



GL Hearn

Part of Capita plc

Representations to Brentwood Local Plan (Main Modifications)

Tesco Stores Ltd

Sawyers Hall Farm
Brentwood
Essex
CM15 9BZ

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Prepared by

GL Hearn



glhearn.com

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DATE
10 November 2021

ORIGINATORS


APPROVED


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INTRODUCTION

- 1.1 These Representations are submitted to Brentwood Borough Council (BBC) in response to the 'Schedule of potential Main Modifications' (September 2021) to the Pre-Submission Local Plan 'Addendum of Focussed Changes to the Pre-Submission Local Plan Local Plan' (October 2019) and Brentwood Local Plan – Pre-Submission Document (Regulation 19) 'Local Plan' (February 2019) (henceforth referred to as '*the Consolidated Changes*'). The 'Schedule of potential Main Modifications' were published on Thursday 30th September 2021 and will close on Thursday 11th November 2021 at 5 pm. These Representations have been prepared by GL Hearn, on behalf of Tesco. Tesco has a land interest at Sawyers Hall Farm (also referred to as Hopefield Animal Sanctuary) (site ref: **024b**).
- 1.2 In summary these representations outline reasons why Brentwood Borough Council should adopt the Sedgefield method when calculating the five-year housing land supply. Currently the Council are only able to demonstrate a **4.5-year** housing land supply when using the correct Sedgefield method.
- 1.3 Should the Inspectors consider the Local Plan 'sound' [subject to the submission a Regulation 19 Draft Local Plan Review within a specified timeframe from adoption] then we request that the Inspectors put on public record that Brentwood Borough Council are unable to demonstrate a 5-year housing land supply when using the appropriate Sedgefield method.
- 1.4 It is the intention of **Policy MG06 'Local Plan Review'** to give Brentwood Borough Council (BBC) time to prepare a Local Plan Review to identify suitable additional sites for housing allocation. BBC are already aware of several 'deliverable' site that are suitable for allocating for housing development. We believe that any delay in preparing the Regulation 19 Draft Local Plan Review [for submission to the Secretary of State] within the stated timescales will fail to address the Borough's current housing shortage and will continue this undersupply well into the future of the new plan.
- 1.5 To build both flexibility and robustness into **Policy MG06 'Local Plan Review'** and to avoid delays in bringing land for housing forward we propose the following amendments:

- The Council should be required to complete the ‘Call for sites’ and publish the Regulation 18 Consultation Draft Local Plan Review within 12 months of adoption.
- The Council should be required to submit the Regulation 19 Draft Local Plan Review to the Secretary of State within 24 months of adoption.
- That the policy wording and/or supporting text to **Policy MG06** ‘*Local Plan Review*’ expressly states that if in the event (1) The Regulation 18 document is not published within 12 months and/or (2) the Regulation 19 Draft Local Plan Review is not submitted to the Secretary of State within 24 months then the Plan should be considered ‘out of date’ and **Paragraph 11(d)** of the NPPF (2021) should apply.
- The policy wording and/or supporting text to **Policy MG06** ‘*Local Plan Review*’ should also state that where there has been a failure to submit a Regulation 19 Draft Local Plan Review to the Secretary of State within 24 months of adoption then in this instance housing development within the Greenbelt should be considered to fall within the purview of ‘Very Special Circumstances’ as set out in **Paragraph 148** of the NPPF (2021).

1.6 Tesco supports the adoption of the Draft Local Plan subject to Brentwood Borough Council engaging with Tesco to allocate Sawyers Hall Farm for a housing led development within the immediate Local Plan review. The location of the site within the Central Brentwood Growth Corridor aligns with this Local Plan’s strategic objectives and should assist Brentwood Borough Council in meeting its obligations under **Policy MG06** ‘*Local Plan Review*’.

SCHEDULE OF POTENTIAL MAIN MODIFICATIONS

5 Year Housing Land Supply: the correct method for calculating 5 YHLS

2.1 **Page 4** of Brentwood Council’s **Annexe 1 – MM114 ‘Appendix 1 – Local Development Plan Housing Trajectory** establishes a housing land supply of **5.21 years** using the Liverpool method. **Table 1** below re-produces the Council’s 5-year housing land supply calculation (see **Appendix A** to these representations to access the 5-year housing land supply calculator). The Liverpool approach to calculating the five-year housing land supply spreads the housing shortfall across the entire plan period as opposed to concentrating the deficit within the relevant five-year period [known as the Sedgfield method].

