

<b>Committee(s):</b> Policy, Resource and Economic Development	<b>Date:</b> 11 <sup>th</sup> September 2019
<b>Subject:</b> Local Development Plan Update	<b>Wards Affected:</b> All
<b>Report of:</b> Phil Drane, Director of Strategic Planning	<b>Public</b>
<b>Report Author/s:</b> Phil Drane, Director of Strategic Planning Telephone: 01277 312610 E-mail: phil.drane@brentwood.gov.uk	<b>For Decision</b>

### **Summary**

Brentwood Borough Council published its Pre-Submission Local Plan (Regulation 19) in February 2019. Processing and consideration of representations received is nearing completion (Regulation 20). A summary of representations has been prepared (Appendix A). Approximately 800 respondents have made just over 4,000 representations. Over half of all representations received are regarding site allocations and a substantial number of these are focussed on sites situated in the Blackmore and Shenfield areas.

Amendments to the Local Plan relating to the quantum of residential dwellings proposed on specific sites are now being proposed (Appendix B). This is based on the representations received in response to the Regulation 19 consultation in early 2019. The amendments involve the reduction of 70 residential dwellings over four identified allocations within the Plan and reallocating these to be delivered at Dunton Hills Garden Village. These amendments would not result in any changes to the overall strategy or total provision of dwellings set out in the plan.

It is recommended that the proposed amendments are subject to a focussed consultation. As a result of this additional consultation an updated Local Development Scheme (LDS) needs to be approved. The National Planning Policy Framework (NPPF) requires local planning authorities to produce a Local Plan for their area and maintain an up-to-date timetable. Delivery of the Plan against the published timescales is monitored by the Ministry of Housing, Communities and Local Government.

As part of the plan-making process a revised Local Development Scheme (LDS) timetable has been prepared (Appendix C). This provides an update to the currently published version, approved in November 2018.

## **Recommendation(s)**

Members are asked to:

- To approve the list of proposed amendments to the Brentwood Pre-Submission Local Plan (February 2019), as set out in Appendix B;
- To delegate to the Director of Strategic Planning in consultation with the Leader, Chair & Deputy of PRED to carry out any necessary local consultation on these amendments; and
- To approve the Revised Brentwood Local Development Scheme (September 2019), as set out in Appendix C.

## **Main Report**

### **Introduction and Background**

1. The National Planning Policy Framework (NPPF) requires local planning authorities to produce a Local Plan for their area (Chapter 3 “plan-making”). Brentwood Borough Council is producing a new Local Development Plan (or ‘Local Plan’) and has undertaken various stages of public consultation as part of the plan-making process. The Pre-Submission Local Plan (Regulation 19) was approved by Extraordinary Council on 8 November 2018 (Item No. 181), subject to amendments. The Plan was published in February 2019.
2. Processing and consideration of representations received after public consultation is nearing completion (Regulation 20) with these due to be published online imminently. This and other accompanying material is being compiled for submission to the Planning Inspectorate for examination on behalf of the Secretary of State (Regulation 22).
3. Representations have been received in response to the Pre-Submission Local Plan consultation that took place in February this year. Approximately 800 respondents made just over 4,000 representations overall. Of those representations around 65% were made regarding site allocations within the plan. A summary of the key issues raised is contained within Appendix B.

4. There were a number of residential site allocations that received the majority of the overall representations, these were situated in Blackmore and Shenfield. The sites in Blackmore are R25 land north of Woollard Way (approximately 36% of all representations made on site allocations), and R26 land north of Orchard Piece (37%). The sites in Shenfield are R18 land off Crescent Drive (<1%), and R19 land off Priests Lane (11%).
5. Whilst numbers of representations alone do not amount to a material planning consideration for or against a policy or site allocation, they do indicate where significant concern is raised by local residents on their potential suitability.
6. Appendix A sets out the issues raised for sites in Blackmore and Shenfield.
7. Planning Practice Guidance (Paragraph 054, Reference ID 61-054-20190315, Revision Date 15/03/19) sets out that the local planning authority can include any changes in an addendum to the plan. Where the local planning authority intend the changes to be treated as part of the submitted plan, the addendum, together with any necessary sustainability appraisal of it, should be subject to further consultation (equivalent to the consultation on the publication version) before submission. Where such consultation has not taken place, their proposed changes will be considered by the Inspector during the examination process but will not be treated as part of the submitted plan.
8. The Procedure Guide for Local Plan Examinations (June 2019) explains in paragraph 1.5 that the Inspector may consider it appropriate for some or all of the local planning authority's proposed changes to be discussed at the hearing sessions, and in appropriate circumstances they may form the basis for Main Modifications.
9. Based on the above the Council can consider whether it is necessary to make amendments to the plan. However, a judgement must be made as to whether amendments could constitute main modifications and therefore should be subject to further consultation. This would then require an update the Local Development Scheme (LDS) (timetable) to factor in the additional consultation stage.

