

# **INDEPENDENT EXAMINATION OF THE BRENTWOOD LOCAL PLAN**

## **INSPECTORS' MATTERS, ISSUES AND QUESTIONS FOR THE HEARING SESSIONS: WEEK 1**

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### **Introduction**

These matters, issues and questions relate to the **WEEK 1** hearing sessions of the Examination of the Brentwood Local Plan. They should be read in conjunction with the Inspectors' initial questions to the Council and the Council's response. All the documents can be found on the Examination webpage on the Council's website.

Further information about the examination, the conduct of the hearing sessions and the format of any further written statements is provided in the Inspectors' accompanying Guidance Note. A further note on the conduct of the virtual hearing sessions will be published shortly.

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### **Matter 1 Compliance with statutory procedures and legal matters**

#### ***Issue 1 – Has the Council met the statutory duty to cooperate as set out under Sections 20(5)c and 33A of the Planning and Compulsory Purchase Act 2004***

1. Has the Council submitted robust evidence to demonstrate that the duty to cooperate has been met? In particular:
  - a. Have all relevant strategic matters been identified and has the process for identification been robust?
  - b. Has the Council carried out effective engagement with neighbouring local authorities and other prescribed bodies on all relevant strategic matters?
  - c. What actions have been taken to address strategic matters?
  - d. Are there any outstanding concerns on strategic matters?

- e. Are there any unmet needs, including those from any neighbouring authority, that should have been considered when preparing the Plan? Is there an agreed protocol for dealing with unmet needs should they arise?
- f. Is there robust evidence to support the cooperation activities that have taken place?

***Issue 2 – Has the Plan been prepared in accordance with other legal and procedural requirements?***

Sustainability appraisal (SA)

2. Does the SA adequately assess the environmental, social and economic effects of the Plan in accordance with legal and national policy requirements? In particular:
  - a. Is the methodology robust and is the appraisal suitably comprehensive? Has appropriate account been taken of the effect of the Plan's policies and proposals on the Green Belt, landscape and natural and historic environment designations?
  - b. The SA specifies under para 5.3.1 that '*Throughout the recent evolution of the Brentwood Borough Local Plan there has always been an intention to deliver at least one large-scale, strategic site...*'. Has this predetermined the strategy and what impacts has the inclusion of the Garden Village and other strategic allocations had on the consideration of alternative patterns of growth distribution within the borough as part of the SA process?
  - c. Is it appropriate for some sites to be deemed 'constants' within the options/alternatives set out in the SA and what effect, if any, has this had on the consideration of reasonable alternatives?
  - d. Does the SA adequately consider the likely significant effects of reasonable alternatives where these exist, including in respect of the scale of housing and employment provision and the balance between them?
  - e. Have unreasonable alternatives been appropriately considered and have adequate reasons been given as to why these have not been selected?
  - f. Does the SA adequately assess the likely significant effects of the Plan's policies and proposals?
  - g. Is it clear how the SA has influenced the Plan and the choice of spatial strategy? Does it support the spatial strategy or is there anything in the SA which indicates that changes should be made to the Plan?

### Habitats Regulations Assessment (HRA)

3. Does the HRA meet the legal requirements for Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended)?
4. Does the HRA adequately address whether the Plan would adversely affect the integrity of relevant European sites either alone or in combination with other plans or projects? Are the HRA conclusions robust?
5. The HRA conclusions recommend that the Council seeks confirmation from the relevant water companies that the housing/employment distribution and trajectory does not pose issues about the known capacity limitations of Ingatestone, Doddinghurst, Upminster and Brentwood wastewater treatment works. Has this confirmation been received?
6. Is the role of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) to deliver strategic mitigation measures where necessary, clear within the Plan and is the approach justified?

### Consultation

7. Has the Plan been prepared in accordance with the Council's Statement of Community Involvement and statutory requirements? Has all relevant and available evidence been made available for consultation, at the various stages, including all proposed changes to the policies map?

