

Planning Policy Team  
Brentwood Borough Council  
Town Hall  
Brentwood  
Essex  
CM15 8AY

23 March 2016

10/394  
BY POST/EMAIL

Dear Sir/ Madam,

## **REPRESENTATIONS TO THE DRAFT BRENTWOOD LOCAL PLAN**

We are writing on behalf of EA Strategic Land LLP (EA Strategic) in response to the consultation on the Brentwood draft Local Plan. EA Strategic has an interest in land in West Horndon, and is working with neighbouring landowners and local stakeholders to bring forward a sustainable urban extension, incorporating a mix of uses including housing, community, health and employment uses, through the plan-making process.

### **a. Executive Summary**

These representations confirm the extent of the Council's failings in discharging the legal and soundness requirements of the NPPF in its preparation and consultation of the draft local plan document.

They also confirm that West Horndon is the most sustainable and deliverable location for strategic growth. In this regard, they confirm that the Council was right to identify West Horndon in previous consultation documents as a strategic growth location capable of accommodating the future growth needs of the Borough.

In summary these representations:

- Expand upon those matters identified in correspondence from EA Strategic to the Council prior to the publication of the draft plan regarding the risks and potential consequences of taking the draft Local Plan forward for consultation;
- Identify the relevant requirements of law and national planning policy which the Council must be capable of demonstrating in order for the plan to be found both sound and legally compliant;
- Summarise the EA Strategic responses to previous consultations which identify the reason why the Council was correct in its original identification of West Horndon as its preferred option for strategic growth with reference to its deliverability, sustainability and the relevant evidential assessments;
- Summarise previous EA Strategic responses to previous consultations which identify the reason why the proposals for a new settlement at Dunton are fundamentally flawed in terms of deliverability, sustainability, and are absent any relevant evidential assessments;

- Provide an assessment of key policies for the Council's chosen housing allocations; a summary assessment of the GB allocations; and the Dunton Hills Garden Village – all in the context of the soundness requirements of Paragraph 182 of the NPPF;
- Summarise how the Council has failed in its legal duty to take into consideration the representations by all stakeholders during the previous consultations, including a failure to comply with the Duty to Cooperate;
- Set the scene for the request for further information regarding the extent of the assessment undertaken, or indeed its absence, by Brentwood and Basildon Councils regarding the identification of Dunton Hills Garden Village under the Freedom of Information Act and Environmental Information Regulations; and
- Examine how the Council's own evidence base clearly identifies that West Horndon is still the most sustainable and deliverable option for strategic growth in the Borough.

These are our views and they are supported by leading Counsel in an opinion which will be submitted shortly.

Additionally, the following documents are submitted in support of these representations:

- Draft Policies Matrix;
- Letter to Planning Policy Team Leader (February 2016); and
- Freedom of Information Request.

## **b. Background**

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The Council previously consulted on a Strategic Growth Options document in January 2015. The consultation used as its base the assumption that the Council needs to plan for the provision of a minimum of 5,500 dwellings (360 per annum). The most recent iteration of the draft Local Plan in 2016 has, in simple terms, sought to identify sites to accommodate this suggested 'requirement' of growth on a combination of brownfield and greenfield land. Given the constraints of the Green Belt on the Borough it is imperative that the Council must release Green Belt land for development. The Council's approach to identifying the list of sites is discussed in further detail below.

On 10 February 2016, prior to the publication of the draft Local Plan for consultation, we sent a letter to the Council which identified our early concerns with the document and the potential consequences the Council face as a result of approving the draft local plan for consultation, including:

- The information which has to date been provided by the Council falls far short of the requirement of paragraph 158 of the NPPF which requires a local plan to be based upon up-to-date and relevant evidence;
- It does not appear that the additional work to form a final OAN has been undertaken, following the "Objectively Assessed Housing Need" document dated December 2014 which stated within the assessment that it, "...does not seek to promote a housing target for Brentwood [...] the housing target should be informed by a wider base of evidence than population, household and economic projections" and that "more work will be needed to confirm the final OAN once the 2012 CLG projections have been released and Essex Planning Officers Association (EPOA) have completed the final round of Essex wide analysis (EPOA Phase 7 by Edge Analytics).";
- No detailed analysis of the likely significant effects on the proposed development at Dunton Hills has yet been undertaken and considers there is a complete lack of evidence to support these proposals as a sustainable development; and

- Robust evidence must be provided to indicate how the Duty to Co-operate has been met. Whilst the Council's joint working with Basildon was documented through the previous Dunton Garden Suburb Consultation in February 2015, it is not clear what further progress has been made between the two Councils.