Table 1: Five-year housing land supply calculation using the Liverpool Method		
A	Total supply 2021/22 to 2025/26	2400
B	Local Plan annual housing requirement (2021/22 to 2025/21)	1700
C	Deficit (16/17 to 20/21) ÷ 12 years [remainder of Local Plan period to 2032/33] (Liverpool approach) x 5 years	218
D	Housing Delivery Test 20% buffer i.e. 20% of (B + C)	384
E	Total five year requirement (B + C + D)	2302
F	Annual five year requirement (E ÷ 5 years)	460.3
Five Year Supply (years) = (A ÷ F)		5.21

2.2 **Row C** of **Table 1** [of the Council’s preferred ‘Liverpool’ approach to calculating the five-year housing land supply] proposes to spread the deficit [or housing undersupply as of 2020/21] over the remaining years of the Local Plan period i.e. Year [2021/2022], Year 7 [2022/23], Year 8 [2023/24], Year 9 [2024/25], Year 10 [2025/26], Year 11 [2026/27], Year 12 [2027/28], Year 13 [2028/29], Year 14 [2029/30], Year 15 [2030/31], Year 16 [2031/32] and Year 17 [2032/33].

2.3 When identifying land for homes **paragraph 68** of the NPPF (2021) requires Local Plan policies to identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. To achieve this end planning policies should identify a supply of:

- Specific, deliverable sites for years one to five of the plan period, including an appropriate buffer (20% buffer in accordance with part c) of **paragraph 74** of the NPPF (2021), and;

- Specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 if the plan.

2.4 **Paragraph 31** of the **Planning Practice Guidance** (22/07/2019 - Reference ID: 68-031-20190722) states that the level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5-year period (the Sedgefield approach). The appropriate buffer should be applied to the first 5-year period. The guidance goes on to mention that if a strategic policy-making authority wishes to deal with past under delivery over a longer period, then reasons for doing so should be submitted as part of the plan-making and examination process.

2.5 The guidance is clear on which method is appropriate and Local Planning Authorities (LPAs) should adopt the Sedgefield approach when calculating the five-year housing land supply.

2.6 **Table 2** below provides the five-year housing land supply calculation using the required Sedgefield Method. Based on the Local Development Plan Housing Trajectory in **Annexe 1 – MM114 ‘Appendix 1’** Brentwood Borough Council can only demonstrate a **4.5-year** housing land supply.

Table 2: Five-year housing land supply calculation using the Sedgefield Method		
A	Total supply 2021/22 to 2025/26	2400
B	Local Plan annual housing requirement (2021/22 to 2025/21)	1700
C	Deficit (16/17 to 20/21) [to be met within 5 year period by 25/26/Year 10 of Annexe 1] (Sedgefield approach)	523
D	Housing Delivery Test 20% buffer i.e. 20% of (B + C)	445
E	Total five year requirement (B + C + D)	2668
F	Annual five year requirement (E ÷ 5 years)	533.52
Five Year Supply (years) = (A ÷ F)		4.50

2.7 There have been numerous occasions where an independent planning inspector has [at the plan making stage] considered the Sedgefield approach the correct method when calculating the 5 year housing land supply.

2.8 Inspector L Rogers in **Paragraph 26** of **Appendix B** ‘Appeal Reference: APP/V0510/A/14/2224671’ stated that:

“The Planning Practice Guidance (PPG) notes that local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. This is consistent with the Government’s aim, expressed in NPPF 47 [now paragraphs 60 and 74 of the 2021 version] and cross referred to in that part of the PPG, to boost significantly the supply of housing”.

2.9 Referring to the decision taken by the examining inspector of the East Cambridgeshire 2015 Local Plan to adopt the Sedgefield method, Inspector Cullum J A Parker (Appeal Reference: APP/V0510/17/3186785) agreed with this approach stating that:

“In considering both local and national contexts, it is clear that the preference is towards adopting the Sedgefield approach here” (Paragraph 45 of Appendix C to these representations).

