

F3G Council's response to Q21 legal compliance – July 2020

Inspectors' Question 21

Can the Council clarify the following please:

- a. Has the Plan been prepared in accordance with the Local Development Scheme?
- b. Has the Plan been prepared in general accordance with the Statement of Community Involvement and public consultation requirements?
- c. Have any concerns been expressed by interested parties about the Habitat Regulations Assessment?
- d. Have any concerns been expressed about the Equality assessment?
- e. Have any significant concerns been expressed about whether the Council has complied with all other legal requirements?
- f. Will the Plan supersede any existing development plans/policies and if so, is this clearly defined within the Plan?

1. Question 21 parts a-d

1.1 For part a - d of question 21, the below legal compliance checklist assesses the Local Plan preparation against the legal requirements to demonstrate how Brentwood Borough Council has complied with the relevant legal requirements.

Table 1 – Q21 parts a-d

Enquiry	Legal requirement	Guidance reference	The Council's action and evidence
<p>Q21.a.</p> <p>Has the Plan been prepared in accordance with the Local Development Scheme (LDS)?</p>	<p>The Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) section 15 requires councils to prepare and maintain an LDS setting out the development plan documents that it intends to prepare, together with details and a timetable for their preparation.</p>	<p>The Planning Practice Guidance (PPG) states that the LDS must specify the documents which, when prepared, will comprise the Local Plan for the area. It must be made available publicly and kept up-to-date so that local communities and interested parties can keep track of progress.</p> <p>Paragraph: 003 Reference ID: 61-003-20190315. Revision date: 15 03 2019</p> <p>Paragraph: 035 Reference ID: 61-035-20190723. Revision date: 23 07 2019</p>	<p>Yes, the Local Plan has been prepared in accordance with the Local Development Scheme (LDS).</p> <p>The LDP is identified in the latest LDS, revised September 2019. This LDS sets out a timetable for producing the Local Plan. Previous LDSs since work first commenced on Local Plan preparation also included a timetable of production. The latest LDS is available to view on the Council's Website and Examination Document Library page (document ref D1). http://www.brentwood.gov.uk/pdf/0210201916215400000.pdf</p>
<p>Q21.b.</p> <p>Has the Plan been prepared in general accordance with</p>	<p>The Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) section 18 and 19(3) require local planning authority to</p>	<p>The PPG states that local planning authority should regularly review and update their Statement of Community Involvement to reflect any changes to engagement.</p>	<p>Yes, the Local Plan was prepared in general accordance with the Statement of Community Involvement and public consultation requirements.</p> <p>Each stage of the Local Plan consultation was undertaken in accordance with the most up to date SCI.</p>

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<p>the Statement of Community Involvement and public consultation requirements?</p>	<p>prepare and comply with their Statement of Community Involvement (SCI).</p> <p>Regulation 18, 19, 20, 22 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012</p> <p>General Data Protection Regulation 2018</p>	<p>The PPG also states that local planning authorities there is flexibility open to local planning authorities in how they carry out the initial stages of local plan production, provided they comply with the requirements in Regulation 18 and with the commitments in their Statement of Community Involvement.</p> <p>Paragraph: 071 Reference ID: 61-071-20190315. Revision date: 15 03 2019</p> <p>Paragraph: 034 Reference ID: 61-034-20190315. Revision date: 15 03 2019</p>	<p>The Council adopted its first SCI in 2007, a review was completed and approved in 2012, a further review was completed in 2018 to reflect improvements in the way that we communicate with the public and changes made to the revised regulations. The 2018 SCI is available to view on the Council's website and Examination Document Library page (document ref A14).</p> <p>http://www.brentwood.gov.uk/pdf/3001201909215800000.pdf</p> <p>It should be noted that a further update to the SCI is in progress to reflect the temporary plan-making guidance which was brought into effect due to COVID-19.</p> <p>The plan-making process has been undertaken in accordance with public consultation requirements as outlined below. Summary of key comments from each consultation and how the Council have taken them into account were reported in the Consultation Statements, available on the Council's website.</p> <p>1. From early stages of local plan preparation to formulation of preferred options</p> <p>Prior to Reg 19 consultations, Brentwood Borough Council undertook a variety of consultation activities during 2009-2018 to help inform the new Local Plan. These include:</p> <ul style="list-style-type: none"> • Issues and Options - Pathway to Sustainable Brentwood Consultation, November 2009;

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			<ul style="list-style-type: none"> • Your Neighbourhood Consultation, May 2011 • Preferred Options Consultation, July 2013; • Strategic Growth Options, January 2015; • Dunton Garden Suburb Consultation, 2015; • Draft Local Plan, January 2016; • Preferred Site Allocations, January 2018 <p>During these consultations, notification letters/emails included details of what is available for consultation, where to view documents, how to make comments and the timescale have been sent to bodies and persons listed under Regulation 18. This includes website links to submission documents.</p> <p>2. Publication stage</p> <p>The Council consulted on the proposed submission documents via the following consultations:</p> <ul style="list-style-type: none"> • Pre-Submission Local Plan Consultation, February 2019 • Addendum of Focussed Changes to the Pre-Submission Local Plan Consultation, October 2019 <p>During Regulation 19 consultations, in addition to the actions above, paper copies of the Pre-submission documents were sent to each Parish Council and local libraries, in accordance with the Statement of Representation Procedure and Statement of Fact,</p>