On the latter point, we would draw your attention to the recent West Berkshire case ([2015] EWHC 2222 (Admin)) in the context of adequacy of consultation, which reiterated the Sedley criteria; in particular that sufficient reasons for a proposal should be provided to allow intelligent consideration and response. The information which has to date been provided by the Council falls far short of this requirement.

Having identified the above prior to the start of the consultation period, our detailed assessment of the plan and the evidence base has not lessened the extent of our concerns. Much the opposite – these concerns have deepened as a consequence of this further assessment.

These comments should be read in conjunction with our previous representations to the Strategic Growth Options consultation January 2015, as well as the representations made on behalf of EA Strategic Land in previous iterations of the new Local Plan which set out in detail why the proposals for strategic development at West Horndon are considered the most sustainable and deliverable location for growth.

### **c. Legal and National Policy requirements**

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There are a number of strategic matters that are identified in the Draft Plan that are relevant to the determination of the most sustainable and deliverable options for the future development of the Borough.

The principal matter that is raised in the Draft Plan is the extent of the housing needs arising in the Borough. The NPPF (paragraph 182) requires that any Plan submitted to the Secretary of State for Examination must be capable of being found both legally compliant and sound. This places various duties on the Council including, but not limited to, ensuring the Plan is:

- Positively prepared – seeking to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and is consistent with achieving sustainable development;
- Justified – the most appropriate strategy, when considered against reasonable alternatives, based on proportionate evidence;
- Effective – deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the Framework.

Furthermore, in order for the Local Plan to comply with the NPPF, it is necessary for the Local Plan document to, inter alia:

- Widen the choice of high quality homes [9];
- Positively seek opportunities to meet the development needs of the area [14];
- Contain sufficient flexibility to adapt to rapid change [14];

- Be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption in favour should apply locally [15];
- Respond positively to wider opportunities for growth [17];
- Set out a clear strategy for allocating sufficient land which is suitable for development in the area [17];
- Seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings [17];
- Boost significantly the supply of housing [47];
- Meet the full objectively assessed housing needs of the housing market area and identify key sites that are critical to delivery of the housing strategy over the plan period [47];
- Plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups [50];
- Set out the strategic policies for the area, including policies to deliver the homes and jobs needed in the area [156 & 178];
- Be drawn up over an appropriate time scale, preferably a 15-year time horizon, take account of longer term requirements, and be kept up to date [157];
- Identify land where development would be inappropriate due to environmental or historic significance [157]; and
- Be deliverable and viable [173].

Accordingly, if the Development Plan document fails to accord with each of the above requirements, it is incapable of complying with the NPPF.

As a result of s.19 of the Planning and Compulsory Purchase Act 2004, these are legal requirements.

For the various reasons identified below, we do not consider that the strategy and policies of the plan comply with the above requirements and the draft Local Plan is incapable of being found sound.

#### **d. Previous consultations**

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#### **Local Plan Preferred Options (LPPO) Consultation 2013 & Strategic Growth Options (SGO) 2015**

The Council previously identified West Horndon as a Strategic Growth Location (SGL) following the principle of the Opportunity Area identified in Policy CP4 of the Local Plan Preferred Options consultation document (2013) (LPPO). The land was identified as a preferred option due to its accessibility to rail and transport infrastructure, accessibility to a range of local shops and community facilities as well as its potential to improve public realm, the ability to provide green space and strengthen the village centre. Critically, its identification was justified by the evidence presented in the consultation and the outcomes of previous consultations. The benefits of West Horndon remain and the relevant evidence base documents continue to confirm that West Horndon is the most

sustainable location for focusing future growth to meet the needs of Brentwood. The representations (SGO) identified that:

- Of the three broad growth areas in the SGO consultation document, namely: (A) North of the Borough (allowing villages to grow); (B) A12 corridor; and (C) the A127 corridor, Option C remains the most sustainable option for accommodating growth:
  - Option A lacks the necessary infrastructure to cope with the level of growth required; both in terms of the appropriate investment in infrastructure where it is needed to provide the necessary levels of transport connectivity and access to local services. Furthermore, developments on smaller sites in the locations identified in Option A would be less likely to be capable of delivering a viable mixed-use development. This would therefore not be a sustainable option for the delivery of the Borough's required growth and pursuit of Option A would act to exacerbate unsustainable transport and migration patterns.
  - Option B is constrained by the difficulty of providing increased capacity on the A12 junctions with significant problems already being experienced by local congestion, as well as flooding and foul water capacity issues in areas such as Ingatestone. Furthermore, the landscape character in this location has been assessed by the Council as being of greater value than the southern parts of the Borough, restricting the ability to release sufficient Green Belt land for development.
  - Option C has greater capacity as the landscape character is of less significance, there is more scope to improve the transport capacity in this location, and therefore it can deliver sufficient growth to enable the Council to better meet its needs.
- The Interim Sustainability Assessment determined that the West Horndon SGL was ranked the most sustainable growth option overall. Furthermore, it concluded that West Horndon is the most sustainable location overall, and most notably is ranked higher or equal to DGS in terms of biodiversity, cultural heritage, economy and employment, flooding, housing, landscape and soil and contamination (7 out of the 10 topic areas assessed); and
- The West Horndon SGL is capable of being brought forward for development quickly, thereby allowing for the delivery of the much needed housing and employment development. The Strategic Growth Options 2015 states, in respect of DGS, that *"If approved, any development is likely to take a minimum of 8 years before anything would happen on site"*.

Furthermore, it is significant that within the LPPO consultation document, inter alia:

- Paragraph 3.7 confirmed that *"Having good road and rail access, local shops and community facilities, West Horndon offers potential for sustainable development to the benefit of the local community. As well as meeting the village's longer term needs, developing here provides an opportunity to address current conflicts from competing uses, most notably, heavy freight passing through residential areas; improve the quality of the public realm; provide multi-functional, accessible green space; and strengthen the village centre"*.
- Policy S1 b. confirmed that the sites identified to accommodate growth in the LPPO *"...will have no significant impact on the Green Belt, visual amenity, heritage, transport and environmental quality including landscape, wildlife, flood-risk, air and water pollution"*. This reflected the findings of the Sustainability Appraisal for the LPPO which determined that the spatial strategy in the LPPO, which included the provision of 1,500 dwellings in West Horndon (500 of which would be

located on brownfield land and 1,000 of which would be located on the EA Strategic land), was the most sustainable and deliverable.

CPRE, in its response to the LPPO, agreed with this assessment of the suitability of West Horndon: in CPRE's opinion, *"it will not be possible for anyone to identify superior candidate site(s) as judged by the necessary criteria"*.

No evidence has been presented to demonstrate how or why the spatial strategy contained within the LPPO (refined as it was from the Issues and Options consultation), is no longer the most sustainable and deliverable option for accommodating the future growth needs of Brentwood. Indeed, there is no attempt to justify the logical path between the decision to identify DHGS as the SGO over West Horndon in previous consultations. Furthermore, the requirement to provide for a greater level of growth should result in the determination to maximise the opportunities presented by West Horndon as a strategic growth location, including the opportunities presented by land to the south of the settlement.

### **Dunton Garden Suburb Consultation 2015**

EA Strategic Land submitted representations to the joint consultation with the Council and Basildon District Council on the Dunton Garden Suburb in early 2015, highlighting its concerns with the progression of this option to deliver the required growth of the district. Fundamentally, the identification is flawed because of the following reasons:

- The site has not been subject to any capacity or technical analysis to establish the overall level of development the site could accommodate;
- The site will require significant investment in new infrastructure, meaning that any strategic infrastructure can only realistically be provided at a late stage in the development process;
- It is considered unrealistic that the delivery of this quantum of housing and the associated transport and community infrastructure required would deliver sufficient growth within the plan-period;
- The infrastructure present at West Horndon could be enhanced to allow for even greater growth in this location, negating the need for the proposals at DGS; and
- If the DGS option is progressed in isolation it would have the contrary effect on the existing businesses and services in West Horndon. It is likely new facilities would be provided in DGS at the expense of those that could be assisted by new growth in West Horndon.

