

# LONDON BOROUGH OF BRENT

## EXECUTIVE

22<sup>nd</sup> September 2003

FROM THE DIRECTOR OF ENVIRONMENT

FOR INFORMATION / ACTION

NAME OF WARD: ALL

### **UDP - RESPONSE TO REPRESENTATIONS AND FURTHER PROPOSED MODIFICATIONS**

#### **1.0 SUMMARY**

- 1.1 This report sets out and explains the Council's proposed response to the representations received to the Proposed Modifications to the UDP and recommends Further Proposed Modifications before the Plan is adopted. It also explains the procedures for progressing the Plan to adoption and sets out a likely timescale.

#### **2.0 RECOMMENDATION**

- 2.1 That the Executive considers the proposed response to the representations, and the Further Proposed Modifications to the UDP as contained in the schedule 'Proposed Modifications – Council's Response' and the schedule of 'Proposed Further Modifications' accompanying this report.
- 2.2 That the Executive should:
- Recommend that Full Council agree the responses to the representations set out in this report and attachments.
  - Recommend that the Full Council should agree that the Further Proposed Modifications, be placed on deposit from November 3<sup>rd</sup> to December 15<sup>th</sup>.
  - Recommend that the Full Council approve that the revised UDP, as amended by the Further Proposed Modifications, be adopted as the Council's Replacement Plan unless, in the opinion of the Director of Planning further substantive objections to the proposed further modifications are received.

#### **3.0 FINANCIAL IMPLICATIONS**

- 3.1 The costs of progressing the UDP to adoption will be covered by the Planning Service budget for 2003/2004.

#### **4.0 STAFFING IMPLICATIONS**

- 4.1 None specific.

## **5.0 ENVIRONMENTAL IMPLICATIONS**

- 5.1 The Replacement UDP, once adopted, will provide a statutory basis for making decisions on development in the Borough which will enhance the environment, promote regeneration and ensure that development is more sustainable.

## **6.0 LEGAL IMPLICATIONS**

- 6.1 The UDP is a key document in the exercise of the Council's planning functions. Planning applications must be determined in accordance with the UDP unless material considerations indicate otherwise.
- 6.2 In proposing to further modify and adopt the Plan, the Council should be able to successfully demonstrate that it has followed the correct procedures. Otherwise, a legal challenge to the adoption of the Plan could be mounted by an aggrieved party by way of High Court proceedings if the Council has failed to follow procedure or has otherwise contravened the Town & Country Planning Act 1990 (including by ignoring relevant considerations or taking into account irrelevant considerations).

## **7.0 DETAIL**

### **Introduction**

- 7.1 The Council's Response to the UDP Public Inquiry Inspector's Report and Proposed Modifications to the Plan were approved by the Executive on 6<sup>th</sup> March 2003. The Proposed Modifications were placed on formal deposit between 4<sup>th</sup> June and 21<sup>st</sup> July 2003.
- 7.2 There are two documents accompanying the report for consideration. These are:
- a) Proposed Modifications – Council's Response
  - b) Schedule of Proposed Further Modifications

### Council's Response

- 7.3 The Council must formally respond to each of the representations received to the Proposed Modifications by indicating whether it, firstly, considers that they are made in accordance with the regulations or not. In the case of objections made in accordance with the regulations, the Council must then state whether it agrees or disagrees with the representation, giving its reasons and indicating whether the Plan will be further modified in response. The most important representations and the Council's proposed response are set out and explained in paragraphs 7.10 – 7.23 below.

### Schedule of Modifications

- 7.4 Officers are proposing a number of further modifications to the Plan in response to the representations received following the deposit of the Proposed Modifications. A draft schedule listing all of the further proposed modifications to the Deposit Draft (as amended by the Proposed Modifications) has also been prepared. This document shows how a number of the paragraphs and policies are proposed to be further modified together with the reasons for them.

- 7.5 The proposed further modifications do not raise planning issues of great significance. The principal modifications are explained in paragraphs 7.10 -7.23 below.

### **Procedure and Timetable**

- 7.6 The procedures the Council has to follow are subject to detailed Regulations and Guidance provided by the Department of the Environment. Copies of the guidelines entitled 'Development Plans' are available in the Members Room.
- 7.7 Although many of the objections do not raise significant issues, there are a number which require further modification to the Plan and these must be placed on formal deposit for a further 6 week period (proposed to commence on November 3<sup>rd</sup> and end on December 15<sup>th</sup>). If there are no further objections during this deposit period then the Plan will be adopted at the end of it. However, if there are further objections but in the opinion of the Director of Planning these are not substantive then officers are seeking authorisation to give notification of the intention of the Council to adopt the Plan. This can be done 28 days after the notice is first published in a local newspaper. If the Secretary of State has no objections and does not 'call in' the Plan (require further modifications or another public inquiry), and if no 'legal challenges' or applications for 'judicial review' are made by other parties during this period, then the Adopted Plan becomes the Statutory Plan for the whole of the Borough replacing the UDP adopted in 1996.
- 7.9 It is proposed, in the Government's Planning and Compulsory Purchase Bill currently passing through Parliament that the Spatial Development Strategy (SDS) for London, i.e. the London Plan, will take on the status of a development plan when it is adopted. If this provision is eventually enacted then once both documents are adopted, the Council will have to have regard to the policies in both in reaching decisions on planning applications.

### **Analysis of Key Representations and Proposed Response**

- 7.10 105 representations, mostly objections but some supporting, the Proposed Modifications, were submitted by 15 agencies (including the Government Office For London and the Greater London Authority), organisations and individuals. Housing strategy and policy issues accounted for the majority of the submissions (43), the Wembley Area strategy (19) and the Town Centre and Shopping policies (14) also attracted substantial comments.
- 7.11 None of the representations raise fundamental policy issues which cannot be addressed, where appropriate, without significantly weakening the original intent of the UDP's land use strategy and planning policies. Nor do they raise issues which are likely to either justify the Secretary of State's exercise of 'call in powers', or support any serious legal challenge and application for judicial review. The following sections provides a summary of the key representations and any further proposed modifications.

