” (paragraph 15.32).

The study then notes that it may be appropriate to maintain a proportion of A1 uses within each centre by providing threshold policy (as provided in the existing UDP) but states further that *‘if considered necessary, a criteria could be included that requires consideration on a case by case basis to be given to the balance of shops and services where a change of use to Class A2 or A3/A5 is proposed’* (paragraph 15.35).

Taking this into consideration, it is clear that the study actually suggests that although A1 threshold figures can be adopted, it may be appropriate to consider an alternative criteria on a case by case basis where a change to A2 use or A3/A5 uses is proposed.

In addition, it is important to note that we had expected the Plan to provide an explanation as to why betting shops are not even considered appropriate within primary shopping frontages and why the specific threshold figures (35%, 50% respectively) have been chosen to assess concentration of uses. Disappointingly the document is silent on this critical point, as well as the Retail Study.

A betting shop use is a typical town centre use and when grouped collectively with other ‘non-retail’ uses will no doubt amount to a high proportion of uses within centres already (prior to the policy being adopted). Many centres across the country and in Haringey are healthy, despite having a high number of non-retail uses.

In addition, it should be noted that including ‘extant planning permissions’ within the threshold calculations is unreasonable, since many applications may not be implemented but would be required to be considered as part of the threshold calculation.

There is a real danger that adopting such an approach will effectively put a moratorium on such new uses in centres and potentially encourage new operators and uses out of centres. Clearly such an approach is inappropriate and would fly in the face of the town centres first policy as set out in the NPPF which seeks to encourage town centre shops and services to locate within centres, rather than out of centre.

We strongly suggest that the Council revisits this proposed approach.

We are also concerned that the document will conflict with paragraph 23 of the NPPF which states that policies should be positive and promote competitive town centres. Bullet point 4 of this paragraph states that LPAs should *“promote competitive town centres that provide customer choice and a diverse retail offer and which reflect individuality of town centres”*. This is a sentiment echoed in the London Plan (Policy 4.8). Clearly the document is likely to have a serious impact on particular industries and healthy competition between different operators by preventing new operators from locating within a particular centre. Again, regard needs to be had to the very real impact that the

document is likely to have on a number of different industries and the clear conflict that would arise with the NPPF and the London Plan.

In this respect, it is considered that the document is **unsound**. It is not justified as it is not using the most appropriate strategy when considered to the alternatives suggested in the Retail Study. In addition, it is not effective as it is not flexible and it is not consistent with national policy.

### **Policy DM46 – Betting Shops**

Part A of the policy states that proposals for betting shops should have regard to Policies DM42 and DM43. We have already provided our comments on these policies above and how we consider these policies unsound.

Part B of the policy states that the total number of betting shops (including extant planning permissions) will not exceed 5% of the units within the town or local centre. Within the supporting text for the policy, it is noted that the policy seeks to manage a proliferation or over-concentration of betting shops. It is also noted that the 'Health Evidence Base' document (2012) highlights the link between *“health outcomes and the proximity of betting shops”*. It concludes that there is sufficient evidence to demonstrate that *“access to gambling venues, including betting shops, leads to increased gambling behaviour and that, this in turn, is associated with poor health outcome”*. The supporting text then discusses the vitality and viability of the centres in the borough.

It should be noted that Health and Vitality and Viability are completely separate issues. The NPPF recognises the role of the planning system in supporting the vitality of town centres and promoting healthy communities. Paragraph 23 of the NPPF is clear when it states that LPAs should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. In this regard, LPAs should set out policies that make clear which uses will be permitted in such locations, and promote competitive town centres that provide a diverse retail offer which reflects the individuality of a town centre. However, it is considered that the Council are not pursuing policies that will support the vitality and viability of their centres as the stringent threshold policies they are proposing could discourage new operators and new uses out of centres not promoting competitive town centre environments.

### **Proliferation / Over-concentration of Betting Shops**

We consider that in line with the London Plan and Town Centres SPG (2014) the starting point for Plan policy making is whether there is an existing over concentration or cluster of uses (including betting shops) which has reached saturation levels where positive impacts are outweighed by negative impacts.

As noted, the Council's Retail and Town Centres Study (2013) (prepared by NLP) which is part of their evidence base clearly states that the analysis undertaken:

***“Does not suggest that there is any significant clustering of specific uses, such as betting shops, within the town centres” (para 15.30).***

The study states that quite rightly, there are a higher number of these types of uses within the larger centres (such as Wood Green) but this reflects the centre's Metropolitan centre designation and the proportion of units in these uses still remains small. In addition, in regards to the local centres the study suggests that:

***“The analysis has not identified any clustering” (paragraph 15.31)***

It is important to note that Haringey has 66 betting shops in the borough which is a far lower figure than many other London boroughs. It is even highlighted within the study that the majority of local centres have just 1 betting shop (only 2 centres have above 2 but these are larger local centres) and 8 local centres (of 38) had no betting shops at all at the time the study was published.

From the evidence base information available it is impossible to establish whether saturation levels have been reached resulting in harm to the centres when assessed in line with the 8 criteria of London Plan policy 4.8. However, one would assume that based on the comments made in the Retail Study, that there is no concern over a cluster of these uses within the centres or concern that saturation levels have being reached. On this basis, it is unclear how the 5% threshold figure in the policy has been derived at. There is no indication in the evidence base documents that this particular figure is appropriate and no explanation as to how, based on the evidence, the figure has been chosen. Indeed, the evidence base identifies no significant clusters of betting shop uses within the centres. As such, it is clear that there is no basis for the threshold figure.