## **e. The Spatial Strategy & Draft Policies**

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### **The Spatial Strategy**

Paragraph 5.15 of the draft plan document outlines the Council's ultimate aim to achieve the right balance between retaining local character and meeting development needs. As part of this, we understand the Council has undertaken a sequential land use assessment to determine the most sustainable way of providing the required level of growth over the plan period. As noted, the Green Belt currently makes up 89% of the Borough's total area and as a result it is proposed that development within the Green Belt is necessary to deliver the required growth. For the reasons set out below, EA Strategic Land considers the Council's sequential approach has not resulted in the most sustainable or deliverable sites being allocated for development.

As part of the sequential approach, it is outlined that the Council will 'consider sites within context of the spatial strategy to retain the Borough character and focus most development in sustainable transport corridors'. In establishing the most appropriate location to release Green Belt land for development, we consider the Council should first seek to provide growth in areas that are accessible to a range of facilities, services and infrastructure that exist within the Borough.

### **Draft policies**

As identified above, the NPPF (paragraph 182) requires that any Plan submitted to the Secretary of State for Examination must be capable of being found both legally compliant and sound. This places various duties on the Council, including, but not limited to ensuring the Plan is 'positively prepared, justified, effective and consistent with national policy'.

In addition to the general comments made on strategic policies, we attach a policies matrix which assesses the Council's individual policies soundness against paragraph 182 of the NPPF. The Planning Advisory Service's 'Soundness Self-assessment Checklist (March 2014) has been used to assess the key requirements of plan preparation in advance of the Examination of the plan.

### **Policy 7.4 Housing allocations**

Paragraph 3-03120140306 of the NPPG makes clear that the onus of proof is on the Council to demonstrate a deliverable supply of housing land. This requirement can only be discharged by up-to-date, robust evidence.

It is clear that the evidence as to the housing elements of the draft Local Plan is either absent, out-of-date or fails to comply with the requirements of it (per the NPPF and NPPG). In particular:

- The SHLAA is out of date, indeed the evidence for it will be a decade old by the time of an expected EiP;
- The SHMA is published for a different timescale to the emerging Draft Local Plan;
- There is no attempt to identify the full OAN (the document presented recognises this – both in the content and in the title 'Towards an Assessment...', nor does that document use the most up to date evidence (see paragraph 5.19); and
- The absence of an effective SA.

As noted above, the Council has failed to objectively assess its housing need as part of its evidence base. Fundamentally, the document at paragraph 6.17 states that the document "*was prepared without full insight of the delayed 2012 household projections. When released they will form the new 'OAN Starting Point' and this work will need to be revised.*"

The assessment notes at paragraph 5.28 relating to the 2012 projections in that they assume a much higher inward migration trend into Brentwood than would be expected by simply projecting forward to the observed past. It is also noted that the document has not taken into account the 'London effect' which is described at paragraph 6.18 as the most significant next step. In this regard, the migration levels as a result may result in a potentially higher outward migration flow from the Capital. We therefore consider that the Council is premature in undertaking its Local Plan consultation, particularly in light of this key piece of evidence which will provide further indication on the level of housing requirement in the borough.

It is self-evident that the extent of the failings in respect of housing need are significant. The failure to identify the extent of the full robust OAN means the Council is unable to determine what land is needed to address needs, nor is it capable of determining the extent of its five year housing

requirement deficit. This is a matter that goes to the heart of the plan and is a significant factor contributing to the deficiencies of the plan.