### Other regulatory and procedural requirements

8. The Council has confirmed that the Plan will supersede existing development plan documents and in order to comply with Regulation 8 (5) of the Town and Country Planning (Local Planning) (England) Regulations 2012, proposes to add to the Plan a comprehensive schedule of the plans and policies which will be superseded. Can the Council provide this list please?
9. In accordance with paragraph 21 of the National Planning Policy Framework (NPPF) does the Plan contain strategic and non-strategic policies and are they clearly distinguishable? Are the strategic policies limited to the strategic priorities for the area and any relevant cross-boundary issues?
10. Paragraph 22 of the NPPF states that strategic policies (except in relation to town centre development) should look ahead over a minimum 15 year period from adoption. As the plan period for the Brentwood Local Plan is 2016 to 2033, a 15 year period from adoption is not achievable. The Council recognises this in document F5K in response to our initial questions and states that there is a commitment for an early review of the Plan. Our questions on this are as follows:
  - a. Is the Council's approach for an early review of the Plan justified in this context? If so, should it be set out in policy?
  - b. What implications, if any, would an extension of the plan period beyond 2033 have for the Plan as a whole and the supporting evidence base?

- c. What effect, if any, does the preparation of the joint strategic plan have on deciding whether the plan period should be extended or not?
11. In relation to the Public Sector Equality Duty, we note that the Council's submitted *Equalities Impact Assessment* is dated February 2020 and is termed a 'Final Draft'. Have there been any further updates? Are the findings of the assessment reasonable? Is it clear how the Plan seeks to ensure that due regard is had to the three aims expressed in s149 of the Equality Act 2010, in relation to those who have a relevant protected characteristic?
12. In relation to the Minerals and Waste Local Plans, the Plan clearly states that these are prepared by Essex County Council and form part of the statutory development plan for the area. In relation to minerals the Plan at paragraph 1.28 refers to Minerals Safeguarding Areas and Mineral Consultation Areas. Can the Council confirm whether the Plan proposes any development within these defined areas and if so, what implications this has, if any, for deliverability?
13. What progress has been made on updating the Municipal Waste Strategy? Is further infrastructure required to meet the identified needs and if so, what implications, if any, does this have for the Plan?

## **Matter 2 Spatial Strategy**

***Issue 3 – Have the vision, aims, objectives and spatial development principles been positively prepared, are they justified and consistent with national policy and can they realistically be achieved? Does the Plan set out a clear spatial strategy? Has the spatial strategy and overall distribution of development been positively prepared, is it justified by a robust and credible evidence base and is it consistent with national policy?***

*(Please note that this matter relates to the overall spatial strategy set out in the Plan. Detailed discussions on site allocations will occur at later hearing sessions. Dunton Hills Garden Village will be discussed later in the week under Matter 6)*

(Policy SP01)

### **Vision, aims and principles**

14. Does the Plan set out a suitably positive vision for the future development of the Borough? Have the overarching aims and strategic objectives been positively prepared and are they realistic? Is it necessary to modify strategic objective 4, as proposed by the Council, for reasons of soundness? If so, does this have any implications for other parts of the Plan?
15. What is the purpose of the spatial development principles in paragraphs 3.21-3.26 of the Plan and are they justified and consistent with national policy? How have these influenced the Plan policies?

### Settlement hierarchy

16. Whilst the Plan sets out a settlement hierarchy within Chapter 2, this is within the supporting text, rather than a policy. How will a decision maker apply the settlement hierarchy when considering development proposals or is this not necessary to manage the patterns of growth? Should the settlement hierarchy be set out in policy?
17. Does the proposed settlement hierarchy reflect the role and function of different settlements and are the categorisations justified by robust and up-to-date evidence?
18. How have settlement boundaries been defined and are they justified, effective and based on robust evidence?
19. Is the wording relating to the settlement categories in Table 2.3, particularly category 1, consistent with national policy?

