



BRENTWOOD
BOROUGH COUNCIL

Local Plan 2015-2030
Preferred Options
July 2013
COMMENT FORM

(For official use only)

Comment
No.

Ack. date

You can comment on the Local Plan 2015-2030 Preferred Options online at www.brentwood.gov.uk/localplan. Alternatively, please use this form to share your views on the contents of the Local Plan.

PERSONAL DETAILS

Please indicate which section(s) of the Local Plan you are commenting on (please clearly state the Policy reference or paragraph number):

All Sections and Policies S1, S2, CP2, CP8, CP10, CP11, CP14, CP17, DM1, DM8, DM11, DM12, DM13, DM14, DM16, DM22, DM23, DM24, DM29.

Please specify if you Support or Object (tick as appropriate):

Support

☒

Object

☒

Mr Lunnon supports the general objectives underlying some policies (but requests some revisions to the wording) and it objects to others (see detailed representations below).

Comments (please use additional sheet if required):

The following representations have been prepared on behalf of Mr Richard Lunnon, who owns various parcels of land fronting Hay Green Lane, Hook End. Mr Lunnon seeks revisions to the draft Local Plan, in order to better reflect guidance set out in the National Planning Policy Framework, and in order to: -

- identify a parcel of land on the north side of Hay Green Lane for development for two dwellings (as identified on the attached plan); and
- better reflect NPPF policies regarding rural diversification.

Policy S1: Spatial Strategy

It is noted the Council's preferred spatial strategy, which seeks to focus the majority of new development, a) within the existing urban areas of Brentwood and Shenfield, b) at a new strategic allocation at West Horndon and c) on suitable previously developed sites in the Green Belt.

The difficult balancing act that the Council has to perform, in preparing a Local Plan that fulfils the economic, social and environmental roles ascribed to the planning system by the NPPF (paragraph 7), is acknowledged. It is noted that the overriding priority given to protecting the Green Belt means that the Council has chosen not to plan for 'objectively assessed housing needs' (as is required by paragraphs 17, 47 and 182 of the NPPF). As such, it is considered that the Borough Council may find it difficult to convince

an Inspector, at the forthcoming Examination, that the Plan is 'sound'.

It is also noted that the failure to make provision for full housing need is inconsistent with the Plan's Vision, with Strategic Objective SO8 and with the Council's Corporate Plan, which commits it to broadening, **"the range of housing in the Borough to meet the needs of our population now and in the future ..."**. The Plan does not identify sufficient land to meet the 'population's' need for good quality, affordable, housing.

The Plan would be more robust if the Council could find additional housing sites, consistent with the Spatial Strategy set out in the policy, and if it also undertook a limited review of the Green Belt, in order to remove that land which clearly serves no Green Belt function (as defined in paragraph 80 of the NPPF).

Policy S2: Amount and Distribution of Residential Development 2015-2030

It is again noted that the Borough Council has decided to place greater emphasis on the need to protect the Green Belt, than the need to provide for 'full objectively assessed housing needs'. As a result, the policy makes provision for 3,500 new dwellings (at an annual average build rate of 200 new dwellings), as against an 'interim' objectively assessed need of 4,962 to 5,600 dwellings (331 to 373 homes a year).

The fact that the Council has decided to plan for a figure well below 'objectively assessed housing needs' makes it all the more important that it maximises, in order of preference, the potential of:

- a) existing developed sites within the urban areas;
- b) suitable undeveloped sites within the urban areas;
- c) suitable existing developed sites in the Green Belt; and,
- d) suitable undeveloped sites in the Green Belt (i.e. sites which fulfil no, or only a limited, Green Belt function and which should be identified for residential development following a limited review of Green Belt boundaries).

The Council will need to identify sites falling within all of the above four categories if it is to produce a 'sound' Local Plan. The land owned by Mr Lunnon, as identified on the attached plan, fulfils little green belt function and should be allocated for residential development (see representations made in respect of Policy DM23) and Green Belt boundaries should be amended accordingly (see representations made in respect of Policy DM10).

Policy CP2: Managing Growth

Subject to the reservations expressed in relation to Policies S1 and S2, we generally support the proposed settlement hierarchy (paragraphs 2.12 to 2.16), together with the role ascribed to each settlement therein.

The potential inconsistency between criterion c and the NPPF requirement to plan for 'objectively assessed housing need', is noted. In that respect, there is also a potential conflict between criteria c and g.