10. Based on the above the Council can consider whether it is necessary to make amendments to the plan. However, a judgement must be made as to whether amendments could constitute main modifications and therefore should be subject to further consultation. This would then require an update the Local Development Scheme (LDS) (timetable) to factor in the additional consultation stage.
11. Planning Practice Guidance (Paragraph 003, Reference ID 61-003-20190315, Revision date 15/03/2019) sets out that the Council is required to produce an LDS according to section 15 of the Planning and Compulsory Purchase Act 2004 (as amended). This must specify the development plan documents (i.e. local plans) which, when prepared, will comprise part of the development plan for the area. Local planning authorities are encouraged to include details of other documents which will form part of the development plan for the area, such as Neighbourhood Plans. The LDS must be made available publicly and kept up-to-date. It is important that local communities and interested parties can keep track of progress. Local planning authorities should publish their LDS on their website.
12. Delivery of the Plan against the published timescales of the LDS is monitored by the Ministry of Housing, Communities and Local Government (MHCLG). The current LDS was approved by Extraordinary Council on 8 November 2018 (Item No. 181) and subsequently published on the Council's website.
13. An updated LDS (Appendix C) has been prepared which incorporates the focussed consultation to cover amendments to the Plan. The consultation would take place over a six-week period beginning in October and completing in mid-November. Representations would be processed during and after the consultation with submission of the Plan to the Secretary of State (Regulation 22) then expected by the end of 2019.

## **Issue, Options and Analysis of Options**

### Local Development Plan

14. Following consultation on the Regulation 19 version of the Brentwood Local Plan in February 2019 approximately 800 respondents made just over 4,000 representations. A summary of the key representations received in response to the Pre-Submission Local Plan has been prepared at Appendix A. This sets out issues raised according to the following groups of stakeholders:

- a) Statutory consultees (neighbouring local planning authorities including Essex County Council, Government bodies and agencies, utilities and transport providers, etc);
  - b) Local residents and resident groups;
  - c) Parish Councils; and
  - d) Those representing development proposals (landowners, developers and/or agents).
15. Of the 4,000 representations submitted in response to the Pre-Submission consultation around 65% were specifically made on site allocations. The number of representations received in relation to four sites in Blackmore and Shenfield (R19, R20, R25 and R26) accounted for around 50% of all representations, which is just over 80% of those made on site allocations. The issues raised included concerns regarding impact on the road network, access feasibility, flooding impact, impact on wildlife and infrastructure capacity.
16. Whilst the number of representations received is not a material planning consideration it does demonstrate the level of feeling from local residents in these locations. In reflecting these concerns, it is not advised that sites are removed resulting in an amendment to the strategy and a reduction in overall housing provision. However, there is potentially scope to make small adjustments resulting in the redistribution of dwellings to strategic housing allocations. This recognises the ongoing concerns of local residents reducing the potential burden of development in these areas. It is expected that the uplift at strategic housing allocations could be better accommodated given the expected level of infrastructure investment.
17. The specific amendments to the Pre-Submission Local Plan are as follows. Further detail of the amendments can be found in Appendix B:
  - a) Policy R18 (Land off Crescent Drive, Shenfield): Reduction from “around 55” to “around 35 homes”;
  - b) Policy R19 (Land at Priests Lane, Shenfield): Reduction from “around 75” to “around 45 homes”;
  - c) Policy R25 (Land north of Woollard Way, Blackmore): Reduction from “around 40” to around “30 homes”;
  - d) Policy R26 (Land north of Orchard Piece, Blackmore): Reduction from “around 30” to “around 20 homes”; and
  - e) R01 (I) (Dunton Hills Garden Village Strategic Allocation): Increase from “a minimum of 2,700” to “a minimum of 2,770 homes in the plan period”.
18. These proposed amendments to the Local Plan would result in a reduction of 20 dwellings from the two allocations in Blackmore R25 and R26, and a reduction of 50 dwellings proposed for sites R18 and R19 in Shenfield. This total of 70 dwellings would be redistributed to R01 Dunton Hills Garden Village.

