



Brentwood Pre-Submission Local Plan (Regulation 19)

January 2019

COMMENT FORM

From Tuesday 05 February to Tuesday 19 March 2019 we are consulting on the next stage of the Brentwood Local Plan: Pre-Submission Local Plan (Regulation 19). You can view and comment on the consultation document online at:
www.brentwood.gov.uk/localplan

Alternatively, please use this form to share your views on the contents of the document.

All responses should be received by 5PM Tuesday 19 March 2019.

Please return forms either by attaching completed forms by email to **planning.policy@brentwood.gov.uk** or alternatively by post to Planning Policy Team, Brentwood Borough Council, Town Hall, Brentwood, Essex CM15 8AY.

How to complete the representation form:

This form consists of two sections – Section A: Personal Information, and Section B: Your Representation. Please note that your representation cannot be accepted without completing information identified in Section A.

The Local Plan Pre-Submission (Regulation 19) consultation consists of more formal and technical questions focused on the four Tests of Soundness and whether the Local Plan is compliant with relevant legislation. Comments are to be focused on three core areas – is the Plan positively prepared (referred to as ‘soundness’), does the Council adhere to the Duty to Cooperate, and is the Plan legally compliant (addressed by question 3 of this comment form). These terms are defined below:

- a) **Soundness:** Local Planning Authorities must prepare a Local Plan based on relevant and appropriate evidence base. They are required to publish these documents on their website. The evidence used to develop the Brentwood Local Plan can be found on the Council’s website under Evidence Base.
- b) **Duty to Cooperate:** Throughout the plan-making process discussions have taken place with various statutory consultees and neighbouring authorities. A summary of these meetings can be found within the Duty to Cooperate Statement, published as part of the Regulation 19 consultation. This is a live

document and will be updated prior to being submitted to the Secretary of State.

- c) **Legally Compliant:** Local Planning Authorities must prepare a Local Plan which adheres to the requirements as set out in the National Planning Policy Framework (NPPF), planning practice guidance, and other relevant planning regulations & legislation.

Question 4 of this comment form asks for further information on your opinion of the Plans 'soundness'. According to the National Planning Policy Framework (NPPF) para 35, Local Plans are examined to assess whether they have been prepared in accordance with legal and procedural requirements and whether they are sound. Plans are 'sound' if they are:

- a) **Positively prepared** – providing a strategy which as a minimum seeks to meet the area's objectively assessed needs, and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and consistent with achieving sustainable development
- b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in the NPPF.

Please keep in mind the information provided above to assist with correctly completing your comment form. For additional information on what the difference is between a Regulation 18 and Regulation 19 Local Plan consultation, please view the FAQ's published on-line www.brentwood.gov.uk/localplan

Data Protection

All personal information that you provide will be used solely for the purpose of the Local Plan consultation. Please note whilst all addresses will be treated as confidential, comments will not be confidential. Each comment and the name of the person who made the comment will be featured on the Council's website.

By submitting this form, you are agreeing to the above conditions.

Section A: Personal Details

Title	Mr
First Name	John
Last Name	Boyd
Job Title (if applicable)	Managing Director
Organisation (if applicable)	JB Planning Associates
Address	Chells Manor Chells Lane Stevenage Herts
Post Code	SG2 7AA
Telephone Number	01438 312130
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Section B: Your Representation

Please complete a separate sheet for each representation that you wish to make. You must complete 'Part A – Personal Details' for your representation to be accepted.

Representations cannot be treated as confidential and will be published on our Consultation Portal. Any representations that are considered libelous, racist, abusive or offensive will not be accepted. All representations made will only be attributed to your name. We will not publish any contact details, signatures or other sensitive information.

Full Name	Mr John Boyd
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Question 1: Please indicate which consultation document this representation relates to?

The Local Plan

Sustainability Appraisal

Habitat Regulations Assessment

Question 2: Please indicate which section of the indicated document identified above that you are commenting on (where applicable please clearly state the section / heading or paragraph number).

Policy HP01

Question 3: Do you consider the Local Plan is:

Sound?

YES

NO

Legally Compliant?

YES

NO

Compliant with the Duty to Cooperate?

YES

NO

Question 4: If you consider the Local Plan unsound, please indicate your reasons below (please tick all that apply):

The Local Plan has not been positively prepared

The Local Plan is not justified

The Local Plan is not effective

The Local Plan is not consistent with national planning policy

Question 5: Please provide details of either:

- Why you consider the Plan to be sound, legally compliant, or adheres to the Duty to Cooperate; or
- Why you consider that the Local Plan is unsound, is not legally compliant, or fails to comply with the Duty to Cooperate

Please see paragraph 17 of our accompanying representation.