Policy CP8: Housing Type and Mix

The objectives underlying this policy, which is considered to be NPPF compliant, are generally supported. It is noted that the policy provides sufficient flexibility for schemes to take account of local circumstances and any particular constraints appertaining to a proposed development.

It is, however, considered that there is a potential conflict between Policy CP8 and Policy DM24. The latter acknowledges that, whilst the Council will seek to ensure that 35% of all new dwellings are affordable, this target may be reduced, and that, in certain circumstances, it may not be possible to provide any affordable housing, where this threatens the viability of a scheme.

This needs to be reflected in Policy CP8 for, as presently worded, it does not acknowledge the fact that, in some limited circumstances, it may not be viable to provide any affordable housing within a residential scheme. Accordingly, the second sentence of the first paragraph should be amended with wording along the

following lines:-

Subject to the requirements of Policy DM24, the Council will seek to ensure that all new residential schemes include a proportion of affordable new homes.

Policy CP10: Green Belt

See reservations expressed with respect to Policies S1 and S2. Given the inability of the Council to make provision for 'objectively assessed housing need', it must seek to maximise the amount of housing land it can allocate in accordance with the sequential criteria set out in the representations made in respect of Policy S2.

Whilst not advocating a 'root and branch' review of the Green Belt, the Council should also review its boundaries and remove that land which clearly does not serve one of the Green Belt functions as set out in paragraph 80 of the NPPF or which can, otherwise, be developed without causing harm to the openness of the Green Belt.

The land owned by Mr Lunnon, as identified on the attached plan, fulfils little green belt function and should be allocated for residential development (see representations made in respect of Policy DM23) and Green Belt boundaries should be amended accordingly (as shown on the attached plan).

Policy CP11 – Strong and Competitive Economy

The Council's commitment to fostering local economic growth and, in particular, the support expressed for development which diversifies and grows the local economy, is welcomed..

It is, however, disappointing that the policy does not recognise the contribution that tourism can make to the local economy and the provision of new jobs. An additional criteria should be added confirming the Borough Council's support for proposals which increase visitor numbers to the Borough and or which provide visitor accommodation.

Policy CP14: Sustainable Construction and Energy

Whilst the objectives underlying this draft policy are to be welcomed, greater recognition needs to be given to the fact that the incorporation of sustainable construction and renewable energy technologies, within a scheme, can significantly increase the cost of new development and can, therefore, in certain instances, threaten viability. Greater flexibility needs to be built into the policy, with the third paragraph being reworded as follows:-

Where development viability is compromised by these standards, the developer/applicant will need to provide evidence as to why the targets cannot be met (either in their entirety or in part).

Policy CP17: Provision of Infrastructure and Community Facilities

It is considered that further guidance should be set out in the supporting text, to the policy, describing how the Council will assess the provision of, or contributions required to, necessary off-site infrastructure, which it will seek from new development, in advance of it adopting a CIL Charging Schedule. Currently, the Council has no mechanism for doing this -or for assessing the impact of new development.

Policy DM1: General Development Criteria

As currently worded, this policy is unacceptable in that it states that planning permission will be refused where a proposal has any adverse impact on matters such as visual amenity, the character or appearance of the surrounding area, highway conditions or highway safety, health, environment or amenity etc.

There are very few forms of development that do not have some form of adverse impact, whatever benefits they may bring, on some interest of acknowledged planning importance. Good planning is all about

weighing the benefits to be derived from a proposal, against the dis-benefits, so that a balanced decision can be made.

The policy needs to be reworded to reflect this and the phrase '**no significant unacceptable impact**' (or similar words to that effect) needs to be added to each of the criteria. As an example, criterion a should be reworded to read:-

Have no significant unacceptable adverse effect on visual amenity or the character or appearance of the surrounding area.

The penultimate paragraph also needs to be reworded in order to reflect the presumption in favour of sustainable development (as set out in the NPPF) and the commitment set out by the Council in Policy CP1 to, "**always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible**". An alternative form of wording could be:-

Where the Council considers the need for the development, or the benefits to be derived from a development, outweigh any harm caused, it will seek to negotiate suitable compensatory measures.

The final paragraph of the policy must be omitted in its entirety. The Town & Country Planning Environmental Impact Assessment Regulations set out when an Environmental Statement will be required. The Council cannot circumvent European and national policy and guidance and set its own criteria for when an ES will be needed. This part of the policy is unsound, legally flawed, and will lead to many judicial reviews and appeals.

Policy DM8: Supporting the Rural Economy

The support set out for development related to small scale rural enterprises, and which diversifies the range of economic activity both on farms and in the rural area, is welcomed.