2.10 Inspector Simon Hand in **Paragraphs 9, 11** and **12** of **Appendix D** ‘Appeal Reference: APP/K2420/A/13/2202261’ raises an important point about the need to address any housing deficit within the first five years of a new plan:

“The Beta guidance issued in August of this year to help explain the Government’s planning policy, states that past under supply of housing should be dealt with within the first 5 years of the plan period.....the recently issued guidance from the Planning Advisory service to help Councils to prepare robust housing supply figures advised that the Sedgefield approach is more closely aligned to the requirements of the Framework”. (P.9).

“The advice in the Beta guidance and the PAS document is entirely consistent with the emphasis on delivering housing now and not at some more vague time in the future. [The requirement of a buffer]is a recognition that if, for whatever reason, less houses have been built than planned for, that backlog should be made up as a matter of urgency by moving forward, from later in the plan, sites for development” (P.11).

“The same approach governs the adoption of the Sedgefield approach rather than Liverpool. the backlog of houses includes those that should have been built up to seven years ago. To spread that backlog out over the next 13 years is to build even more delays and to sanction consistent under-provision. That is why the Sedgefield approach has been generally considered by Inspectors to be the correct approach, as any accumulated backlog would be dealt with in the next 5 years”.
(P.12).

- 2.11 Policy SP02 ‘Delivering the spatial strategy’ [now called **Policy MG01** ‘Spatial Strategy’] retains a total 7,752 new residential dwellings (net) to be built over the plan period between 2016-2033 [unchanged from the Regulation 19 Publication Document]. The proposed main modifications seek to shift the bulk of the delivery [of DHGV] during the period from 2029/30 to 2032/33 at a rate of 984 dwellings per annum. The main modifications propose to reduce the rate of housing delivery between years 2022/23 to 2029/30 by 284 dwellings [from 584 DPA to 300 DPA] (see **page 13** of the Main Modifications PDF).
- 2.12 The main modifications propose to reweight the housing trajectory so that most of the dwellings from Dunton Hills Garden Village (DHGV) are delivered towards the end of the plan period.
- 2.13 Amendments to Policy R01 ‘Dunton Hills Garden Village’ [now called **Policy MG01**] have reduced the total number of dwellings to be delivered within the draft Local Plan [i.e. up to 2033] from 2,700 dwellings to 1,650 dwellings, a total reduction of 1,050 dwellings which was previously going to be delivered within the life of the draft Local Plan [total site capacity of circa 4,000 dwellings remains unchanged]. (see **page 180** of the Main Modifications PDF).
- 2.14 DHGV would deliver 52% of the Borough’s housing supply. Only half of DHGV’s capacity will now be delivered within the plan period and therefore would only meet circa 26% of the Borough’s total housing need.
- 2.15 Inspector G D Jones on considering an appeal against Winchester City Council’s decision to refuse outline planning consent for up to 76 dwellings over two sites [Ref: APP/L1765/W/16/3141664 and Ref: APP/L1765/W/16/3141667] [**Appendix F**], had taken the

view that Winchester City Council's use of the Liverpool method was in this case appropriate given the Core Strategy had allocated **three** strategic sites for housing.

- 2.16 The Winchester judgement is an example where the Liverpool approach might work without risking massive delays in bringing land for housing development through the planning system. This is because Winchester had allocated three strategic sites whereas Brentwood proposes to allocate only one strategic site (DHGV). The potential for delays in 'building out' a strategic site and the consequences resulting in a shortage of housing is far greater in Brentwood than it is in Winchester due to the fact that Winchester City Council provides multiple sources of housing supply in the form of three separate site allocations which are all located in different parts of the district i.e. North Winchester (Policy WT2), West of Waterlooville (Policy SH2) and North Whiteley (Policy SH3).
- 2.17 In **Paragraphs 13 to 17 of Appendix E** 'Appeal Reference: APP/J3530/W/15/3011466' Inspector John Braithwaite refers to the examination of the Former Suffolk Coastal District Council's (now East Suffolk Council) Core Strategy and Development Management Policies Development Plan Document. The Development Plan Document was adopted in July 2013. The examining inspector's report identified an objectively assessed housing need (OAN) for 11,000 new dwellings for the district for the period between 2010 and 2027. To avoid delay in adopting the Plan, the examining Inspector found the plan 'sound' despite it only securing enough land for 7,900 dwellings.
- 2.18 In this case the examining Inspector's decision to adopt the Plan [without first securing sufficient land to meet the borough's OAN] was conditional upon the Council committing to a review of the Core Strategy including the publication of an 'Issues and Options' Report for public consultation by no later than 2015. Despite the inclusion of a review mechanism in the new Local Plan, the publication of the 'Issues and Options' Report was delayed and not published until Autumn 2016 (nearly a year late).
- 2.19 Whilst the failure of SCDC to meet its own commitment to a partial review by a set date was its own fault, there is a risk of similar delays occurring in other LPAs and that risk needs to be mitigated if Brentwood Borough Council are to adopt a new Local Plan without a 5-year housing land supply [using the appropriate Sedgefield method].