### Spatial strategy

20. Paragraph 20 of the NPPF requires strategic policies to '*set out an overall strategy for the pattern, scale and quality of development*'. Paragraph 117 states that '*strategic policies should set out a clear strategy for accommodating objectively assessed needs...*'. Is the spatial strategy to focus growth principally along two growth corridors (Central Brentwood and Southern Brentwood) clearly set out in strategic policies and if not, should it be? Would a modification to Policy SP02, which seeks to manage growth, clarify this or is a new policy necessary?
21. Is the spatial strategy justified, based on robust evidence and does it present a positive framework for the achievement of sustainable development? How has the scale and distribution of growth within the borough been determined and how has the SA and other evidence, including cross-boundary strategic issues, influenced this during plan-making? In particular:
  - a. Does the strategy focus significant development in locations which are or can be made sustainable, in accordance with paragraph 103 of the NPPF? Is this adequately demonstrated in the evidence?
  - b. How have transport issues (such as main road/junction capacity/congestion and air quality) and improvements (such as the Elizabeth Line) affected the location of development?
  - c. Has the strategy taken account of the need for necessary infrastructure?
  - d. Does the spatial strategy make effective use of previously developed land and is this based on a robust and up-to-date evidence base?
  - e. How has the loss of existing employment sites for redevelopment affected the spatial strategy?

- f. Does the spatial strategy accord with the settlement hierarchy and is the scale of development proposed at relevant settlements justified and proportionate to the size of those settlements?
  - g. Is the reliance on the delivery of most of the growth on a small number of larger scale strategic sites justified?
  - h. Will the strategy promote the vitality of the main urban areas in the borough and support a prosperous rural economy?
22. Overall, will the spatial strategy achieve the Council's vision, aims and strategic objectives and does it provide an appropriate balance between meeting identified needs, supporting the role of the settlements, protecting the Green Belt and having regard to the effect on such factors as climate change, the environment and transport and community infrastructure?

Policy SP01 Sustainable development

23. Is Policy SP01 consistent with the NPPF, particularly paragraph 16 d) and f)? Are the changes suggested by the Council in F9A necessary for soundness?

**Matter 3 Green Belt**

***Issue 4 – Is the Plan's approach for releasing land from the Green Belt for development justified and consistent with national policy? Do exceptional circumstances exist, have they been fully evidenced, and do they justify the release of Green Belt land for development?***

*(Please note that this matter relates to the principle of releasing land from the Green Belt at the strategic level and whether exceptional circumstances exist in this context. The examination of whether exceptional circumstances exist for the release of individual sites from the Green Belt will be considered as part of the later site allocation hearing sessions, as well as the consideration of development management policies relating to the Green Belt)*

24. Paragraph 11 of the NPPF requires that strategic policies should provide for the objectively assessed development needs of the area. However, it also confirms (via footnote 6) that land designated as Green Belt could provide a reason for restricting the overall scale, type or distribution of development. Was this considered by the Council and if so, what implications would this have for meeting needs?
25. The Plan seeks to meet the identified needs in full and to achieve this proposes that the Green Belt boundaries are altered to release land for development. Does the evidence demonstrate that all other reasonable options for meeting the identified needs using non-Green Belt land, have been fully considered first, in accordance with paragraph 137 of the NPPF? In particular:
- a. Has full use been made of suitable brownfield sites and underutilised land not located in the Green Belt?

- b. Has the density of development been optimised?
  - c. Could any other neighbouring authority accommodate some of the Borough's housing need on non-Green Belt land?
  - d. In addition, has the potential for windfall development during the Plan period been underestimated? Could vacant homes be brought back into use and if so, what difference would this make?
26. Does the evidence base clearly demonstrate that exceptional circumstances exist to justify changes to the Green Belt and is this robust and consistent with national policy?
27. In accordance with paragraph 136 of the NPPF, do the strategic policies in the Plan clearly establish the need for any changes to the Green Belt boundaries? Whilst the Council has stated in the *Green Belt Topic Paper* (F8) that Policy NE13 sets out this requirement, the deletion of this policy has been suggested as a modification in the Council's response to Q89 of our initial questions. How therefore should the Plan clearly establish the need for any changes to the Green Belt boundaries? Does this require a new strategic policy or a modification to an existing one?
28. Whilst the consideration of whether exceptional circumstances exist to remove each site allocation from the Green Belt will be considered at later hearings sessions, overall, have the changes proposed to the Green Belt boundaries been informed by a robust assessment of the contribution made by individual sites to the purposes of the Green Belt? Has full consideration been given to the impact of the spatial strategy on the Green Belt?
29. As recognised by the Council in F8, small areas of land adjacent to some site allocations are also proposed to be removed from the Green Belt. Do the reasons given by the Council at paragraph 5.10 of F8 amount to the exceptional circumstances necessary to alter these boundaries? Is there any additional evidence to justify this?