The housing land supply position within the authority is not clear; however, by the Council's own figures, (which we have not subjected to any scrutiny at this stage), in a recent appeal decision (APP/H1515/W/15/3132571), it relies upon its '*interim five year housing land supply 2013 to 2018*' (June 2014) document which suggests a housing land supply figure of 4.29 years. Furthermore, it is significant that these figures do not make allowance for the requisite buffer and we consider that the level of undersupply could considerably exceed the position identified by the Council. As such, there is a need to identify further sites to accommodate the undersupply.

We do not consider that the sites allocated for development over the emerging plan period have been properly assessed on robust evidence, given that the SHLAA was last updated in 2011 and the Council's Urban Capacity Study was published in 2002. The Interim Sustainability Appraisal which has most recently been published as part of the evidence base does not provide sufficient evidence as to the process of how the results were arrived at. Unfortunately, also, the Council's Green Belt Assessment (March 2016), a working draft, and only published half way through the consultation period, cannot operate to be an ex post fact justification of the findings in the Interim SA.

Appendix 2 'Proposed Housing and Employment Delivery' of the Draft Plan provides details outlining the Council's sources/notes which has been used to determine the likely density and delivery on sites. As previously noted, the SHLAA and Urban Capacity Study are so out of date they have little or no efficacy as evidence in this case; and the Council's Asset Review has not been made publicly available and we consider it substandard for the Council to rely upon reviews undertaken as part of the Local Plan 2005 allocations as a reliable source.

We also note that the Council's strategic housing allocation known as Dunton Hills Garden Village (previously stated at Dunton Hills Garden Suburb) does not feature within Appendix 2 and therefore assume that the Council has not undertaken the work necessary to determine the phasing of development in this location. We therefore query the Council's approach in determining the extent to which the sites identified can properly be considered to be 'deliverable' within the five year period and beyond (i.e. so as to comply with Footnote 11 of the NPPF).

The Council has not provided sufficient evidence to suggest that 958 units will come forward on windfall sites during the plan period (post 2022) as suggested within the housing trajectory at Appendix 3. The latest information on delivery rates within the Borough is contained within the Authority Monitoring Report (November 2015) which does not detail the proportion of completions on windfall sites since the Council began its monitoring in 2001/02. The Council has not provided compelling evidence "that such sites have consistently become available in the local area", or "will continue to provide a reliable source of supply" (NPPF, Paragraph 48). There is no analysis – let alone compelling evidence – that windfalls have a record of past delivery, or will continue to be a reliable source of supply.

#### **Policy 9.12 Site allocations in the Green Belt**

In the absence of a robust assessment of the Green Belt within Brentwood and its boundaries, EA Strategic and Countryside undertook to commission an independent assessment of the Green Belt.

The purpose of the assessment was to review the areas of land beyond the built up areas as defined in the current adopted local plan, in order to assist in identifying areas of land most suitable for major housing development in the next plan period. It assessed the land using a 4-stage approach which identified environmental constraints; identified areas of landscape value; identified sub-zones and examined sustainability of locations in terms of access to key services and facilities.



The Green Belt assessment established that the land under the control of EA Strategic performs a limited role in the Green Belt. As a consequence, it is the most appropriate site, in terms of its role within the Green Belt, to accommodate strategic scale development within the Borough.

Following the publication of the draft Local Plan, the Green Belt assessment was extended to consider the specific parcels identified for housing growth. It concluded, in relation to the proposed DGS allocation that:

“...the development of a freestanding “village” within site ref. 200 for 2,500 homes plus employment and other built-up uses would amount to sprawl and to the perception of Basildon town merging with West Horndon. Similarly, development here as part of an urban extension to Basildon town would result in the outward sprawl of Basildon towards London along the A.127 corridor of around 2km and would mean the perceived and real merging of Basildon with West Horndon.”

In this context it agreed with the Council’s own assessment of DGS as playing a significant role in the Green Belt, the development of which would result in significant harm to the role of the Green Belt in both Brentwood and Basildon.

The results of these clear and objective assessments of the Green Belt determine that the land under the control of EA Strategic plays a limited role in the Green Belt and can be brought forward without harming the object and purpose of the Green Belt. On the contrary, the proposed allocation of DGS would have a significant impact on the Green Belt and would cause significant harm to the future role of the Green Belt in both Brentwood and Basildon.

