



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
Email Address	john.boyd@jbplanning.com

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 HP05

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 paragraph 18 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 HP05: Affordable Housing

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 HP05: Affordable Housing in order to provide greater flexibility.

Policy HP05: Affordable Housing

3. We support the policy's aim of seeking to deliver as much affordable housing as is possible given the local need for it. However, it is important that the Council also gives adequate regard to viability and the overall cost of adhering to all other Local Plan policy and site-based requirements.
4. The Planning Practice Guidance (PPG) reference to when planning obligations can be sought by the local planning authority has very recently been revised¹:

“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](#))”.

¹ Paragraph: 002 Reference ID: 23b-002-20190315



5. 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.
6. Consequently, we do not believe that it is appropriate to state in paragraph A. that the Council **will require** the provision of 35% of the total number of residential units to be provided and maintained as affordable housing within all new development sites on proposals of 11 or more (net) units or sites of 10 or less units which have a combined gross internal floorspace in excess of 1,000 square metres.
7. Neither do we believe that it is appropriate to state in paragraph B.(a) that the Council **will require** that the tenure split be made up of 86% Affordable/Social Rent and 14% as other forms of affordable housing (including starter homes, intermediate homes, shared ownership and all other forms of affordable housing). It is not evident from reading the content of the Pba Strategic Housing Market Assessment – Part 1 (October 2018) what the precise justification for these tenure split figures is. Nor is it evident whether they have been properly scrutinised with regard to viability.
8. The policy goes on to specify that 35% of the total number of residential units to be provided and maintained as affordable housing within all new development sites on proposals of 11 or more (net) units or sites of 10 or less units which have a combined gross internal floorspace in excess of 1,000 square metres.
9. We believe that the current policy wording set out in paragraphs A and B is too inflexible and fails to take adequate account of both viability and the fact that affordable housing requirements will inevitably change over the course of the Plan period as different products emerge and rates of affordable housing need change.
10. We note also that paragraph G. states that the requirement to provide affordable housing will apply to all residential development falling under use class C3 with the exception of Gypsy & Traveller Pitches or Travelling Showman Plots. This is contrary to national policy as set out in the NPPF.



11. Paragraph 63 of the NPPF states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.

12. 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:
 - 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.

Conclusions

13. The policy is overly prescriptive and does not accord with national policy. It fails to adequately reflect exceptions from these affordable housing requirements in respect of specific types of residential development. The policy would benefit by minor amendments which would bring it in line with national policy.

14. The amendments should include 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. We note that 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.
16. We believe it to be crucial that the Council is fully committed to ensuring that the affordable housing 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 information, given that different types of affordable housing provision will be appropriate in different parts of the Borough depending on localised housing markets, and other policy and infrastructure requirements.

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 clarity regarding affordable housing provision requirements. 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 text of Policy HP05:
- A. The Council will seek require the provision of 35% of the total number of residential units to be provided and maintained as affordable housing within all new residential development sites on proposals of 11 or more (net) units or sites of 10 or less units which have a combined gross internal floorspace in excess of 1,000 square meters.**



- B. In considering the suitability of affordable housing, the Council will seek ~~require~~ that:**
- a. the tenure split be made up of 86% Affordable/Social Rent and 14% as other forms of affordable housing (this includes starter homes, intermediate homes and shared ownership and all other forms of affordable housing as described by national guidance or legislation) or regard to the most up to date SHMA, AMR and localised market information;**
 - b. the affordable housing be designed in such a way as to be seamlessly integrated to that of market housing elements of a scheme (in terms of appearance, build quality and materials) and distributed throughout the development so as to avoid the over concentration in one area; and**
 - c. the type, mix, size and cost of affordable homes will reflect ~~meet~~ the identified housing need as reported by the Council's most up-to-date Strategic Housing Market Assessment, AMR, localised market information and Housing Strategy.**
- C. In seeking affordable housing provision, the Council will have regard to scheme viability; ~~only~~ where robust viability evidence demonstrates that the full amount of affordable housing cannot be delivered, the Council will negotiate a level of on-site affordable housing that can be delivered taking into account the mix of unit size, type and tenure and any grant subsidy received.**
- D. The Council will only accept a financial contribution in lieu of on-site provision where it can be satisfactorily demonstrated that on-site provision is neither feasible nor viable.**



- E. Where a site has been sub-divided or is not being developed to its full potential so as to fall under the affordable housing threshold, the Council will seek a level of affordable housing to reflect the provision that would have been achieved on the site as a whole had it come forward as a single scheme for the allocated or identified site.**
- F. Planning obligations will be used to ensure that the affordable housing will remain at an affordable price for future eligible households, or for the subsidy to be recycled to alternative affordable housing provision.**
- G. In accordance with national policy, ~~t~~The requirement to provide affordable housing will apply to all qualifying residential development. ~~falling under use class C3 with the exception of Gypsy & Traveller Pitches or Travelling Showman Plots.~~**
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PC/1250
19 March 2019