We consider that the document should provide further information on why the 5% threshold is appropriate. At present, in this regard, the policy is **unsound** as it is not 'justified' (it is not using the most appropriate strategy when taking into account the conclusions of the Retail Study), it is not 'effective' as it is not flexible nor is it 'consistent with national policy'.

**The Council's Health Evidence Base (2012)**

As noted the supporting text of the Plan (paragraph 6.55) notes that the Council's 'Health Evidence Base' document (2012) highlights the link between 'health outcomes and the proximity of betting shops'. It concludes that there is sufficient evidence to demonstrate that *“access to gambling venues, including betting shops, leads to increased gambling behaviour and that, this in turn, is associated with poor health outcomes”*. The document then states that the Council is committed to improving the health and well-being of its residents along with visitors of the borough and in light of the above evidence, it is considered appropriate for the Local Plan to seek to manage betting shops (by applying the 5% threshold policy).

However, within the evidence base document it is clearly stated that:

***“Although many of these situational characteristics (e.g. concentration, clustering or proximity of venues) are thought to influence vulnerable gamblers, there has been very little empirical research into these factors and more research is needed before any definitive conclusions can be made. The scientific literature therefore falls short of***

***supporting particular densities or exclusion/saturation distances for betting shops in the area” (paragraph 6.2.54).***

This suggests that contrary to the Council’s statements, there is not enough empirical evidence to support particular thresholds being formulated for betting shops on the grounds of health.

However, it should be emphasised that this document relates to problem gambling which is a matter already dealt with under the Licensing Act and a matter that cannot really be dealt with under the Planning system. It is important to note that gambling is one of the most heavily regulated activities in the country which has resulted in a socially responsible industry. Betting shops are governed by the three gambling objectives. Betting shop operators wishing to open a new betting shop must demonstrate that their operation will:

1. prevent gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
2. ensure that gambling is conducted in a fair and open way; and
3. protect children and other vulnerable people from being harmed or exploited by gambling.

As such, when applying for their gaming licence, betting shop operators must provide information and evidence demonstrating that they have appropriate training and management procedures/policies in place to show that they will comply with these objectives, including the protection of children and other vulnerable people, something that betting shop operators take very seriously. This of course includes being members of various schemes. For example, Paddy Power was a founding member of the Senet Group, an independent body set up to promote responsible gambling standards. They are also certified by Gamcare, as are the majority of the major betting shop operators.

Failure to demonstrate compliance with the objectives means that a licence will not be granted, and of course, if at any time a betting shop operator is found not to be complying with the objectives in the future, their licence can be reviewed and ultimately revoked. Where the licensing authority has any concerns about a new operation when considering a licence application, they are perfectly entitled to impose conditions on a licence to ensure that additional measures/policies/procedures are put in place.

Taking this into consideration and in summary, we do not believe that the Council should be using problem gambling as a means to policy formulation when this matter is dealt with under the Licensing Act, nor is there any justification for a 5% threshold figure.

It is considered therefore that reference to the Health Evidence Base should be removed from the supporting text to Policy DM46 as it is not ‘justified’ or based on a credible evidence base.

### **Summary and Conclusions**

In our view policies DM42, DM43 and DM46 and supporting text paragraphs 6.54 – 6.57 are not ‘justified’, ‘positively prepared’ or ‘consistent with national policy’. The policy and reasons are not

founded on a robust and credible evidence base. Furthermore, the policy and supporting text is not consistent with national policy nor with the London Plan. The overly onerous approach taken by the Council in relation to betting shops is not compliant with the spirit and aspirations of the NPPF or with guidance set out in the London Plan Town Centres SPG. The policy therefore amounts to a conflict with Section 19 of the Planning and Compulsory Purchase Act 2004 and also conflicts with Part 4 Regulation 8 of the 2012 Town and Country Planning (Local Planning) (England) Regulations.

We have no issue with the fact that the Council will want to scrutinise new betting shop applications and ensure that they will not lead to any clusters or concentrations which would lead to negative impacts, however, to assert unnecessary thresholds as a starting point for all new applications that are not based on a robust and credible evidence base is wholly unsubstantiated and does not allow officers/members to make objective decisions.

Indeed, many of the centres will have exceeded the thresholds outlined in the policy already, many of the extant planning permissions will not be implemented, and if the decision-makers are told that there is already an issue with betting shop use within the borough, many will naturally conclude that an additional betting shop in an area would result in an area being at high risk of adverse impacts and there will be a tendency to conclude that the application should be refused. This is clearly unacceptable, particularly given that there is not specific robust and credible evidence to back up the document's presumptions in this regard.

We conclude that the policy should be re-worded, or as a minimum, significantly loosened to allow healthy competition between betting shops. Greenwich Council's betting shop policy provides a good example of a 'model policy' that is appropriate and compliant with the aspirations of both regions and local policy. The policy states:

***“When determining applications for new betting shops within protected retail frontages, consideration will be given to the number of existing betting shops in the centre and need to avoid over-concentration and saturation of this particular type of use”.***

We suggest that Haringey consider the points raised within this representation and adopt the model policy text rather than the current text. On adoption of the model policy, we would then consider the Plan 'sound'.

We would be grateful if you would take the above comments on board in the preparation of the Plan and request that you keep us informed on further progress and dates for the Examination in Public.