



**Scrutiny Committee
12th July 2016**

**Report from the Strategic Director of
Regeneration and Environmental
Services**

For Action

**Report for Scrutiny on
Consultation on Proposed Main Modifications to the
Development Management Policies**

1.0 Summary

1.1 On 16th January 2016 Full Council approved submission of the draft Development Management Policies Development Plan Document to the Planning Inspectorate for examination. Subsequently, hearing sessions on the Plan were held on 3rd and 4th May 2016. Having taken account of all the representations, both in writing and at the Hearing, the Inspector has advised the Council to consult on proposed Main Modifications to the Plan for a 6 week period ending 26th July. Scrutiny Committee are requested to consider the proposed Main Modifications.

2.0 Recommendations

2.1 Scrutiny Committee considers the proposed Main Modifications, as set out in the schedule attached as Appendix A.

3.0 Detail

3.1 The reasons for producing the Development Management Policies Development Plan Document derive from the need to bring Unitary Development Plan (UDP) up to date. The UDP was adopted in 2004. It is a required step in drawing up the folder of documents that will make up the borough's development plan and ultimately supersede the UDP.

The Process so far

3.2 The process of adopting the Development Plan is set out in the The Town and Country Planning (Local Planning) (England) Regulations (last amended in 2012). Consistent with this and Planning Practice Guidance early engagement/consultation took place in preparing the Plan. Following Executive's approval on 24th March 2014 consultation upon a draft Plan was undertaken from 20th June until 31st July 2014. Wide publicity was given to this. It was advertised in the local press, social media and on the website. It was made available in Brent libraries as well as online. It was advertised through posters on notice boards throughout the Borough. Letters were sent to those on the consultation database, schools, community and voluntary sector groups. Public drop in sessions were held at the Civic

Centre, Willesden Sainsbury's and as part of the Sudbury week of action. Officers presented on the policies to the five Brent Connects Forums. Similar processes took place when the Plan was formally published for representations from the 24th September to 5th November 2015.

3.3 Following approval of Full Council on 18th January 2016, Brent Council submitted the Plan to the Planning Inspectorate for examination by an independent Planning Inspector. Subsequently, hearing sessions on the Plan were held on 3rd and 4th May 2016. Having taken account of all the representations, both in writing and at the hearing, the Inspector has advised the Council to consult on proposed Main Modifications to the Plan. The Main Modifications seek to address outstanding issues raised through the examination process which relate to soundness. In addition the Council will also be consulting on Minor Modifications, these are changes that do not relate to soundness, e.g. typographical or factual changes. For a Plan to be found sound it must be positively prepared, justified, effective and consistent with national policy. The proposed Main Modifications, as summarised below and included in full in Appendix A, are undergoing a 6 week consultation ending 26 July 2016. The minor modifications are not appended due to the more limited importance of their content on the outcomes of the Plan.

3.4 Summary of Modifications

Modification	Reason
Introduction	
Additional text on the relationship between the Plan, other policy documents and the Old Oak and Park Royal Development Corporation (OPDC) Local Plan.	To clarify that the OPDC is now the local planning authority for parts of the borough, and within these areas their Local Plan policies will apply. In addition, to clarify the relationship between the Plan and the Sudbury Neighbourhood Plan and Wembley Area Action Plan.
Town Centres	
Modifications to policy DMP 3 to set a cap specific to neighbourhood parades, on the proportion of takeaways, betting shops, adult gaming centres or pawnbrokers.	To address concerns about the appropriateness of applying the same cap to both town centres and neighbourhood parades, as parades are smaller in scale.
To specify the restriction on takeaways and shisha cafes within 400 metres of a secondary school or further educational establishment is to be measured from the entrance/exit point of the building.	To provide clarity as to how the 400 metres will be measured and also for consistency with the approach taken in the Wembley area Action Plan.
Shop Front Design and Forecourt Trading to be a separate policy, rather than part of policy DMP 2 on Strong Town Centres.	To clarify that this policy applies both to town centres, neighbourhood parades and isolated shop units.
Built Environment	
Additional text to be added to Policy DMP 7 on heritage assets, stating that extensions should not overly dominate buildings and where demolition is proposed within a conservation area, a befittingly-designed replacement will be required with appropriate mitigation measures in place to ensure the replacement is constructed.	Originally this text was included as supporting text, but it is proposed to include this in the policy wording to give it greater strength and importance.
Environmental protection	

