

Appendix A: Brentwood Borough Council Consultation Response

Q	Question and BBC Response
1.	<p>Do you agree that local planning authorities should not have to continually demonstrate a deliverable 5-year housing land supply (5YHLS) as long as the housing requirement set out in its strategic policies is less than 5 years old?</p> <p>Yes, the council supports the proposal to remove the need for authorities with local plans less than five years old to continually demonstrate a deliverable 5-year housing land supply. This change would provide certainty for authorities and communities as to the precedence of their local plans over speculative applications and reduce the need for the deliverability of sites to be re-tested between the examination and the application stage. The removal of the need to demonstrate a 5-year land supply will encourage local authorities to be pro-active in producing a local plan and reviewing the local plan within 5 years to ensure it remains in date.</p>
2.	<p>Do you agree that buffers should not be required as part of 5YHLS calculations (this includes the 20% buffer as applied by the Housing Delivery Test)?</p> <p>The council supports the proposal for the removal of the buffers from 5 year land supply calculations and agrees that it would simplify plan making and support a plan-led approach to securing new development that aligns with Government aspirations to ensure high quality housing is built in appropriate locations to meet recognised needs.</p>
3.	<p>Should an oversupply of homes early in a plan period be taken into consideration when calculating a 5YHLS later on or is there an alternative approach that is preferable?</p> <p>The Council supports the principle that the past over-supply of housing should be offset against future housing supply calculations. The current system can lead to scenarios where authorities are penalised for future under-supply despite hugely over-supplying homes in the years prior.</p> <p>The most important consideration is that plan led development is meeting community needs over longer-term time horizons and that fluctuations or variations that result in 'over-supply' in one or more past years are not discounted.</p>

<p>4.</p>	<p>What should any planning guidance dealing with oversupply and undersupply say?</p> <p>To enable oversupply to be taken into account, the Council considers that planning guidance will need to set a clear and precise approach for how this should be done. In particular, planning guidance should be clear about the way in which oversupply should be calculated (e.g. the housing requirement that supply should be assessed against) and the time period over which it should be calculated.</p>
<p>5.</p>	<p>Do you have any views about the potential changes to paragraph 14 of the existing Framework and increasing the protection given to neighbourhood plans?</p> <p>The council in principle supports the potential changes as they will provide greater confidence to communities that the hard work that went into preparing a neighbourhood plan will ensure that the area remains protected from speculative growth for 5 years rather than 2 years post adoption. It could also encourage more communities to consider production (or review of) a neighbourhood plan.</p>
<p>6.</p>	<p>Do you agree that the opening chapters of the Framework should be revised to be clearer about the importance of planning for the homes and other development our communities need?</p> <p>The NPPF “sets out the Government’s planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans can provide for sufficient housing and other development in a sustainable manner..”</p> <p>The council is of the view that Government should give greater consideration as to whether including the word “sufficient” regarding housing and other development in NPPF paragraph 1 is helpful without better defining what is meant. The council considers that additional text should be included in revised PPG to provide greater clarity on how a local planning authority determines what is meant by “sufficient”.</p>

<p>7.</p>	<p>What are your views on the implications these changes may have on plan-making and housing supply?</p> <p>The Council supports the principle of reviewing the standard method for calculating local housing need at the earliest opportunity. The Council considers the 2021 Census to provide a more reliable demographic basis from which to consider future housing need.</p> <p>The Council would support further measures to clarify the requirement for Local Plans to meet housing needs and circumstances in which it is acceptable for them not to meet housing needs, as well as any wider changes that make it simpler and easier for local authorities to progress Local Plans that command local support.</p>
<p>8.</p>	<p>Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?</p> <p>The council supports greater clarity in policy and guidance on what constitutes an exceptional circumstance for the use of an alternative approach for assessing local housing need. The examples given in the consultation would appear to be fairly extreme, such that they would be unlikely to apply to more than a handful of authorities.</p> <p>In our case the high proportion of designated Green Belt within the borough constrains development opportunities.</p> <p>Government should give some clarity about the extent to which identified constraints could justify an exceptional circumstance in order to manage community expectations, provide clarity to the development industry and local authorities and ensure that time and resources are not wasted seeking a disproportionate change to the assessed local housing need. Guidance is needed as to what is considered to be “sufficient” housing where exceptional circumstances are applied.</p>

9. Do you agree that national policy should make clear that Green Belt does not need to be reviewed or altered when making plans, that building at densities significantly out-of-character with an existing area may be considered in assessing whether housing need can be met, and that past over-supply may be taken into account?