There is, however, a concern that whilst the policy refers both to agricultural and other rural enterprises, the supporting text almost exclusively concerns the diversification of existing farms. The Council should explicitly recognise that there are many other types of enterprise (other than farms and agriculture) that benefit the rural economy (such as riding schools, livery stables, small scale visitor accommodation etc).

Policy DM11: New Developments in the Green Belt

The objectives underlying this policy, are generally supported. However, it is considered that it needs substantial amendment in order to bring it into line with relevant NPPF guidance.

Section 9 of the NPPF sets out, in detail, what may be appropriate development in the Green Belt. Local Plan policies cannot, and should not, seek to change these definitions.

In particular, the third paragraph of the policy is at odds with paragraph 89 of the NPPF, which provides that the following categories of development may be appropriate development in the Green Belt:-

- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; and
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Furthermore, paragraph 90 of the NPPF also provides that the following additional categories of

development may be appropriate, provided that they preserve the Green Belt's openness:-

- mineral extraction;
- engineering operations;
- local transport infrastructure which can demonstrate the requirement for a Green Belt location;
- the reuse of buildings provided that the buildings are of permanent and substantial construction; and
- development brought forward under a community right to build order.

The Council needs to review Policy DM11 in order to make sure it is consistent with the NPPF definitions of appropriate development. As the policy currently stands, there is a conflict and it is unsound.

Furthermore, the test used to judge impact on 'openness' should be that set out in the NPPF (i.e. 'preserve openness') and the policy should be amended where a different form of wording is used.

Policy DM12: Established Areas of Development

General support is offered for this policy. It is consistent with some of the categories of development identified in paragraph 89 of the NPPF as potentially being appropriate in the Green Belt.

It is considered that the policy introduces, in accordance with NPPF guidance, a degree of flexibility and will allow genuine in-fill plots, which, although currently located in the Green Belt, in practice, serve no Green Belt function, to be brought forward for development. However, there are many more 'relevant frontages', than are currently listed in the policy, to which it should apply.

Policy DM13: Extensions to Dwellings in the Green Belt

This policy needs to be substantially reviewed as it is inconsistent with NPPF guidance and, accordingly, is unsound.

Paragraph 89 of the NPPF makes it clear that the following classes of development may be appropriate in the Green Belt:-

- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

The way that the policy is currently worded, suggests that the Council will only grant permission for residential extensions in the Green Belt in 'very special circumstances'. Clearly, however, 'very special circumstances' do not need to be proven for appropriate development – i.e. an extension or alteration to a residential building that does not result in a disproportionate addition.

The policy must be reworded to reflect NPPF guidance and to state that permission will be granted for extensions and alterations to existing dwellings, which are not disproportionate, when considered with respect to the size of the original building.

It is only if an extension is found to be disproportionate, would it then be necessary to consider whether there are 'very special circumstances' which justify the grant of permission.

The policy should also be deleted to remove both criteria (a) and (b). The NPPF does not differentiate between a building purposely constructed as a dwelling and one which has been converted to a dwelling.

Most importantly, the NPPF requires that the Council considers each case on its merits – i.e. it must consider, in each case, whether a proposed extension is disproportionate. A blanket 35% upper limit will not allow this – it is not in the interests of good planning – and is, accordingly, unsound. Chelmsford Borough Council recently proposed a similar limit in its Focused Review of its Core Strategy but dropped it before the Examination on the grounds that it was unsound.

Policy DM14: Replacement Dwellings in the Green Belt

For similar reasons relating to Policy DM13 (see above), this policy is unsound and needs to be reviewed in order to bring it into line with the National Planning Policy Framework.

Policy DM16: Reuse and Residential Conversions of Rural Buildings

This policy must be reviewed in order to ensure that it is consistent with NPPF guidance (paragraph 90). The only tests set out in the NPPF, in relation to the reuse of existing buildings in the Green Belt, are that:-

- the proposal should preserve openness; and that,
- the building should be of permanent and substantial construction.

All other criteria should be omitted from the policy for the matters covered are either out with NPPF guidance or are dealt with by other policies in the plan (i.e. Policy DM1).

In particular, the requirement to demonstrate, where a residential conversion is proposed, that every reasonable effort has first been made to secure a suitable business or commercial reuse, is entirely inconsistent with both NPPF policy and also the significant shortfall in land required to meet 'objectively assessed housing needs'. A residential conversion, of an existing rural building, can make a small, but valuable, contribution to meeting 'objectively assessed housing needs' and, accordingly, the policy should set out a preference for residential conversion before commercial (because of the size of the residential land shortfall).