These amendments would result in no overall reduction of the proposed 7,752 residential dwellings being proposed under Policy SP02 Managing Growth and no change in overall strategy.

19. In terms of the process for making amendments to the Local Plan the Council approved (Item 181 Extraordinary Council, 8 November 2018, paragraph 2.1c) to “delegate authority to the Director of Strategic Planning, in consultation with the Chief Executive and Leader of the Council, to finalise and approve the Submission documents... [as specified under paragraph 2.1b of the recommendation] ...for submission to the Secretary of State, including to:
  - a) Make non-material or minor amendments to the proposed Submission documents;
  - b) Undertake any further consultation required arising as a result of the Regulation 19 consultation;
  - c) Enter into Statements of Common Ground with relevant bodies before and during the Examination in Public; and
  - d) Make modifications to the Submission documents during, and as a result of, the Examination in Public as advised to be necessary by the appointed Planning Inspector.”
20. According to the above paragraph, specifically 19 a & b, the degree to which amendments are considered to be non-material or minor in nature is important. There is no statutory definition of “non-material”. Each situation will require a legal view, but a broad rule of thumb is to consider the removal of site allocations altogether as a material (major) change to the Plan’s strategy. Word changes within policies to clarify or improve wording, for example, could be considered minor in nature and therefore not require further consultation before submission. Regarding 4.7d, this is relevant once the Examination in Public begins after submission of the Plan.
21. It is also important to consider the potential cumulative effect on other policies that a number of minor modifications may cause. Depending on the nature of a number of minor amendments the effect on other policies could result in them being considered a main modification.
22. Whilst the proposed amendments could be considered to be minor in nature, there are risks associated with pursuing changes without consulting on them. If the Plan is submitted with the suggested amendments with no consultation and the appointed Inspector considers these are main modifications they would then be subject to public consultation during the examination period. This would delay the examination process at cost to the Council. It is therefore considered that the amendments outlined in paragraph 17 and Appendix B should be

subject to public consultation before submitting the plan. This would be in the form of a focussed consultation.

#### Local Development Scheme (Timetable)

23. The LDS provides information on the preparation of key documents that will comprise the Borough's development plan. Most importantly it provides a timetable for anticipated stages of the plan-making process. The current LDS was approved in November 2018 and needs to be updated to reflect the need to carry out a focussed consultation on proposed amendments outlined in Appendix B.
24. An updated LDS is set out in Appendix C. In summary, the Local Plan focussed consultation is proposed to commence in October, running for six weeks. Following the processing of representations and preparation of required submission material it is anticipated the plan could be submitted by the end of December 2019 (Regulation 22). This begins the Examination in Public stage. A summary of the stages for the focussed consultation and submission is set out in the table below.
- Preparation of focussed consultation documentation  
September to mid-October 2019
  - Focussed consultation on proposed amendments  
Mid-October to end of November 2019
  - Processing of focussed consultation representations  
Mid-October to mid-December 2019
  - Submission of Regulation 19 Local Plan and proposed amendments  
End of December 2019
25. Once the plan has been submitted the Planning Inspectorate will advise on the appointed Inspector and timeframes for hearing sessions, among other things. These timeframes are set by the Planning Inspectorate, but an estimate is made that hearing sessions could take place in quarter 2 of 2020 (April-June). Subject to the outcome of the Examination in Public the soonest it is anticipated that the Council could adopt the plan would be in quarter 3 of 2020 (July-September). Timeframes for other documents that will form part of the wider development plan are set out in the LDS.