2.20 If Brentwood Borough Council were unable to submit a Regulation 19 Local Plan to the Secretary of State within the stated timescales as set out in **Policy MG06 'Local Plan Review'** then this delay would be wholly unacceptable particularly when considering the number of suitable sites which are at this time known to the Council to be 'deliverable' and available now for allocation and development.

Local Plan Review - Proposed Policy MG06 'Local Plan Review'

2.21 **Policy MG06 'Local Plan Review'** proposes that the Council brings forward a partial review of the Plan and submit a Regulation 19 Draft Local Review to the Secretary of State within 28 months from the date of adoption. This is four months later than the 24 month period proposed by Inspector Wright at the final hearing on the 29th July 2021. Tesco does not object to the proposed review mechanism however the Regulation 19 Draft Local Plan Review should be required for submission to the Secretary of State within 24 months as was initially suggested by Inspector Wright. The 24-month period is justified and appropriate since the LPA are already aware of several sites which are considered 'deliverable' and suitable for housing allocation.

2.22 We ask that the Inspectors require that the 'Call for sites' and Regulation 18 Draft Local Plan Review are published within 12 months of adoption.

2.23 **Policy MG06 'Local Plan Review'** will need to include 'flexibility' which could enable certain sites to come forward for development if in the event BBC does not (1) published a Regulation 18 Public Consultation Draft Local Plan Review within 12 months of adoption and/or (2) submit Regulation 19 Draft Local Plan Review to the Secretary of State within 24 months of adoption.

2.24 To ensure there is flexibility and to avoid delays to the publication of a Regulation 18 Draft Local Plan Review or submission of the Regulation 19 Draft Local Plan Review we ask that the Inspectors acknowledge that Brentwood Borough Council are unable to demonstrate a 5-year housing land supply when using the appropriate Sedgfield method. If the Inspectors were to consider the Local Plan 'sound' based on the publication of a Regulation 18 draft and/or submission of a Regulation 19 Draft Local Plan Review within a specified timeframe from adoption, then any delay in fulfilling the requirements of **Policy MG06 'Local Plan Review'** could to some degree be avoided through **Paragraph 11(d)** of the NPPF (2021).

- 2.25 We request that the policy wording and/or supporting text to **Policy MG06 'Local Plan Review'** expressly states that if in the event either (1) The Regulation 18 document is not published within 12 months and/or (2) the Regulation 19 Draft Local Plan Review is not submitted to the Secretary of State within 24 months of adoption then the Plan should be considered 'out of date' and **Paragraph 11(d)** of the NPPF (2021) should apply.
- 2.26 For **Paragraph 11(d)** and the 'tilted balance' test to have any relevance in bringing a small minority of sites forward for new housing without the benefit of a site allocation then it must be put on public record that the Sedgefield method is in this case the most appropriate for calculating 5-year housing land supply [for the reasons provided above] and that the Council are unable to demonstrate a 5-year housing land supply when using the correct Sedgefield method.
- 2.27 The policy wording and/or supporting text to **Policy MG06 'Local Plan Review'** should also state that where there has been a failure to submit a Regulation 19 Draft Local Plan Review to the Secretary of State within 24 months of adoption then housing development within the Greenbelt should in this instance be considered to fall within the purview of 'Very Special Circumstances' as set out in **Paragraph 148** of the NPPF (2021).
- 2.28 The public record should state **unequivocally** that the Local Plan has been allowed to progress to adoption subject to an immediate review (as described in **Policy MG06 'Local Plan Review'**).