Please continue on a separate sheet if necessary

Question 6: Please set out what modification(s) you consider necessary to make the Local Plan sound or legally compliant, having regard to the matters that you identified above.

You will need to say why this modification will make the Local Plan sound or legally compliant. Please be as accurate as possible.

Please see paragraphs 18-19 of our accompanying representation.

Please continue on a separate sheet if necessary

Question 7: If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the Examination in Public (EiP)?

NO, I do not wish to participate in the oral part of the EiP

YES, I wish to participate in the oral part of the EiP

Question 8: If you wish to participate at the oral part of the Examination, please outline why you consider this to be necessary.

JB Planning Associates on behalf of CALA Homes (North Counties) Ltd, wish to attend the Examination Hearing as the complexity of the issues raised in our representations can only be fully investigated through an oral examination.

Please continue on a separate sheet if necessary.

Please note that the Inspector (not the Council) will determine the most appropriate procedure to hear those who have indicated that they wish to participate in the oral part of the Examination.



Policy HP01: Housing Mix

Summary of Representation

1. This representation has been prepared on behalf of CALA Homes (North Home Counties) Ltd in support of the proposed allocation of its land adjacent to the A12 Ingatestone site for 57 homes (Policy R22).
2. The representation seeks minor amendments to the wording of Policy HP01 and its supporting text in order to comply with national policy.

Policy HP01: Housing Mix

3. Paragraph 61 of the NPPF refers to the need for planning policies to reflect assessments of local need including in relation to affordable housing and people wishing to commission or build their own homes:

“61. Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes¹)”.

4. Paragraph 64 of the NPPF specifies that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership. Exemptions to this 10% requirement should also be made where the site or proposed development:

1. Under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.



- provides solely for Build to Rent homes;
- provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
- is proposed to be developed by people who wish to build or commission their own homes; or
- is exclusively for affordable housing, an entry-level exception site or a rural exception site.

5. The Planning Practice Guidance (PPG) reference to when planning obligations can be sought by the local planning authority has very recently been revised²:

“Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the [Community Infrastructure Levy Regulations 2010](#) and as policy tests in the National Planning Policy Framework (See related policy: National Planning Policy Framework [paragraph 56](#))”.

6. We consider that in accordance with the PPG, the policy wording should refer to the Council ‘seeking’ rather than ‘requiring’ the provision of different community benefits.
7. With regard to ‘what accessibility standards can local planning authorities require from new development?’ the Planning Practice Guidance (PPG) states³:

² Paragraph: 002 Reference ID: 23b-002-20190315

³ Paragraph: 008 Reference ID: 56-008-20160519



“Where a local planning authority adopts a policy to provide enhanced accessibility or adaptability they should do so only by reference to Requirement M4(2) and/or M4(3) of the optional requirements in the Building Regulations and should not impose any additional information requirements (for instance provision of furnished layouts) or seek to determine compliance with these requirements, which is the role of the Building Control Body. They should clearly state in their Local Plan what proportion of new dwellings should comply with the requirements. There may be rare instances where an individual’s needs are not met by the wheelchair accessible optional requirement – see [paragraph 011 below](#).

Local Plan policies should also take into account site specific factors such as vulnerability to flooding, site topography, and other circumstances which may make a specific site less suitable for M4(2) and M4(3) compliant dwellings, particularly where step free access cannot be achieved or is not viable. Where step-free access is not viable, neither of the Optional Requirements in Part M should be applied”.

8. We consider that the Council has failed to demonstrate that the requirement set out in paragraph A (a)(ii) of the policy for every dwelling built on all residential developments of 10 or more dwellings to be constructed to meet requirement M4(2) accessible and adaptable dwellings, unless they are built in line with M4(3) wheelchair adaptable dwelling standard, is actually justified in terms of either need or viability.
9. We note ‘Table 8.3: Additional Costs of Building to the draft Approved Document M amendments included at Appendix B4’ within the Local Plan Viability Assessment (October 2018) identified costs based upon 2014 prices for category 2 dwellings of up to £940 per dwelling and prices for category 3 dwellings of up to £23,052 per dwelling (these national prices now being 5 years out of date). These were published in March 2015 with the proposed national housing space standards.