Inclusion of policies on managing flood risk and on site water management and surface water attenuation.	In addition to existing policy on flood risk and drainage in the NPPF and London Plan the Environment Agency sought local policies on these issues to further emphasise their importance.
Transport	
The policy approach is to ensure development doesn't result in the loss of more than one car parking space on heavily parked streets. A modification is proposed to clarify in supporting text that in exceptional cases, where it can be justified, greater flexibility may be allowed.	This allows for a degree of flexibility where there may be merit in allowing the loss of more than one car parking space. For example where off-street parking provided as part of a proposed development together with other measures would reduce the on-street parking demand compared to the existing situation.
Employment	
Policy DMP 14 to specify that where poorly performing employment land is released for housing, the residual land value (which is applied in viability assessments which ascertain affordable housing levels) should reflect the fact that the site will be of low quality for employment uses.	To ensure viability assessments reflect the true value of the land, and prevent speculation on land values impacting on the amount of affordable housing secured on former employment sites.
Housing	
Policy DMP 15 to specify on major development sites, where the proportion of affordable housing agreed is significantly below 50%, the viability of the scheme will be re-appraised at agreed stages to identify if a higher level of affordable housing can be achieved.	To ensure mechanisms are built into planning consents to ensure affordable housing levels are maximised.
Amendments to supporting text to clarify the distinction between social and affordable rented accommodation, and how each tenure is secured.	To reflect that due to a change in national policy and the availability of subsidy social rented properties are less likely to be provided as part of most developments. Social rented accommodation is generally only delivered where the Council is the developer or landowner, or other registered providers are seeking to provide such tenures as part of an affordable housing mix. Where this is not the case affordable rented dwellings (defined as up to 80% market rent) will form the rented element of the affordable housing sought.
Community Facilities	
Amendment to policy DMP 21 to state where applications for redevelopment of a public house are received, viability assessments should consider both the potential for continued on-going use as a public house and also as an alternative community facility.	To ensure that where continued use as a public house is not viable, the potential for the premises to be used as an alternative community facility is also explored.

Next Steps

- 3.5 All comments received during the consultation will be submitted to the Inspector. The Inspector will consider all comments received, but ultimately it is they who will decide which modifications are required to make the Plan sound. The Inspector will then issue a report, which is likely to recommend the Plan is adopted with modifications. If the Council wishes to adopt the Plan it must accept the modifications recommended by the Inspector.

4.0 Financial Implications

- 4.1 The preparation and ultimate adoption of the Development Management Policies DPD will provide a more up to date statutory Plan which carries greater weight in making planning decisions, which leads to fewer appeals and reduced costs associated with this. It also provides greater certainty for developers who are more likely to bring forward sites for development in the knowledge that schemes which comply with the requirements of the Plan have a good chance of receiving planning consent.
- 4.2 Assuming that the Inspector considers the evidence in support of the Plan to be robust, costs associated with the examination and adoption process are likely to be approximately £40,000. This will be fully funded from the departmental projects budget.

5.0 Legal Implications

- 5.1 The preparation of the Local Plan, including the Development Management Policies DPD, is governed by a statutory process set out in the Planning and Compulsory Purchase Act 2004, The Town and Country Planning (Local Planning) (England) Regulations (last amended in 2012) and associated Government planning guidance. Once adopted the DPD will be part of the development plan and have substantial weight in determining planning applications and will supersede the remaining 'saved' parts of the UDP.

6.0 Diversity Implications

- 6.1 The Equality Act 2010 introduced a new public sector equality duty under section 149. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council must, in exercising its functions, have "due regard" to the need to:
1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 2. Advance equality of opportunity between people who share a protected characteristic and those who do not.
 3. Foster good relations between people who share a protected characteristic and those who do not.
- 6.2 Full statutory public consultation is being carried out in the process of preparing and adopting the DPD. An Equalities Impact Assessment has been undertaken. The impacts have been assessed as being positive in relation to younger people, ethnic minority groups and those with a disability, specifically related to policies around limiting takeaways and shisha premises in the vicinity of schools, limiting betting shops and pay day loans and also in seeking to provide suitable affordable housing to meet needs.

7.0 Staffing/Accommodation Implications (if appropriate)

7.1 None

Background Papers

Draft Development Management Policies (September 2015), Brent Council

Contact Officers

Any person wishing to inspect the above papers should contact Paul Lewin, Planning Policy & Projects 0208 937 6710

Amar Dave

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Appendix A

Development Management Policies Development Plan Document Submitted For Examination January 2016.

Table of main modifications to the Publication Version of the Plan September 2015

Modifications proposed June 2016

(N.B. Modifications that were proposed on submission of the Plan for Examination are shown in red, modifications proposed as a result of the Examination Hearings are shown in blue. The existing text deleted shown as struck-through and new text inserted is underlined. Repositioned text shown in green.