The Council agrees that national policy should be clearer on expectations around the review of Green Belts in relation to meeting housing need. In particular, the Council considers that national policy should make it clearer whether it remains legitimate for local authorities to give weight to housing need in any decision to review their Green Belt (e.g. where there is an urgent for a certain type of housing that can only be addressed through some development in the Green Belt), and greater detail on the weight that can be given to other factors, such as local economic growth ambitions, or a pressing need for new infrastructure that can only be funded through development in the Green Belt, for example.

The Council also considers that clarity is required over the standing of any decision by a local authority not to meet their housing needs in full on account of Green Belt and whether such a decision will automatically be maintained through the appeal process. Were a local authority to make a decision not to review their Green Belt, it would be unhelpful and damaging to the status of the Local Plan were it legitimate for Inspectors to subsequently give much weight to unmet housing need in any appeal brought forward on an omission site in the Green Belt.

The Council broadly supports the principle of authorities being able to reject densities that are significantly out-of-character with the existing area, but notes that it may create an expectation that a greater amount of land has to be developed (at a lower density) to enable all the housing need to be met.

11. Do you agree with removing the explicit requirement for plans to be 'justified', on the basis of delivering a more proportionate approach to examination?

The council supports the intention to deliver a more proportionate approach to Examination. It's noted the proposed approach makes clear "examination would assess whether the local planning authority's proposed target meets need so far as possible".

The council notes that deleting the 'justified' test could help support this, but also has some concern that it could lead to plans being found sound that are not grounded in robust evidence and could therefore be undeliverable and unrealistic. This in turn could give rise to difficulties at the planning application stage where assumptions made in the Local Plan are shown to not be realistic and have to be changed, which could harm its status and undermine community and developer confidence in the Local Plan.

The council would therefore suggest that greater clarity is required about the extent to which Local Plans still need to be grounded in robust evidence and would suggest that a revised test of soundness, which enables Inspectors to apply a more proportionate approach to checking evidence, would be more beneficial than the complete deletion of the justification requirement which implies a local plan does not need to be realistic or deliverable.

In support of the proposed approach the council considers that Government should provide new guidance to make clear what is the evidence 'bar' for key matters such as housing and employment development. Without this, the Planning Authority may not produce the necessary evidence in a timely way. Alternatively, it could gather and use evidence that is no longer necessary. In both circumstance there is a risk of delay or challenge to plan making, and a risk of incurring unnecessary or avoidable costs.

18. Do you support adding an additional permissions-based test that will 'switch off' the application of the presumption in favour of sustainable development where an authority can demonstrate sufficient permissions to meet its housing requirement?

The Council supports this change in principle, provided that the permissions-based test is clear and precise, but has concerns that by adding a permissions based test into the HDT there is a danger of taking the test away from its purpose of testing the delivery of housing and starting to look at supply side issues which are the preview of the 5 year housing land supply test. It would only make sense to do this if the 5 year housing land supply test were withdrawn otherwise it is a unnecessary duplication.

<p>21.</p>	<p>What are your views on the right approach to applying Housing Delivery Test consequences pending the 2022 results?</p> <p>The council adopted its Local Plan on the 23 March 2022. The 2022 HDT is the council's first following adoption of the new Local Plan, and which subsequently uses the newly adopted housing requirement figures. The HDT 2022 measurement shows that Brentwood Borough met 86% of its housing requirement. Whilst it is acknowledged that further improvement in housing delivery is still needed, the 86% result is an improvement on past performance. A significant difference arises in the consequences of the results from previous years and this year; as the council's most recent delivery is now in excess of 85% of the requirement, the application of the NPPF Paragraph 11(d) presumption in favour of sustainable development no longer applies, nor does a requirement to provide a 20% buffer on the council's five-year land supply.</p> <p>In appreciation of the above circumstances the council wishes to stress the importance of the publication of the 2022 HDT at the earliest possible opportunity. The council is therefore of the view that the test's consequences follow from the publication of the 2022 Test.</p>
<p>22.</p>	<p>Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?</p> <p>The council strongly supports giving more weight to Social Rent in planning policies and decisions when considering the affordable housing mix within development. House prices in the borough are now over 16 times average salaries and so providing many Intermediate forms of affordable housing simply does not meet the needs of district and certainly does not meet the needs of those in greatest housing need.</p> <p>The council would support prioritising Social Rent ahead of other forms of Intermediate affordable housing such as First Homes if national planning policy were to allow this and where there is evidence of the urgent need to deliver social rent affordable housing.</p>