10. We further note the reference on p.102 of the Viability Assessment which states **“through the September 2018 consultation some concern was expressed about the need for this policy. It is beyond the scope of this study to consider need”**.
11. Paragraph 6.4 of the Draft Plan makes it clear that in terms of housing-mix proposals, regard should be had to the findings of the latest Strategic Housing Market Assessment (SHMA) and other relevant up-to-date local evidence. It explains that this will be used to inform negotiations between the Council and developers to determine the appropriate mix of housing. Furthermore, it emphasises that the final mix of housing types will be subject to negotiation with the applicant.
12. We believe it to be crucial that the Council is fully committed to ensuring that the housing mix policy will be implemented in a flexible manner, and not seek to apply a ‘one size fits all’ approach to all sites across the Borough. Accordingly, regard should be had to the findings of the Authority Monitoring Report (AMR) and more localised market information, given that different types of housing mixes will be appropriate in different parts of the Borough depending on localised housing markets and recent types of housing provision.

Conclusions

13. The policy is overly prescriptive and does not accord with national policy. It fails to adequately reflect dispensations from these housing requirements in respect of specific types of residential development. The policy would benefit by amendments which would bring it in line with national policy.
14. The policy should be amended by the deletion of references to ‘require’ and their replacement with ‘seek’ in order to provide greater flexibility and reflect the fact that the policy requirements should not be so rigid that they fail to take adequate account of other competing policy requirements and overall viability.
15. It is particularly important to note that the Housing Delivery Test 2018 measurement (February 2019) identifies that against an annual target of 655 dwellings, over the past 3 years it has only delivered 1,509 dwellings against a



target figure of 1,965 dwellings. As a consequence of only delivering 77% of its housing target figure, the Council's 5-year land supply is now to be subjected to a 20% buffer.

16. Consequently, it is vital that Brentwood Borough Council does not implement policies which threaten housing delivery due to their high associated costs or the fact that their actual final development costs would be uncertain, particularly given that the meaning of the word 'significant' is open to wide possible interpretation. It should also be noted that the associated costs of such potential provision will not have been properly examined within either the Sustainability Appraisal or Viability Assessment.

Test of Soundness

17. In view of the above considerations, we consider that the Local Plan is not sound, because it is not fully '**consistent with national policy**', as it fails to have direct regard to viability. The Plan needs to be amended so that it provides greater flexibility. Consequently, in its present shape, it will be neither '**justified**', nor '**effective**', as it will not represent the most appropriate strategy, when considered against the reasonable alternatives.

Proposed modifications

18. The following amendments are proposed to the supporting text of Policy HP01:

6.4 The Council's Strategic Housing Market Assessment (SHMA) Part 2 (2016) provides a detailed assessment of the housing required to meet existing and future needs across the borough. Proposals should respond to other up-to-date and relevant local evidence where available, such as the Council's Housing Strategy, **AMR and more localised market information.**

19. The following amendments are proposed to the text of Policy HP01:

A. All new development should deliver an inclusive, accessible environment throughout.



- a. On residential development proposals of 10 or more (net) additional dwellings the Council will seek require:
- i. an appropriate mix of dwelling types, sizes and tenures to take account of ~~meet~~ the identified housing needs in the borough as set out in the Strategic Housing Market Assessment or any similar evidence for market and affordable units (such as the Council's Housing Strategy, AMR and localised market information), to provide choice, and contribute towards the creation of sustainable, balanced and inclusive communities; and
 - ii. ~~each dwelling to be constructed to meet requirement M4(2) accessible and adaptable dwellings, unless it is built in line with M4(3) wheelchair adaptable dwellings, of the Building Regulations 2015, or subsequent government standard.~~
- b. On developments of 60 or more (net) dwellings the Council will seek ~~require all of the above, and:~~
- i. a minimum of 5% of new affordable dwellings should be built to meet requirement M4(3) wheelchair accessible dwellings of the Building Regulations 2015, or subsequent government standard.
- c. On development sites of 500 or more dwellings the Council will seek ~~require all of the above, and:~~
- i. a minimum of 5% self-build homes which can include custom housebuilding; and
 - ii. provision for Specialist Accommodation taking account of local housing need in accordance with the criteria set out in Policy HP04 Specialist Accommodation.



- B. Where a development site has been divided into parts, or is being delivered in phases, the area to be used for determining whether this policy applies will be the whole original site.**

- C. The inclusion of self-build and custom build homes and Specialist Residential Accommodation on smaller sites will also be encouraged.**

PC/1250
19 March 2019