#### **Matter 4 Housing needs and requirement**

*(Please note that housing supply and provision and discussions on site allocations are to be considered under later hearing sessions)*

***Issue 5 – Is the identified housing need supported by robust and credible evidence, justified and consistent with national policy? Is the housing requirement figure of 7,752 new dwellings within the Plan soundly based?***

(Policy SP02)

30. Is the requirement of 7,752 new dwellings consistent with the standard method in the National Planning Policy Framework and does it accord with the methodology set out in the Planning Practice Guidance? Is the uplift from 350

dwellings per annum in the SHMA to 456 dwellings per annum justified and consistent with the evidence and national policy?

31. To what extent does the housing requirement of 7,752 new homes in the plan period allow the Council to achieve its economic ambitions and deliver the employment growth in line with the overall strategy for the borough?
32. Does provision have to be made for all of the 7,752 new homes to be delivered within the borough or could some of this need be provided in a neighbouring authority area?
33. Does the housing requirement fully take account of Brentwood's strategic location within Essex and the wider South East and does it appropriately reflect the impact of infrastructure opportunities such as the Elizabeth Line?
34. Policy SP02 proposes that the 7,752 dwelling requirement be split in to two stages ie 310 dwellings per year to 2022/23 and then 584 dwellings per year from 2023/24- 2033. The Council is proposing that Policy SP02 be modified to depart from this approach. However, does the evidence justify that the non-stepped policy is sound and consistent with the evidence?

***Issue 6 - Is the Council's approach to the requirements and provision of affordable housing consistent with national planning policy and is it justified, effective and supported by the evidence?***

(Policy HP05)

35. Is the approach towards the provision of affordable housing in the Plan sound? Are the requirements set out in Policy HP05 justified, effective and consistent with national policy? Does the evidence support a requirement for 35% affordable housing for all new residential development that meets the criteria in the policy? On what basis has the 35% figure been chosen and does the evidence support a lower or higher figure? Has consideration been given to different figures?
36. Can the Council confirm what proportion of sites may not deliver affordable housing or deliver at a reduced rate and explain whether the higher 35% target will make up the difference in order to meet the identified needs?
37. In accordance with paragraph 65 of the NPPF does the Plan contain strategic policies which clearly set out the housing requirement for designated neighbourhood areas, and if so, is this based on robust evidence?
38. Has the impact of affordable housing requirements on the viability of schemes been robustly assessed?

## **Matter 5 Employment needs and requirement**

### ***Issue 7 – Are the identified employment needs supported by robust and credible evidence, justified and consistent with national policy? Are the requirements for 5,000 new jobs and 47.39 ha of employment land within the Plan soundly based?***

*(Please note that this matter deals with employment land needs. Site allocations and retail development are to be considered under later hearing sessions)*

(Policies PC01 and PC02)

39. The evidence suggests that the amount of employment land needed to achieve jobs growth, ranges from 8.1 ha to 20.3 ha, depending on the economic growth scenario used. Our questions are as follows:
- a. Are these scenarios based on robust evidence and are the economic growth assumptions used justified? Is there reasonable alignment with the housing needs?
  - b. In paragraph 79 of F5H the Council states that a safety margin has been applied to the economic forecasts used. What level of safety margin has been applied and is its inclusion justified?

#### **Policy PC02 Job growth and employment land**

40. The Plan through Policy PC02 requires the provision of 5,000 additional jobs during the plan period. This is to be provided for through employment land and retail development. In terms of the former the policy proposes the delivery of 47.39 ha of new employment land, which covers the higher level of needs within the identified range, the proposed redevelopment of four existing employment sites and forecast loss of other existing sites. Our queries are as follows:
- a. On what basis has the top of the needs range been chosen and is this justified? Has a lower figure been considered and if so, what impact does this have on the provisions in the Plan?
  - b. How much existing employment land has been lost since the start of the plan period? Has the additional loss of two further sites, as set out in paragraph 76 of the Council's document F5H been factored in and if not what difference, if any, does this make to the overall employment land requirement?
  - c. How much further loss is forecast and is this justified?
  - d. Whilst site allocations will be discussed at a later hearing session, is the overall principle of the proposed loss of 21.01 ha of existing employment sites for redevelopment justified?
  - e. Overall, is the provision of 47.39 ha of new employment land justified?