## Housing

- 7.12 The overwhelming majority of the housing representations relate to affordable housing issues and, in particular, to the proposed thresholds of 15 or more dwellings and the residential site size of 0.5 hectares. The Notting Hill Housing Group has strongly argued that the Council should ignore the Inspector's recommendations and reduce the threshold to the previous 10 dwellings. Several housing developers and land owners have objected to the Council's intent to seek to negotiate an affordable housing element on sites below the threshold.
- 7.13 The Greater London Authority (GLA) has requested the Council to further modify the proposed affordable housing policies so as to enable the implementation of a lower threshold should revised Government guidance permit. Officers, however, consider that this GLA strategy could be legally very problematic and even give cause for either a Secretary of State 'call in' or a legal challenge. Officers have, in this context, noted the Government Office for London's recent instruction to LB Hammersmith and Fulham to amend their proposed 'no minimum threshold' affordable housing policy.
- 7.14 Officers, instead, advise that if the Government does revise its planning guidance, so as to permit lower affordable housing thresholds, the Council should consider the adoption of a specific new affordable housing policy (by 'Council Resolution'). Although not having the same weight as a Statutory Development Plan policy, such a revised policy would be a very strong 'material consideration' in determining potential affordable housing applications.

## Town Centres and Shopping

- 7.15 There are a number of representations relating to the detail of policies which deal with the sequential approach to development. Some further changes are proposed to policies STR2 and SH3A to more closely align policy with Government guidance set out in PPG6 on Town Centres and Retail Development, including subsequent Ministerial clarification, and to meet a further objection from GOL.

## Wembley Regeneration Area

- 7.16 There are a substantial number of objections to policies dealing with development at Wembley and how this would relate to the town centre. Specifically, in response to an objection from the GLA, further modifications to the supporting text to policy WEM3 are proposed. These modifications explain how proposals for development east of the town centre will be considered. None of the other objections to policies in the chapter give rise to a need make further modifications. The most significant of these are objections from Quintain Estates & Development and Wm Morrison Supermarkets to the limit of 2000 sq metres on the size of any foodstore which may be proposed east of Wembley town centre. The reason for the limit is to allow for the development of a new foodstore within the existing town centre. This was supported by the Inspector.

### Open Space, Sport and Recreation

- 7.17 The Government Office for London (GOL) has requested that the reference to the re-provision of Willesden Sports Centre and Athletics Stadium' in Policy OS20a should be deleted on the grounds that it appears premature to conclude that there are no other alternative sequentially preferable locations. Officers, however, would respond by observing that the sequential approach should not be definitively applicable in the case of an existing large scale sports facility which cannot be reasonably accommodated elsewhere. Furthermore, officers consider that the re-provided facility in this location will be of particular benefit to the adjacent Willesden City Academy, whose curriculum will emphasise sports.

### Transport and Parking

- 7.18 Generally objections are seeking greater flexibility in the application of parking standards on development. Concern has been expressed that Brent's standards place too much emphasis on national guidelines with insufficient account being taken of local circumstances. No further changes are proposed to the standards which are now maximum standards for all land uses including housing. The standards for housing development generally accord with those included in the draft London Plan. As explained above the London Plan will have development plan status once it is adopted and the Planning and Compulsory Purchase Bill becomes law next year.

### Employment

- 7.19 The Notting Hill Housing Group objected to the lack of a site exceptions policy for affordable housing on local employment sites. However, the Council has accepted the Inspector's recommendation that this policy be deleted.
- 7.20 The Government office for London objected to EMP15a on the basis that it did not apply the sequential approach to the location of major trip-generating development. The policy had directed major purpose built public office and commercial developments to the National Stadium Policy Area and the Park Royal Gateways while also permitting other such developments in or on the edge of town and district centres. This highlights a conflict between the established major office locations within the Wembley and Park Royal areas and the need to apply the sequential test. The emphasis of the policy has now been amended to address this concern.

### **Site Specific Proposals**

#### Former Phillips Garage, 204 Watford Road (HP 31)

- 7.21 The Sudbury Court Residents Association and Mr D O'Connor have argued that this site should be designated for a mixed use redevelopment (including retail and B1 employment) rather than for housing purposes only. However, the Council's approved Planning Brief for this site emphasises its suitability for housing, particularly family sized dwellings. It is not considered that there is a need for additional retail floorspace on the edge of the local centre.

## Disused Allotments,r/o 96- 112 Harrowdene Road

- 7.22 The Lancelot and Harrowdene Residents Association have argued for the maintenance of open space on this site. Officers consider that the Proposed Modification of this proposal requiring that any affordable housing development on this site should include an “area of public open space” should substantially address these concerns.

### **Conclusions**

- 7.23 Officers consider that the Further Proposed Modifications will not endanger the Council’s land use strategy and planning policy objectives and should not give rise to the possibility of either a Secretary of State’s ‘call in’ or legal challenge and judicial review, thereby enabling the adoption of the Council’s Replacement Plan early in 2004.

## **8.0 BACKGROUND INFORMATION**

### **8.1 Details of Documents:**

Brent UDP Revised Deposit Replacement Plan, April 2001.  
Brent’s Replacement UDP Inspector’s Report, November 2002  
Brent’s Proposed Modifications, June 2003.

- 8.2 Any person wishing to inspect the above papers should contact Ken Hullock, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex HA9 6BZ, Tel: 020 8937 5309

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