Policy DM22: Ancient Monuments and Archaeological Remains

This policy needs to be amended in order to clarify what the Council requires when it refers to, in paragraph 2, a 'full archaeological assessment'. Consistent with NPPF guidance, it is normally only necessary to provide a Phase 1 Archaeological Assessment, in respect of most sites which are considered to be of archaeological interest.

It is only in respect of the most important sites (i.e. scheduled ancient monuments) that a more detailed study, including intrusive investigations, should be required prior to an application being submitted.

Policy DM23: Housing Land Allocations – Major Sites

No issue is taken with the sites identified for residential development in this policy but it is considered that the Council needs to identify additional land, consistent with the approach set out in the comments relating to Policy S2.

The plot of land identified on the attached plan, on the north side of Hay Green Lane, falls within the last category. Although no trace remains, it is the site of a former mill and, historically, was part of the small hamlet that grew up adjacent to the junction of Hook End Road and Hay Green Lane.

It is a visually contained site, bordered on two sides by substantial tree and hedge lines and, on the other two, by existing houses. It should be removed from the Green Belt and identified for residential development (in accordance with the details on the attached plan).

Policy DM24: Affordable Housing

Whilst the need to provide affordable housing within the Borough is recognised, the Council's understanding that such provision can potentially impact upon the viability of a scheme, is welcomed. Accordingly, the final paragraph of the policy is supported.

It is considered that the policy should not seek any affordable housing provision on sites of less than 15 units. On smaller sites (14 units and below) it is often physically, or logistically, difficult, or financially disadvantageous, to include affordable housing on site. These problems become more acute, the smaller the site gets.

With small sites, that provide a small element of affordable housing (for example 2 affordable units on a development of 8 units), the need to secure agreement with a Registered Social Landlord (RSL), will very significantly reduce the value of the land. Indeed, such sites are not attractive to the vast majority of RSLs (they are too small to efficiently manage) and the policy could, therefore, sterilise many small sites.

The final sentence of the first paragraph of the policy, and the subsequent thresholds for contributions, (a) to (e), should be deleted.

In the alternative, and only if the Council's evidence base shows that the necessary level of affordable housing will not be delivered from sites over 15 units in size, then, and only then, should a financial contribution (towards off-site affordable housing provision) be sought. In any event, sites of less than 5 dwellings should not fall within the policy.

In this alternative, criteria (a), (b), (c) & (d) should include the following wording at the end of each paragraph, "...or a financial contribution for each new dwelling towards the provision of affordable housing elsewhere in the Borough", together with the deletion of (e), so for example criteria (a) would read as:

"a. At least four affordable homes on sites which have 12 to 14 dwellings or a financial contribution for each new dwelling should be made towards the provision of affordable housing elsewhere in the Borough"

Any alterations should not override the provisions of the final paragraph of Policy DM24, which enable negotiation on the level of provision (financial or on-site provision) where viability is compromised. This provision is critical in ensuring the deliverability of all sites and, in particular, small sites (the economic viability of which is often more sensitive to additional costs - whether from planning contributions, economic conditions or physical site constraints).

The Council also needs to set out a clear basis for determining the level of financial contribution to be sought in lieu of on-site affordable housing provision. Currently no guidelines exist and nor does the general text of the draft Local Plan give any indication of how such contributions are to be calculated. Lack of clarity will lead to significant delays so affecting the deliverability of housing sites.

Finally, the Council also needs to give consideration as to how the affordable housing requirements for sites of 14 dwellings, or under, relate to other policies set out in the Plan.

For instance, Policy DM3, whilst setting out target densities for new residential development, also requires that the density of a scheme should be sympathetic to the character of the local area. Other policies (such as Policy CP1) require that the siting, design and layout of a scheme should respond to, and be in keeping with, its locality and context.