- f. Is the suggestion, in F9A, to move the policy and supporting text to chapter 4 of the Plan necessary for soundness?

Policy PC01 Cultivating a strong and competitive economy

41. Policy PC01 reads predominantly as a list of objectives and statements of intent rather than a policy. In this context does it conform to para 16 of the NPPF, particularly d) and f)?
42. Is the modification suggested by the Council in its response to our initial question (Q89) necessary for soundness? Is the inclusion of reference to skills provision within the policy justified and how would this be effective in practice? Should the requirement for all major development to contribute to skills development be set out in the supporting text, as suggested?

**Matter 6 Dunton Hills Garden Village**

***Issue 8 - Is the proposed allocation of the Dunton Hills Garden Village consistent with national policy, and is it justified, effective and supported by robust evidence? Have exceptional circumstances been fully evidenced and justified for the site's release from the Green Belt, and are they consistent with national policy?***

*(Please note that this matter will also be discussed under later hearing sessions, particularly the specific detailed wording of the policies. Our focus in Week 1 will be on the principle of the proposal, strategic issues including Green Belt and infrastructure, and site capacity and deliverability)*

Policies R01 (I)-(III) Dunton Hills Garden Village (DHGV)

43. Does the proposed allocation meet the spatial strategy overarching aims and the four strategic objectives set out in the Plan? Do the policies for DHGV together ensure that these objectives will be met?
44. Has the site been suitably assessed as part of the SA?
45. Does the evidence adequately demonstrate that the proposal will accord with the sustainable ethos of Garden Communities?
46. A total of 5.5 ha is proposed to accommodate 'a creative range of employment uses' within the site, in an Employment Hub, the village centre and in Neighbourhood Hubs. Does the evidence clearly demonstrate when these are to be delivered? How has the amount of employment land been determined and is this sufficient to ensure the site limits the need to travel and is self-sustaining? Are the job growth estimates for DHGV realistic?
47. Has full consideration been given to the impact of the proposed development on the Green Belt? Have exceptional circumstances for the site's removal from the Green Belt been clearly demonstrated?

48. Has full consideration been given to the impact of the proposal on other factors including local landscape, heritage assets and on the loss of the golf course, and is this set out in robust evidence?
49. Have the transport impacts of the proposal been robustly assessed as part of the cumulative impacts of local and cross-boundary development along the A127 and the proposed South Brentwood Growth Corridor as a whole?
50. How will the necessary supporting infrastructure be planned in detail, be funded and delivered, in order to ensure that the site meets its strategic aims, objectives and development principles? What are the key risks to the delivery of the supporting infrastructure and what is the evidence that the site development would not be delayed or hindered by any infrastructure implementation issues or uncertainties? How will off-site infrastructure and infrastructure implementation outside the control of the developer be delivered to ensure the development of the site can proceed as planned?
51. Does the expected capacity of the site fully take account of site constraints and sustainable development needs and are the assumptions on density consistent with the evidence and market requirements? Are the policies for DHGV sufficiently effective to ensure that the necessary densities will be delivered, and the expected capacity will be met?
52. Have appropriate lead-in times been used when assessing delivery timeframes for the site? How have the delivery rates within the updated trajectory been determined and are they realistic? Is the timescale for progressing the site to first occupation, as set out in paragraph 48 of F5B, achievable? Is there an agreement in place (such as a Planning Performance Agreement (PPA)) to ensure timescales are met? What would be the implications of any delays?
53. Is it appropriate for design codes and detailed masterplan principles to be set out in a non-development plan document?
54. Has the viability of the DHGV proposal been robustly demonstrated?

Version 1 – October 2020 – corrected numbering.