<p>23.</p>	<p>Do you agree that we should amend existing paragraph 62 of the Framework to support the supply of specialist older people’s housing?</p> <p>The council is broadly supportive of the proposed changes. We acknowledge the need for a range of types of housing to meet the needs of older people and the importance of this in freeing up the wider housing stock to meet the needs of the wider community by enabling older people to down size and move from their current homes into more suitable accommodation. Linked to this is a need to provide affordable housing within retirement housing schemes and care facilities, however current case law means that such facilities that fall within the C2 use class do not need to provide affordable housing even when they are providing units with their own front doors and facilities. Government policy should address this so that the needs of older people who are in housing need and cannot afford market housing can also be met.</p>
<p>30.</p>	<p>Do you agree in principle that an applicant’s past behaviour should be taken into account into decision making? If yes, what past behaviour should be in scope?</p> <p>The council supports the principle of measures to incentivise build out of planning permissions and effective measures to address the past poor performance of developers. This could include poor performance in terms of ‘bad neighbour’ issues or deviation from approved plans, for example.</p> <p>However, care must be taken not to undermine in any way the basic principle of decision making on planning applications which is that it is based on the planning merits of the proposal. Potentially a better mechanism would be to deal with these issues through stronger enforcement powers at the time the irresponsible behaviour occurs, going further than the changes in the Levelling up and Regeneration Bill do.</p>
<p>31.</p>	<p>Of the two options above, what would be the most effective mechanism? Are there any alternative mechanisms?</p> <p>Before introducing either mechanism to take past performance into account, the council considers that more information would be required on how these mechanisms will work in practice and any recourse the applicant would have to challenge these mechanisms. Under either mechanism, it may be an applicant has the ability to appeal to PINS which could create considerable work for the authority in then evidencing that past poor behaviour.</p>

<p>32.</p>	<p>Do you agree that the 3 build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?</p> <p>The council considers introducing new policy measures to encourage faster build out to be appropriate. The Council would support the requirement for developers to specify the likely build out rate of a development. at the planning application stage, with mechanisms in place that require that build out rate to be maintained.</p> <p>The council notes the proposed policy measures are likely to increase the responsibilities of the planning authority to monitor development, to capture the 'commitments' information and compare this to actual completions and updated forecast. Ensuring this is sufficiently resourced will be challenging.</p>
<p>33.</p>	<p>Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?</p> <p>The council supports greater emphasis on the role of 'beauty' and place-making in strategic policies but would suggest these can only be delivered through clear requirements of the quality expected in the area, such as through design guides and design codes, and strong support from national policy to reject poor or mediocre design.</p>
<p>35.</p>	<p>Do you agree greater visual clarity on design requirements set out in planning conditions should be encouraged to support effective enforcement action?</p> <p>The Council supports the use of conditions to create clear expectations around design and visual requirements but notes this is already common practice amongst authorities.</p>

<p>36.</p>	<p>Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing Framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?</p> <p>The council recognises the role of appropriate upward extension schemes to contribute to increases in density. However the specific prioritisation of mansard roof development may not be wholly justified. Mansard roofs may be appropriate in some areas but would be harmful to the character and appearance of other settlements where alternative solutions may be preferable. We would suggest guidance encourages upward extensions where this can be achieved without causing harm to the character and appearance of an area but the specific use of Mansard roofs should be left to local level design guides and decision making having regard to the character of the local area.</p>
<p>37.</p>	<p>How do you think national policy on small scale nature interventions could be strengthened? For example in relation to the use of artificial grass by developers in new development?</p> <p>The council supports the objectives of strengthening the role of the planning system in protecting and enhancing the environment. It would support changes to national policy and other regulatory regimes, e.g. building regulations, which explicitly mandate the inclusion of small-scale nature interventions within developments. For example, within a planning application, developers could be required to demonstrate inclusion of a proportionate number of nature interventions that are then conditioned to be retained in perpetuity. National policy could further disincentivise the use of materials that are not considered beneficial for nature, e.g. artificial grass, by applying a penalty in Biodiversity Net Gain calculations where it is to be used.</p>
<p>38.</p>	<p>Do you agree that this is the right approach to making sure that the food production value of high value farmland is adequately weighted in the planning process, in addition to current references in the Framework on best and most versatile agricultural land?</p> <p>The council would support appropriate weight being given to the need to protect the best and most versatile agricultural land from other uses, subject to an assessment of the merits of alternative beneficial uses and any other material considerations that may apply.</p>

