

Mr. Phil Drane
Planning Policy Team Leader
Brentwood Borough Council
Town Hall
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10 February 2016

10/394
BY POST/EMAIL

Dear Mr. Drane,

BRENTWOOD LOCAL PLAN CONSULTATION

We understand that the proposal to publish for consultation the Council's Draft Local Plan 2016 was approved at the Ordinary Council meeting on the 27 January 2016 and will begin on the 10 February 2016.

The purpose of this letter is to draw your attention to our concerns with the document and the potential consequences the Council face as a result of approving the draft local plan for consultation. We consider that this decision is fundamentally flawed, in that:

- The consultation is ineffective through a complete lack of evidence available. The consultation will simply have to be repeated when up to date and proper evidence has been assembled.
- Even if the Council proceeds through the Local Plan process to Examination in Public, the Plan will be likely to be blocked by the Inspector because:

(a) in respect of what evidence is available, there are significant failures of that evidence to substantiate up to date support for the Plan's proposals, and

(b) as already identified, there is a complete absence of evidence in respect of controversial and significant areas, in particular on housing numbers and allocations, and Green Belt.

In particular, we would draw your attention to the following points, drawn from what documentation is available publicly at this stage.

a. NPPF

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 4, 97, 100, 109), there is very little reference to specific evidence base documents relied upon. Additionally, as we understand at paragraphs 42 and 43 of the draft Plan, there is further evidence "*being undertaken to inform policies as they are being developed*".

With this in mind, we would draw your attention to the very recent and controversial West Berkshire case ([2015] EWHC 2222 (Admin)) in the context of adequacy of consultation, which reiterated the Sedly 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.

Housing requirement

Paragraph 14 of the NPPF requires there to be a presumption in favour of Sustainable Development. In relation to plan making specifically, meeting an objectively assessed housing need is the starting point for ensuring the needs of the Borough are met. The draft plan states that the 'objectively assessed housing need' of the Borough is 362 homes per year, although there is no specific evidence source for this, only a vague assertion within Policy SP2. The only conceivable evidence source in the Council's possession for this figure is the "Objectively Assessed Housing Need" document dated December 2014.

This document states 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)."

It does not appear that the additional work to form a final OAN has been undertaken.

Recent case law has emphasised the need for OAN to be properly assessed, and how this should be done, taking into account the relevant paragraphs 47, 158 and 159 of the NPPF (for instance: *Satnam Millennium Limited v Warrington Borough Council* [2015] EWHC 370 (Admin) and *Borough of Kings Lynn & West Norfolk v SSCLG* [2015] EWHC 2464 (Admin)).

Paragraph 159 of the NPPF requires local planning authorities to have a clear understanding of housing in their area through a Strategic Housing Market Assessment (SHMA) and Strategic Housing Land Availability Assessment (SHLAA).

The Council's SHMA is dated July 2014. Whilst October 2011 is the date the SHLAA was published, the assessment itself took place between October 2009 and May 2010 (see Executive Summary). In the absence of any up to date evidence from the SHMA or the SHLAA, the sustainability appraisal fails to adequately update the assessment of sites in terms of any sequential analysis required to inform their deliverability and suitability for development. There is therefore a complete lack of an up-to-date evidence base on housing numbers and allocations.

Policy SP2 sets out how the Council intends to meet its housing supply target, including a figure of 1,047 dwellings to come from windfall sites. Paragraph 48 of the NPPF states that local planning authorities may make an allowance for windfall sites in the five year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. There is no such evidence.

Sustainability Appraisal

The last Sustainability Appraisal took place in January 2015 and is referenced at paragraphs 44 – 47 of the draft Plan states that:

"Versions of the Sustainability Appraisal have been carried out at various stages of the plan making process..." and that "alternative options and the assessment of sites will continue to be tested through the appraisals".

In considering the proposals for the Dunton Hills Garden Suburb within that document, it is stated that:

"Considerable assumptions [have been made] regarding how options would be implemented 'on the ground' and what the effect on particular receptors would be.... In many instances, given reasonable assumptions, it is not possible to predict likely significant effects, but it is possible to comment on the merits of an option in more general terms."

EASL is unaware that a 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. There is no evidence as to where the figure of 2,500 homes has come from.

Paragraph 214 of the Plan identifies that further highways infrastructure work will be required to accommodate development of this scale in this location. Paragraph 173 of the NPPF requires Plans to be deliverable and that requirements for infrastructure (amongst other things) should be taken account of to ensure that development is viable and deliverable. There is no evidence of this having been done in relation to DGS.

b. Duty to Co-operate

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 Council's which has resulted in the identification of the land for 2,500 units.

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)).

We would welcome the opportunity to discuss these matters with you at the earliest convenience.

Yours sincerely



David Churchill
DIRECTOR