#### **Policy 7.1 Dunton Hills Garden Village**

Paragraph 7.1 of the draft local plan states that one of the overarching principles of the planning system is to support the provision of strong, vibrant and healthy communities through the supply of housing to meet the needs of the present and future generation. The NPPF is also clear in requiring local planning authorities to identify sites which are deliverable (paragraph 47), and in order to be deliverable they should be available, offer a suitable location for development, and be achievable (footnote 11).

Paragraph 7.5 suggests the new settlement would be linked to Brentwood and other Borough villages such as West Horndon. If this policy has been developed on the premise that it is in close proximity to existing bus routes throughout the neighbouring area of Laindon and West Horndon, railway stations at Laindon and West Horndon, and existing services and facilities including retail, schools and healthcare at Laindon and West Horndon, this strongly suggests that it would be more sustainable to deliver the growth needed in those areas identified as already hosting the required facilities, such as West Horndon.

### **f. Strategic Matters**

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#### **Evidence base**

Paragraph 158 of the NPPF requires a local plan to be based upon up-to-date and relevant evidence. Whilst the draft Plan makes various general references to supporting evidence (for example paragraphs 1.4, 1.21, 1.22, 2.15, 5.4), there is very little reference to specific evidence base documents relied upon. Additionally, as we understand at paragraph 2.16 of the draft Plan, there is further evidence "being undertaken to inform policies as they are being developed".

It stands to reason that the Plan, prepared as it has, in the absence of this evidence will fail to satisfy the requirements of the NPPF.

## Duty to Co-operate

Local planning authorities have a Duty to Co-operate on strategic planning issues that cross administrative boundaries. The purpose of the duty to co-operate is to ensure strategic priorities are properly co-ordinated and clearly reflected in Local Plans. The failure to demonstrate compliance with the Duty to Co-operate would render the plan incapable of being found legally compliant.

Recent examinations of Local Plans have confirmed that Inspectors will require robust evidence to be provided to show how a local authority has complied with the Duty to Co-operate. Examples include:

- (a) Clear evidence is required to show how joint working groups have influenced the provisions within a finalised local plan (Examination of Kirklees Core Strategy (April 2013));
- (b) The unmet development needs of nearby local planning authorities should be given satisfactory consideration and co-operation with local planning authorities should be embedded as an integral part of the plan making process (Examination of Mid Sussex District Plan (December 2013)); and
- (c) There should be sufficient and robust evidence demonstrating that every effort has been made to cooperate with nearby local planning authorities and that cooperation should produce effective and deliverable policies on cross boundary matters (Examination of Runnymede Borough Council (April 2014)).

## Greater London Authority

The Greater London Authority (GLA) has confirmed that growth in London is anticipated to increase from currently planned levels (32,000 homes per annum). London's projected housing need is expected to reach between 49,000 and 62,000 homes per annum. As a consequence of this high level of need, the GLA wrote to authorities within commutable distance of London to confirm that the 42,000 units per annum in its Further Alterations to the London Plan (FALP) still results in a significant shortfall that will need to be met by LPAs outside London. It stands as reason that areas, such as Brentwood, have a potential role to play in accommodating London's growth.

Furthermore, the Council has not considered the suggestion from the GLA to update its 2011 Strategic Housing Land Availability Assessment. The Authority also suggested the Council may wish to reassure itself that its needs assessment takes into account uncertainty over future levels of out-migration from London and the way this may bear on household growth, as well as any backlog of need.

## Previous consultations

Under Regulation 18 (3) of the 2012 Regulations, the Council is under a legal duty to take into consideration the representations made to it during the previous SGO and DGS consultation in early 2015. The Council does not appear to have taken the representations to the 2015 consultation conscientiously into account as identified in the Statement of Consultation 2016 and, in particular, failed to consider the legitimate criticisms of the way in which strategic Green Belt sites have been evaluated and chosen.