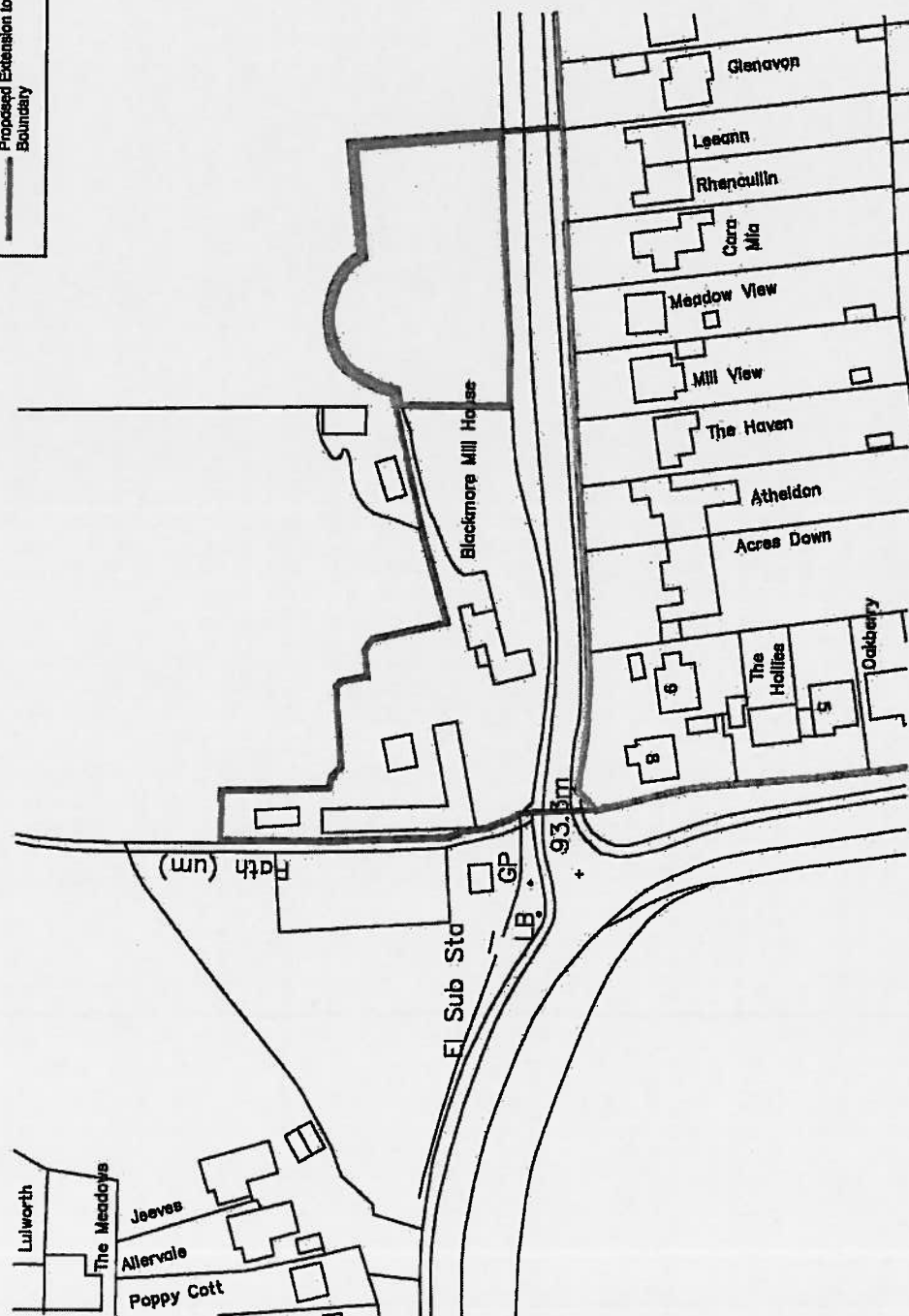
Accordingly, and if criteria (a), (b), (c) & (d) are retained, the policy should be flexible enough to take account of the situation where a small housing development comes forward in a low density area. There will be cases where it is determined that a low density development, comprising large family housing, is appropriate to the character of the area. Large family housing does not make good affordable housing and the policy needs to be sufficiently flexible to recognise this.

Policy DM29: Accessible, Adaptable Development

As with affordable housing policy DM24, the need to provide 5% Lifetime Homes dwellings, in all new developments of 20 dwellings or more, should be subject to a viability assessment.

Please return to Planning Policy Team, Brentwood Borough Council, Town Hall, Brentwood, Essex CM15 8AY, or alternatively attach completed form and email planning.policy@brentwood.gov.uk
Please note that all responses will be published online. More information can be found at www.brentwood.gov.uk/localplan

All responses should be received by Wednesday 2nd October 2013



REVISIONS		REV	DATE	BY	DESCRIPTION
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Site
Land north of Hay Green Lane
Hook End

Client **Mr R Lunn**

Drawing Title: **Site Location Plan**

Checked by MJD	Checked by NJD
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Date October 2013	Scale 1:1250	④A4
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