



Planning Policy
Brentwood Borough Council
Town Hall
Ingrave Road
Brentwood
CM15 8AY

27 Bells Hill, Bishops Stortford
Herts, CM23 2NN


www.wardbooth.com

BY EMAIL ONLY
19th March 2019

Dear Sir

RE: SUBMISSION OF REPRESENTATIONS, REGULATION 19 PRE-SUBMISSION
LOCAL PLAN – BRENTWOOD BOROUGH COUNCIL

I am writing to request that the following comments and representations should be taken into consideration as part of the current public consultation in respect of the Regulation 19 Pre-Submission Brentwood Local Plan dated February 2019.

POLICY HP19: CONSERVATION AND ENHANCEMENT OF HISTORIC
ENVIRONMENT

Paragraph 3 of the NPPF makes clear that the Framework should be read as a whole and in seeking to understand the intention of Government it is important to think about what the NPPF both does and does not say.

In this regard Paragraph 185 makes it clear that Plans should set out a positive strategy for conservation which should take account of the desirability of sustaining and enhancing Heritage Assets. This guidance is extended in Paragraph 192 which makes clear that in determining applications Council's should have regard to the desirability of sustaining and enhancing the significance of Heritage Assets.

However, the NPPF does not say that there should be any prescriptive requirement that development proposals must both sustain and enhance Heritage Assets.

This distinction is important both in legal and practical terms.

In legal terms this distinction means that guidance set out in the NPPF is consistent with the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires decision makers to have special regard to the desirability of preserving Listed Buildings and their setting (Section 16(2)) and the desirability of preserving or enhancing the character and appearance of Conservation Areas (Section 72 (1)). In this regard, established case law makes it clear that there is no legal requirement that development must enhance designated heritage assets and that development which has a neutral impact does comply with legal requirements for the protection of Listed Buildings and Conservation Areas.

In practical terms this distinction matters because there are many cases where development will be of positive social or economic value and will preserve the significance of Heritage



Assets (i.e. neutral impact) but which cannot sensibly be argued as providing material enhancement.

An obvious example in this regard might be the construction of new homes on the edge of a Conservation Area or the small scale extension of unlisted buildings within a conservation area which provide enhanced accommodation for future generations of building owners and which have no material impact on the character or appearance of the Conservation Area.

If the Local Plan follows the wording and intended meaning of the NPPF, development of this type which has a neutral impact can be accepted and will provide new homes and new development which makes lives better for people. However, if the Local Plan is drafted in a way which imposes a requirement that development must also enhance the significance of Heritage Assets sustainable development of this type will be prevented.

In this regard, it is easy to see how departure from the carefully considered approach set out in the NPPF can, in practice, result in the introduction of a significant new barrier to sustainable development.

The distinction within the NPPF is even more obvious in respect of undesignated Heritage Assets where national policy simply requires that decision takers should make a balanced judgement which takes into account the significance of the asset concerned (Paragraph 197).

As drafted the wording of Policy HP19 states that all development proposals that affect Heritage Assets and their setting will be required to conserve, sustain and enhance designated and non-designated heritage assets. I would respectfully suggest that this proposed wording is contrary to national guidance set out in the NPPF and that it is therefore unsound.

In this respect I would request that consideration should be given to re-wording of Policy HP19 A.a to read as follows:

“have regard to the desirability to conserve, sustain and enhance designated and non-designated heritage assets including views into and out of conservation areas and their settings; and be sensitively sited and integrated in accordance with advice in accordance with national policy and guidance”

POLICY HP21: CONSERVATION AREAS

The purpose of building conservation is to seek to protect those elements of our shared built heritage which are of genuine value and significance. However, this is different to simply trying to prevent change and policy mechanisms which are designed to protect the Historic Built Environment should not be used or manipulated as a tool to prevent sustainable development which can be accepted without harm to the significance of Heritage Assets.