The Council has failed to take into account the concerns raised by neighbouring authorities in this regard:

## Thurrock Borough Council

In its representations to the SGO consultation Thurrock Borough Council considered "*The current consultation document fails to consider more strategic and consistent approach to assessing options for Green Belt release and boundary changes. Instead it relies purely on sites submitted by developers. Brentwood Borough Council should undertake a Green Belt Review as part of spatial*

*options testing, which is subject to further public consultation before proceeding to submission stage.”*

### **Basildon Borough Council**

The Council raised concerns regarding the absence of any significant evidence base documents and the potential impact on joint working to deliver the Dunton Hills Garden Village *“Brentwood may want to consider how the findings of all the forthcoming evidence impact on the suitability and deliverability of the growth options and sites identified in this consultation document and on any potential future joint working on the Dunton Garden Suburb proposal. Therefore any future decisions on the spatial strategy and preferred sites have been informed by the entire evidence base commissioned and not just the Strategic Growth Options paper, even if this means Brentwood has to revise and repeat its Strategic Growth Options exercise. To proceed in any other way risks the Local Plan being found unsound and consequently unadoptable.”*

We do not consider that the current consultation document adequately takes into consideration the requirements of the Council to prove by robust evidence that it has complied with the Duty to Co-operate as required by an Inspector specifically, when the responses from the previous consultations, Greater London Authority and neighbouring authorities, Thurrock and Basildon are considered.

### **Dunton Hills Garden Village**

The Council's initial joint working with neighbouring authority Basildon was documented through the previous Dunton Garden Suburb Consultation in February 2015; however, it is not clear what further progress has been made between the two Council's which has resulted in the identification of the land for 2,500 units within the Brentwood Borough.

A Memorandum of Understanding (MoU) was signed by Brentwood and Basildon Council in November 2014 setting out the terms and conditions for the joint project to explore Dunton Garden Suburb. The MoU was effective for 15 months under the Terms and Termination and as such expired on the 4 February 2016. We understand that it has not been renewed.

Basildon Council's Cabinet Member for Regeneration and Planning highlighted potential flaws in the previous consultation, *“the outcome of the last consultation indicated a need for additional evidence to show this is the most appropriate location for development in the Brentwood borough, and whether or not it can be supported by infrastructure. At this time Basildon Council cannot support such a proposal.”*

In response to the previous consultation, Brentwood Council suggested that site assessment is ongoing and sites will be assessed for their availability, deliverability and sustainability as required by the NPPF. This also included an assessment of site landscape capacity and a site assessment of NPPF Green Belt tests. The identification of Dunton Hills Garden Village to be removed from its Green Belt designation is not justified or consistent with national policy as the location has not been subject to previous evidence or assessment in the Council's evidence base which justifies it as a logical location for development. We consider the site has been pre-determined on political and non-planning grounds, and not reflective of the strategic infrastructure matters which will affect existing and proposed development. Most significantly, findings of the Dunton Garden Suburb consultation were published in December 2015, explaining that 84% of the 1,500 responses were objections to the proposals, with concerns primarily relating to: potential environmental damage and erosion of Green Belt protection; infrastructure provision not being able to cope with additional development; and delivery feasibility of the project (Interim Sustainability Appraisal, February 2016).

### **g. Freedom of Information request**

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EA Strategic Land submitted for information under both the Freedom of Information Act 2000 (Fol) and the Environmental Information Regulations 2004 (EIR) to Brentwood Borough Council on the 12 February 2016, and to Basildon Borough Council on the 26 February 2016. A copy of this request is appended to these representations for information.

The reason for the submission of the requests under Fol and EIR is due to the lack of evidence provided by both Councils as to the justification for the proposed allocation of DGS.

#### **h. Assessment of Potential Housing, Employment and Mixed Use Sites in the Green Belt and their Relative Contribution to the Purposes of the Green Belt Designation (Working Draft)**

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The Council commissioned Crestwood Environmental to undertake an independent assessment of Housing Sites (being considered as part of the SHLAA) within the Green Belt and their relative contribution to the purposes of the Green Belt designation. Paragraph 2.2.8 of the assessment states that, *“the assessment is not a boundary review of the Green Belt in Brentwood, which is considered to be functional and forms a critical component of the ‘character’ of Brentwood”*.

