



Department
for Education

Our Ref: DfE/Local Plan/Brent 2019

5th December 2019

Dear Sir/Madam,

Re: Brent Local Plan

Consultation under Regulation 19 of Town and Country Planning (Local Planning) (England) Regulations 2012

Submission of the Department for Education

1. The Department for Education (DfE) welcomes the opportunity to contribute to the development of planning policy at the local level.
2. Under the provisions of the Education Act 2011 and the Academies Act 2010, all new state schools are now academies/free schools and DfE is the delivery body for many of these, rather than local education authorities. However, local education authorities still retain the statutory responsibility to ensure sufficient school places, including those at sixth form, and have a key role in securing contributions from development to new education infrastructure. In this context, we aim to work closely with local authority education departments and planning authorities to meet the demand for new school places and new schools. We have published guidance on education provision in garden communities and securing developer contributions for education, at <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>. You will also be aware of the corresponding additions to Planning Practice Guidance on planning obligations, viability and safe and healthy communities.
3. We would like to offer the following comments in response to the above consultation document.

Soundness

4. As you will be aware, the primary focus at this stage of the Local Plan's preparation is on the soundness of the plan, with regard to it being positively prepared, justified, effective and consistent with national policy. The following detailed comments set out DfE's view of the plan's soundness in respect of education provision.
5. DfE supports the Council's allocation and safeguarding of land for expansions and new schools where required.
6. DfE makes the following comments on the Development Management policies within the Local Plan.

- Policy BSI1 requires new social infrastructure to be located in ‘flexible and adaptable buildings’ and potentially co-located with other social infrastructure. Whilst this may be suitable and preferable in some instances, there will be educational facilities for which these elements of the policy will not be able to be complied with. This could be due to, for example, SEN school requirements or other specific needs for fixed, physical infrastructure. This may not always also be possible for safeguarding issues. Therefore, we propose adding the words ‘**where possible and appropriate**’ to points g) and h) of Policy BSI1.
- Policy BSUI1 regarding energy efficiency sets out a requirement for all major non-residential developments to achieve BREEAM ‘Excellent’. DfE would raise initial concern over this, in the context of the need to maximise value for money in education spending and make efficient and effective use of public funds, we question if a requirement for schools to achieve BREEAM ‘Excellent’ rather than ‘Very Good’ is justified. The delivery of schools should not be burdened by challenging and onerous obligations. Particularly with respect to expansions, existing buildings may be more challenging to retrofit to meet the required BREEAM standards, due to the nature of constraints and historic inefficiencies in building design.
- Therefore, Policy BSUI1 should reflect some flexibility in relation to school and community buildings, especially with regard to expansions of existing buildings.
- Policy BGI1 establishes a requirement for public open space to be provided for major developments. Whilst this would seem to imply it relates to residential development only, by reference to a ratio against residential population. However, for the avoidance of doubt and to make clear that educational facilities will not be expected to provide additional public open space or contributions regarding this, the policy should be clarified to state that ‘Major **residential** developments...’ (bold and underline showing proposed change).
- Policy BGI2 requires developments proposing tree loss, to provide equivalent canopy cover or off site contributions for the equivalent trees. This policy does not differentiate between the different quality of tree found on development sites, and could lead to significant onerous burdens on sites for the delivery of educational facilities, where it is not always possible to accommodate such requirements, owing to the size, nature and scale of educational facilities’ built footprints and open space/playing fields requirements, which typically would not allow for the provision of extensive tree planting. Furthermore, extensive tree planting can create a safeguarding and management issue for school operators. Therefore, we would suggest that there is flexibility for this policy approach when applied to infrastructure and community and recreation uses, to avoid over-burdening sites and development schemes.

Forward Funding

7. DfE loans to forward fund schools as part of large residential developments may be of interest, for example if viability becomes an issue. Please see the Developer Loans for Schools prospectus for more information.¹ Any offer of

¹ Link to DLS prospectus once available.

forward funding would seek to maximise developer contributions to education infrastructure provision while supporting delivery of schools where and when they are needed.

Evidence base

8. Given the significant cross-boundary movement of school pupils between London Borough of Brent ('LBB') and adjoining areas, DfE recommends that the Council covers this matter and the outcomes of cooperation to address it as part of its Statement of Common Ground.²

Developer Contributions and Community Infrastructure Levy (CIL)

9. One of the tests of soundness is that a Local Plan is 'effective', meaning the plan should be deliverable over its period. In this context and with specific regard to planning for schools, there is a need to ensure that education contributions made by developers are sufficient to deliver the additional school places required to meet the increase in demand generated by new developments. DfE notes that the Local Plan does not include explicit policy reference concerning the need for new developments to contribute towards educational facilities, where the development is generating the need for new school places (paragraph 4.44 states that development will be expected to provide associated infrastructure). Accordingly, it may be useful to include a policy making clear that sites will be expected to contribute proportionately, in line with Planning Practice Guidance and DfE's Developer Contributions Guidance.³
10. It should also be ensured that the housing policies and supporting text include the following:
 - Policy requirement for offsite contributions from all sites that do not provide an onsite school, where there will be insufficient school capacity to absorb the demand for school places generated by the development.
 - Free transfer of land to the Council and construction costs to be met by the development where onsite schools are required, subject to updated viability assessment.
 - Clear references to the funding mechanism to be applied, whether Section 106 or CIL, and cross-references to the relevant evidence that justifies this approach.
11. Local authorities have sometimes experienced challenges in funding schools via Section 106 planning obligations due to limitations on the pooling of developer contributions for the same item or type of infrastructure. However, the revised CIL Regulations remove this constraint, allowing unlimited pooling of developer contributions from planning obligations and the use of both Section 106 funding and CIL for the same item of infrastructure. The advantage of using Section 106 relative to CIL for funding schools is that it is clear and transparent to all stakeholders what value of contribution is being allocated by which development to which schools, thereby increasing certainty that developer contributions will be used to fund the new school places that are needed. DfE supports the use of

² NPPF paragraph 27; and the PPG on Plan-Making - <https://www.gov.uk/guidance/plan-making#maintaining-effective-cooperation>

³ Planning Practice Guidance on viability and planning obligations <https://www.gov.uk/government/collections/planning-practice-guidance> and DfE guidance for local authorities on securing developer contributions for education <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>.

planning obligations to secure developer contributions for education wherever there is a need to mitigate the direct impacts of development, consistent with Regulation 122 of the CIL Regulations.

12. While DfE supports LBB's approach to delivering schools and school expansions as part of the Local Plan, we request clarification that developer contributions may be secured retrospectively, when it has been necessary to forward fund infrastructure projects in advance of anticipated housing growth. An example of this would be the local authority's expansion of a secondary school to ensure that places are available in time to support development coming forward. This minor amendment would help to demonstrate that the plan is positively prepared and deliverable over its period.
13. DfE would be particularly interested in responding to any update to the Infrastructure Delivery Plan, viability assessment or other evidence relevant to education which may be used to inform revisions to local planning policies or the CIL charging schedule. As such, please continue to engage with DfE and consult us on any relevant future consultations.

Conclusion

14. Finally, I hope the above comments are helpful in finalising Brent's Local Plan, with specific regard to the provision of land and developer contributions for new schools.
15. Please notify DfE when the Local Plan is submitted for examination, the Inspector's report is published and the Local Plan is adopted.
16. Please do not hesitate to contact me if you have any queries regarding this response. DfE looks forward to continuing to work with London Borough of Brent to develop a sound Local Plan which will aid in the delivery of new schools.