In this regard Paragraphs 195 and 201 of the NPPF provide a carefully considered mechanism for determination of applications which affect Conservation Areas and which are based on an assessment of the impact of proposed development on the significance of the Heritage Asset. In this way the NPPF provides a mechanism which protects those elements of the Historic Built Environment which are of genuine value whilst also allowing sustainable development and change.

In this regard it is noticeable that the wording of Policy HP21 C does not make any reference to the impact of proposed development on the significance of the Conservation Area and instead seeks to impose a general requirement to preserve all existing buildings unless they are demonstrably harmful or unless they make “no material contribution” to the character and appearance of the area.

It is a simple statement of fact that the character and appearance of a Conservation Area is the resultant product of all of the existing natural and built elements which make up its composition. In this regard, any building which is publically visible within a Conservation Area will by definition make a contribution to the character and appearance of the area.

Because NPPF policy guidance is based on an assessment of the impact of development on the significance of a Conservation Area it provides a mechanism which will allow sustainable development which includes the demolition and replacement of buildings which might well be unobjectionable but which make only a neutral contribution to the character and appearance of the Conservation Area. Indeed, NPPF guidance leaves open the possibility of sustainable development which involves the replacement of a building which makes a positive contribution to the character and appearance of the area provided the replacement building will make an equally positive contribution and will preserve the significance of Conservation Area as a Heritage Asset.

By departing from the policy approach set out in the NPPF and by adopting the form of words set out in HP21 c. the practical effect of the proposed policy will be to introduce a presumption against change rather than a presumption in favour of preserving the value and significance of Heritage Assets. This will act as a barrier to sustainable development and will be contrary to NPPF policy guidance.

In this respect I would request that consideration should be given to re-wording of Policy HP21 c to read as follows:

“where demolition is proposed the proposed development will preserve or enhance the significance of the Conservation Area”

SUB TEXT TO POLICY HP21: CONSERVATION AREAS

Paragraph 6.143 in the subtext to Policy HP21 states that

“ Use of non-traditional materials will not normally be permitted on, or in proximity to listed buildings or in Conservation Areas....”

In this regard I would draw attention to national design guidance (Examples include Historic England / CABE publication “Building In Context New Development in Historic Areas”) which make it clear that good quality contemporary design and good quality contemporary materials can be successfully used in the most sensitive heritage environments.

At a practical level there are also occasions where the appropriate use of contemporary materials is necessary for the proper protection of the historic built environment. An example

in this regard is the use of lead coated stainless steel as a replacement for lead roof coverings following lead theft from church roofs.

Whilst it is essential that the council should resist the use of harmful, poor quality or inappropriate materials the Local Plan should not impose barriers to good quality contemporary design or the appropriate use of good quality contemporary materials.

The above section of wording is unjustified and it is respectfully suggested that this should be removed from the Local Plan.

POLICY HP22: LOCAL HERITAGE ASSETS

Experience suggest that the Council's assessment as to what constitutes a building of genuine local heritage significance is not necessarily well justified (please see Appeal Ref APP/H1515/A/14/2219012) and inappropriate designation Local Heritage Assets can result in an unjustified barrier to sustainable development.

Equally well, it is common to find examples of buildings which do have Local historic value but which are not included on the List of Local Heritage Assets which has been prepared by the Local Planning Authority.

To be consistent with National Planning policy the determining factor in applications which affect undesignated heritage assets should be the actual significance of the asset concerned (NPPF paragraph 197) and not the presence or absence of any particular building on a Council list.

In this respect I would request that consideration should be given to re-wording of Policy HP22 A. to read as follows:

“There is a general presumption in favour of the retention of local heritage assets, including buildings, structures, features and gardens of local interest. In addition, the Council will conserve the traditional landscape and nature conservation character of Protected Lanes.”

I would be grateful if it were possible for the above comments and representations to be taken into consideration.

Please do not hesitate to contact me if you require any further information at this stage.

Yours faithfully

Robbie


Robert Ward-Booth
Bsc (Hons) Building Surveying, MRICS, Dip Bldg Con, IHBC
For and on behalf of the Ward-Booth Partnership