The assessment is not a parcel based analysis which in our experience is recognised industry-wide as an appropriate way of assessing the overall Green Belt in a local authority, nor does the assessment take into consideration the results of the Council’s Mid Essex Landscape Character Assessment (2006). The Assessment considers the role of the individual landholdings put forward as part of the Council’s SHLAA process, on a site by site basis. Whilst EASL recognises there are strengths and weaknesses to this approach, the principal weakness is that it does not consider the role and function of the Green Belt in Brentwood and beyond to determine the best Green Belt sites to release.

Notwithstanding that, the results demonstrate that EA Strategic Land’s landholdings at West Horndon (referred to as Sites 037a & 037b Land West of Thorndon Avenue) are considered a moderate contribution to the overall purposes of the Green Belt. It is considered that the risk of a reduction of countryside gaps between towns would not be significant and any existing interlying barriers can be maintained. There is also no or very limited potential for other Conservation (Heritage) Designations to be adversely affected by development, and it is accepted that some encroachment into the countryside would occur as a result of development.

The proposed Dunton Hills Garden Suburb on the other hand (referred to as Site 200 Entire Land East of A128, south of A127), is considered to be a high contribution to the overall purposes of the Green Belt and therefore should be considered less preferable for development. Crestwood’s conclusion is based on the site being uncontained and therefore significant countryside encroachment could occur; its contribution as a functional countryside area with a high degree of public access; and its role as an important gap between towns.

#### **i. Interim Sustainability Appraisal**

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The Draft Plan makes reference to an Interim Sustainability Appraisal (ISA) at paragraph 2.16 and states at paragraph 2.17 that versions of Sustainability Appraisal have been carried out at various stages of the plan making process. Appraisal recommendations at each stage have informed the production of this Draft Plan.

In summary, the Interim Sustainability Appraisal 2015 for the SGO consultation determined that the West Horndon Strategic Growth Location was ranked the most sustainable growth option overall.

An Interim Sustainability Appraisal of the Brentwood Local Plan has been published by AECOM with the intention to inform the consultation and subsequent preparation of the final draft ('proposed submission') plan. Within the framework, the following key topics are the focus of the Sustainability Appraisal: Air Quality; Biodiversity; Climate change mitigation; Community and well-being; Cultural Heritage; Economy and employment; Flooding; Housing; Landscape; Soil and contamination; Waste; and Water quality and water resources.

Paragraph 11.1.6 of the ISA appraises the draft plan as a whole, concluding that "*Growth to the south of the A127 is unlikely to impact directly on important habitat patches within this landscape, although recreational pressure is another consideration. A Dunton Hills Garden Village scheme will need to address some notable on-site constraints, and also ensure that Green Infrastructure opportunities are fully realised.*"

Page 95 of the ISA draws together the primary conclusions of the appraisal, in terms of the majority of objectives, a strategic allocation at one or either of the A127 locations (West Horndon or Dunton Hills Garden Village) is to be supported.

## **j. Conclusion**

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In summary, these representations and the previous consultation responses that has underpinned them, confirm that the West Horndon Strategic Growth Location is the most sustainable and deliverable site to accommodate the future growth needs of the Borough. They also note the importance of the evidence base (including the updated SHMA, Green Belt Assessment and other requirements) in preparing a sound plan.

Put simply, the extent of the deficiencies identified in relation to the matter of housing land supply are in themselves sufficient to render the plan unsound. Combined with the various other matters identified within these representations, and indeed within earlier representations to the emerging plan, the plan in its current form is incapable of being found sound and legally compliant.

In this context we would urge the Council to consider the risks of continued pursuit of the draft Local Plan.

Thank you once again for the opportunity to respond to the draft Local Plan consultation. We would be very grateful for confirmation that these representations have been received and confirm that we would like to be involved in future stages of the Local Plan process.

In particular, we would like to register our interest in appearing at the Examination of the plan at the appropriate time.

Yours sincerely



David Churchill  
DIRECTOR

Enc. Draft Policies Matrix  
Letter to Planning Policy Team Leader (February 2016)  
Freedom of Information Request letter  
Legal Opinion of Russell Harris QC