## **Reasons for Recommendation**

26. Based on the representations received to the Pre-Submission Local Plan consultation a view could be taken that it is appropriate to review the need for amendments to the Local Plan in advance of submission, specifically regarding relevant site allocations. These amendments should be subject to further consultation in order that they are treated as part of the submitted plan by the Inspector, as specified in Planning Practice Guidance (Paragraph 054, Reference ID 61-054-20190315, Revision Date 15/03/19).
27. It is necessary to have an up-to-date LDS. Delivery of the Plan against the published timescales is monitored by the Ministry of Housing, Communities and Local Government. The revised LDS set out in Appendix A sets out an updated position regarding anticipated timeframes and documents to be produced, such as final stages of the Local Plan and design guidance for Dunton Hills Garden Village.

## **Consultation**

28. The Local Plan has undergone a series of public consultations. The focussed consultation will be in line with the Statement of Community Involvement (SCI). Representations received from a wide range of stakeholders are considered as part of the plan-making process and published on the Council's website. These will be considered by a Planning Inspector through the Examination in Public.
29. Documents set out in the LDS may require consultation. Informing people about consultations will be in line with the Council's SCI.

## **References to Corporate Plan**

30. The Local Development Plan is a key priority in the Council's 'Vision for Brentwood' Corporate Plan 2016-2019. The Plan is an important delivery vehicle for several cross-cutting priorities, informed by individual Council strategies.

## **Implications**

### **Financial Implications**

**Name/Title: Jacqueline Van Mellaerts, Director of Corporate Resources**

**Tel/Email: 01277 312829/jacqueline.vanmellaerts@brentwood.gov.uk**

31. The cost of a focussed public consultation on the amendments to the Local Plan has not been budgeted. However, this is likely to be of minimal cost and so can be accommodate in the Planning Policy budget. Additional cost may be required for amendments to the evidence base. If the Plan is amended and submitted without further public consultation there is a risk that the appointed Inspector may require further consultation to take place during the Examination in Public period. This would elongate the Examination in Public, potentially suspending the process, and likely result in substantially increased cost to the Council due to an inspector being retained during the consultation period, for example.

### **Legal Implications**

**Name/Title: Surinder Atkar, Planning Solicitor**

**Tel/Email: 01277 312687/surinder.atkar@brentwood.gov.uk**

32. The Local Plan has been prepared in accordance with the primary planning acts, namely the Town and Country Planning Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004 (as amended) and other supporting legislation. It has been informed by the NPPF and other relevant national planning policy. Detailed regulations in relation to plan-making are set out in the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). It is a requirement of the Acts and the associated Regulations for the Local Plan to be prepared in accordance with the timetable established in the statutory LDS, and subject to an examination into its soundness.

### **Economic Implications**

**Name/Title: Phil Drane, Director of Strategic Planning**

**Tel/Email: 01277 312610/philip.drane@brentwood.gov.uk**

33. The Local Plan sets out a spatial strategy for how economic growth needs will be met over the next 15-years, including the delivery of new jobs and homes. It is important that the plan is in place to help enable economic growth.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

34. As a result of the proposed amendments the Sustainability Appraisal and Habitats Regulations Assessment will need to be updated. This will have implications on the time needed to publish consultation material. Consideration will also need to be given to updating the following documents:

- a) Health Impact Assessment;
- b) Equality Impact Assessment; and
- c) Associated evidence documents.

### **Background Papers**

Brentwood Pre-Submission Local Plan, Brentwood Borough Council, February 2019  
<http://www.brentwood.gov.uk/pdf/30012019092158000000.pdf>

Procedure Guide for Local Plan Examinations, The Planning Inspectorate, June 2019 (5th Edition) <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>

### **Appendices to this report**

Appendix A: Summary of Representations Received in Response to the Brentwood Pre-Submission Local Plan, Feb 2019 (July 2019)

Appendix B: Schedule of proposed amendments to Brentwood Pre-Submission Local Plan (September 2019)

Appendix C: Revised Local Development Scheme (September 2019)