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			<p>available on the Council's Examination Document Library page (document ref B15)</p> <p>http://www.brentwood.gov.uk/pdf/0402201915563300000.pdf</p> <p>3. Submission stage</p> <p>When the Brentwood Local Plan and supporting documents were submitted to the Secretary of State, under Regulation 22, the Council notified those who requested to be notified of the submission of the local plan that it has been submitted; paper copies of the submission documents were available for inspection as set out in the Statement of Fact (Regulation 22), available on the Council's main Examination page</p> <p>http://www.brentwood.gov.uk/pdf/2702202016570200000.pdf</p>
<p>Q21.c.</p> <p>Have any concerns been expressed by interested parties about the Habitat Regulations Assessment?</p>	<p>Article 6 of the EC Habitats Directive 1992</p> <p>Conservation of Habitats and Species Regulations 2017 (as amended)</p> <p>Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended)</p>	<p>Relevant guidance is set out in the PPG.</p> <p>Paragraph: 001 Reference ID: 65-001-20190722. Revision date: 22 07 2019</p> <p>Paragraph: 002 Reference ID: 65-002-20190722. Revision date: 22 07 2019</p> <p>Paragraph: 003 Reference ID: 65-003-20190722. Revision date: 22 07 2019</p>	<p>No concerns were expressed by interested parties about the Habitat Regulations Assessment.</p> <p>Essex County Council requested that in paragraph 1.21, the reference to the regulation under which the HRA was undertaken needed correction.</p> <p>This comment, however, does not raise a concern about the content of the Habitat Regulations Assessment as this was undertaken in accordance to the latest</p>

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			regulations. The Council agrees to amend the reference as suggested.
<p>Q21.d.</p> <p>Have any concerns been expressed about the Equality Assessment?</p>	Equality Act 2010		<p>No concerns were raised about the Equalities Assessment. This document is publicly available to view on the Council's Local Plan Examination document library along with all other relevant evidence base.</p>

2. Q21 part e. Have any significant concerns been expressed about whether the Council has complied with all other legal requirements?

- 2.1 Concerns received with regards to whether the Council has complied with other legal requirements can be summarised as followed:

Plan period

- 2.2 Respondents raised objection to the plan period on the basis that by the time the Plan is adopted it would not comply with the NPPF paragraph 22 (February 2019) which states that: "Strategic policies should look ahead over a minimum 15-year period from adoption". Therefore, some respondents considered that the Local Plan would not have a minimum 15-year plan period at adoption which is anticipated to be 2020/2021 at the earliest.
- 2.3 This relates to the Inspectors' question 88. The Council will be providing a more detailed response to this question by 28 August 2020.

Housing need calculation

- 2.4 Respondents also raised objection to the housing need calculation, which used the 2016 instead of 2014-based household projections as set out in the updates made to the PPG in February 2019.
- 2.5 The Council acknowledges that the 2014 household projections are required as outlined within the standard methodology. However, the Regulation 19 consultation had commenced prior to the publication outlining the changes to the standard methodology. The Pre-Submission Local Plan included a 20% buffer to the housing target in anticipation of the possible change to the standard methodology.
- 2.6 This relates to question 42 of the Inspectors letter and will be discussed in detail in the Council's Housing Topic Paper.

Proposed policies maps were not made available during consultations

- 2.7 Many respondents considered the plan preparation and consultation process did not adhere to requirements in failing to publish all documents for consultation: Basildon Council and Thurrock Council were concerned that some evidence regarding site allocations and supporting evidence were not published during earlier stages of the plan-making process; some respondents also objected to the absence of Policies Maps during consultation period.
- 2.8 The Council provided a list of proposed changes to the 2005 Local Plan policies map provided in Appendix 4 (page 367-368) of the Pre-Submission Local Plan Regulation 19 document along with site allocation maps provided for:
- Regularised Gypsy & Traveller Sites, Appendix 5 (pages 369-370)
 - Residential Led Sites R01-R26 (pages 318-342)

- Employment Site E11, E12, E10, E13, E08 (pages 343-347)
- Overview Map which illustrates site allocations (employment and residential led), woodlands, areas of environmental value, and road network (page 314)

Duty to Cooperate

- 2.9 Residents who responded to the Local Plan consultation raised concerns that the Duty to Cooperate requirements have not been fully complied with, particularly with regards to engagement with Basildon Council, Thurrock Council and Epping District Council on cross-boundary matters and cumulative impacts of development.
- 2.10 Thurrock Borough Council raised concerns within their representations regarding duty to cooperate, along with West Horndon Parish Council and Bellway Homes and Crest Nicholson. A summary of these representations and the Council's current position and progress made since these responses were received are outlined in our response to question 12.

Green Belt

- 2.11 A number of residents objected to the release of Green Belt for site allocation and considered the release of green belt to be contrary to requirements outlined within the National Planning Policy Framework.
- 2.12 This relates to questions 23-29 of the Inspectors letter and will be discussed in detail in the Council's answer to those questions.

3. Question 21 part f: Will the Plan supersede any existing development plans/policies and if so, is this clearly defined within the Plan?

- 3.1 Appendix 4 of the Pre-Submission Local Plan and Policies Maps sets out the changes to be made to the 2005 proposals map. It also listed which designations from the 2005 Replacement Local Plan will be removed completely.
- 3.2 The Borough's current development plan is the Brentwood Replacement Local Plan (2005) which will be superseded by the new Local Plan. In accordance with Regulation 8 (5) of the Town and Country Planning (Local Planning) (England) Regulations 2012, it is proposed to add a comprehensive schedule of Development Plan Documents and Policies which will be superseded by the new Local Plan to Appendix 4.