Proposed Release of Green Belt: Central Brentwood Growth Corridor

- 2.29 **Pages 7 and 8** of the Main Modifications PDF includes new statements discussing the Central Brentwood Growth Corridor:

"The main central urban area is well served by public transport.....provides a range of shopping, employment areas, secondary schools, health and leisure facilities in close proximity to residential areas. It therefore offers scope to accommodate some growth....However, brownfield land is limited and so the spatial strategy in this growth area has also focussed on delivering urban extensions of varying extents, including at Shenfield, Warley, Pilgrims Hatch and Ingatestone [through Green Belt exception tests]".

2.30 The insertion of the above statements as part of the Local Plan's *Strategic Objectives* is supported, as is the increased emphasis on concentrating growth within the Central Brentwood Growth Corridor. The establishment of the Central Brentwood Growth Corridor as a suitable location for future growth should provide the basis for further releases of Green Belt land for housing development during the early drafts of the immediate Local Plan Review.

2.31 The Tesco site which is situated at Sawyers Hall Farm is sustainably located on the western edge of the Brentwood Town Centre boundary in the heart Central Brentwood Growth Corridor. The site can deliver 450 new homes within 5 years from the adoption of the Local Plan Review. This site is 'deliverable' and available now for development and can support **Policy MG06 'Local Plan Review'** but only if the need to allocate sustainably located sites is acknowledged and taken seriously by the LPA.

2.32 The speed with which the Council will be able to submit a Regulation 19 Draft Local Plan Review to the Secretary of State within 24 months from adoption (under these proposed amended terms of **Policy MG06 'Local Plan Review'**) will be wholly reliant on the availability of 'deliverable' [and unencumbered by constraints] sites like Sawyers Hall Farm (see the Sustainability Appraisal 2019 to review sustainability attributes). The allocation of Sawyers Hall Farm will also provide other public benefits including:

- Securing the long-term future of the Hopefield Animal Sanctuary within Brentwood by providing the freehold (at nil cost) of 8 acres on the eastern boundary of their current site and the construction of new stables and a new visitor centre on site. Tesco will also transfer the freehold of an 50-acre farm, not too far from Brentwood to the Sanctuary at nil cost.
- Parent/pupil drop-off/pick-up points included within the site allocation.
- Improvements to Doddinghurst Road and Ongar Road.
- Proposed internal pedestrian and cycle routes.

CONCLUSIONS

- 3.1 Planning Practice Guidance states that the level of housing deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5-year period (the Sedgefield approach).
- 3.2 The guidance is clear on which method is appropriate when calculating the five-year housing land supply and Local Planning Authorities should adopt the Sedgefield method.
- 3.3 Based on the Local Development Plan Housing Trajectory in **Annexe 1 – MM114 ‘Appendix 1’** Brentwood Borough Council can only demonstrate a **4.5-year** housing land supply when using the required Sedgefield method.
- 3.4 The adoption of the Liverpool method in Winchester is an example of where this approach might work without causing delays to the supply of land for housing. Winchester has three strategic sites where each can independently bring a significant number of homes forward for development irrespective of the stage of readiness of the other strategic sites. A delay in bringing forward land for housing through the planning system at one strategic site and located in one part of the district would have no impact on the ability of the other two strategic sites to supply land for housing. Since Brentwood relies on a single strategic site then the Liverpool method should not be used to calculate the 5-year housing land supply.
- 3.5 Tesco supports the adoption of the Draft Local Plan but requests that the Inspectors acknowledge that Brentwood Borough Council are unable to demonstrate a 5-year housing land supply when using the appropriate Sedgefield method. If the Local Plan is adopted then Brentwood Borough Council must engage with Tesco at the earliest opportunity in order to secure Sawyers Hall Farm as a draft site allocation for a housing led development. Early engagement by Brentwood Borough Council with Tesco is essential in meeting the proposed amended requirements of **Policy MG06 ‘Local Plan Review’** which should require the ‘Call for sites’ and Regulation 18 Public Consultation to be completed within 12 months of adoption and submission of a Regulation 19 Draft Local Plan Review to the Secretary of State within the 24 months.

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