<p>44.</p>	<p>Do you agree with our proposed new Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?</p> <p>The council supports the additional weight and clarity being given to proposals which allow the adaptation of existing buildings to improve their energy performance, subject to the application of other policies within the framework.</p>
<p>45.</p>	<p>Do you agree with the proposed timeline for finalising local plans, minerals and waste plans and spatial development strategies being prepared under the current system? If no, what alternative timeline would you propose?</p> <p>The council has no objection in principle to the timeline proposed for finalising plans currently being prepared but would advocate for the greatest clarity at the earliest opportunity to ensure reasoned decisions can be made about the contents and strategies of plans currently being prepared, in light of imminent and long-term changes to national policy and legislation. The council feels any continued uncertainty will impede the progress of plans currently being prepared and as such these timescales should be continually reviewed to reflect any delays to the passage of the Levelling Up Bill or wider national policy changes.</p>
<p>46.</p> <p>47.</p>	<p>Do you agree with the proposed transitional arrangements for plans under the future system? If no, what alternative arrangements would you propose?</p> <p>Do you agree with the proposed timeline for preparing neighbourhood plans under the future system? If no, what alternative timeline would you propose?</p> <p>The council has no objection in principle to the timeline proposed for preparing plans under the future system but would again advocate for the greatest clarity at the earliest opportunity.</p>

<p>48.</p>	<p>Do you agree with the proposed transitional arrangements for supplementary planning documents? If no, what alternative arrangements would you propose?</p> <p>The council would suggest that many supplementary planning documents remain fit for purpose and their automatic expiration could have unintended consequences, as local authorities prioritise the progression of the core Local Plan. At this point in time there is a considerable lack of clarity on what Supplementary Plans are or will be. It is suggested that Government consult again on this matter when they can provide greater clarity.</p>
<p>49.</p>	<p>Do you agree with the suggested scope and principles for guiding National Development Management Policies?</p> <p>The Council has no objection to the principle of National Development Management Policies where these would be considered alongside, and not preclude, locally-set and locally-responsive development management policies. At this stage we reserve judgement on whether such national policies will be a good thing accepting that avoiding duplication is in principle good.</p> <p>We would highlight that we see potential for significant challenges in drawing a dividing line between what is or should be set out at a national level in policy and what should fall to a local planning authority to determine as matters for a local plan to cover. This consideration has scope to be heightened if or when a planning authority might wish to add extra material to a national policy or consider that it has limitations or weakness when applied to the particular concerns or characteristics that apply to a specific planning authority area or parts within. This concern would equally apply with Neighbourhood Plans and how policies within them would sit with national development management policies and the divide between the two.</p>

<p>50.</p>	<p>What other principles, if any, do you believe should inform the scope of National Development Management Policies?</p> <p>The council agrees that National Development Management Policies should be strictly limited in their scope and only focussed on issues which are identical or near-identical considerations nationally (e.g. flood risk) or which directly apply national objectives to the local planning process (e.g. net zero). We would highlight that one further principle that should be built into national policies, should they proceed, is that the flexibility should exist for local planning authorities to add extra considerations or value to such policies where local circumstances can be shown to justify such an approach. Further to this where evidence based, and tested through plan examination, there should be scope for a local planning authority to seek to establish grounds to not apply or use a national policy in their locality and take a different approach.</p>
<p>56.</p>	<p>Do you think that the government should bring forward proposals to update the Framework as part of next year’s wider review to place more emphasis on making sure that women, girls and other vulnerable groups feel safe in our public spaces, including for example policies on lighting/street lighting?</p> <p>The council is of the view that all possible initiatives should be taken to ensure women, girls and other vulnerable groups feel safe in our public spaces.</p>