Main Modifications

Policy / paragraph / map	Amendment	Reason
1.1	<p>This Development Management Policies document it sets out the Council's policies which along with other policies within the Development National Planning Policy Framework, London Plan, Brent Local Plan and Neighbourhood Plans will be used for the determination of planning applications for development in the borough. The National Planning Policy Framework and associated National Planning Practice Guidance sets out the Government's requirements from the planning process in England. Local Planning Authorities are required to plan for their areas and make decisions on planning applications that are consistent with national policy. Within London there is strategic policy set out by the Mayor in the London Plan, this also has to be consistent with national policy. Brent's Local Plan has to be consistent with both national policy and the London Plan. There is also an opportunity but not a requirement for neighbourhoods to adopt neighbourhood plans. Neighbourhood Plans generally seek to provide a finer</p>	Typographical correction and clarification sought by the Inspector during the examination hearings.

grain of planning policy for their areas, focussing on very local issues. Again however, they have to be consistent with national policy and strategic policy set out in the London Plan and Brent's Local Plan. To date, whilst there has been interest in neighbourhood planning in Brent, only one neighbourhood plan has been adopted in Brent; the Sudbury Town Neighbourhood Plan in 2015.

1.2

Area of Brent in which the Brent Development Management Policies Document will apply

From 1st April 2015 a Mayoral Development Corporation; the Old Oak and Park Royal Development Corporation (OPDC) became the Local Planning Authority for the purpose of plan making and determining planning applications within the OPDC area. This includes areas within the administrative boundaries of the London Boroughs of Brent, Ealing and Hammersmith & Fulham. The OPDC is taking forward its own Local Plan for its area which it is anticipated will be adopted in 2018. As such the Brent Development Management Policies Document only applies to the remaining area of Brent outwith the OPDC boundary, where the Council continues to be the Local Plan making authority. The existing adopted Brent Local Plan documents will remain as within the OPDC boundary until they are replaced by the OPDC Local Plan.

Clarification sought by the Inspector sought by the Inspector during the examination hearings.

1.23

The Council is required to prepare the Local Plan by the Planning and Compulsory Purchase Act 2004 (as amended). The Local Plan is made up of a number of documents. This includes this Development Management Policies document, as well as the Core Strategy (this sets out strategic policies such as the number of houses to be built and additional to be provided jobs in the Borough), Site Specific Allocations Development Plan Document (which identifies uses and development principles for major development sites in Brent), the Wembley Area Action Plan (focussing on Wembley town centre and the regeneration around the National Stadium) and the Joint West London Waste Plan (identifying sites for waste facilities and how waste will be dealt with). Policies within the Wembley Area Action Plan area will take precedence where there are locally specific policies covering subjects that might also be covered by this Plan. The Local Plan will also be supplemented by more detailed guidance in the

Clarification sought by the Inspector sought by the Inspector during the examination hearings.

	form of Supplementary Planning Documents. The documents that make up the Local Development Plan are illustrated in Figure 1.	
DMP 1	<p>Subject to other policies within the development plan, development will be acceptable provided it is:</p> <ul style="list-style-type: none"> a. of a location, use, concentration, siting, layout, scale, type, density, materials, detailing and design that provides high levels of internal and external amenity and complements the locality; b. satisfactory in terms of means of access for all, parking, manoeuvring, servicing and does not have an adverse impact on the movement network; c. provided with the necessary physical and social infrastructure; d. preserving <u>conserving</u> or enhancing the significance of heritage assets and their settings; e. <u>sustainable</u>, and maintaining or enhancing sites of ecological importance; f. safe, secure and reduces the potential for crime; g. not unacceptably increasing exposure to flood risk, noise, dust, contamination, smells, waste, air quality, light, other forms of pollution and general disturbance or <u>detrimentially impacting on air or water quality</u>; h. retaining existing blue and green infrastructure including water ways, open space, high amenity trees and landscape features or providing appropriate additions or enhancements; and i. resulting in no loss of community facilities or other land/buildings for which there is an identified need. 	Main modification for clarification following representations from Historic England for consistency with the NPPF and the Environment Agency to embrace both water and air quality.
2.8	Heritage assets include a wide variety of statutorily designated and non-designated features. Some are protected by law and cannot be materially altered without consent, e.g. listed buildings and scheduled monuments. This statutory protection together with national planning policy also places a legal duty on the Council to seek to preserve <u>conserve</u> or enhance the significance of such assets and their settings.	Typographical correction and change sought by the Planning Inspector at the Hearings to make it consistent with the content of Policy DMP7.
DMP 2	<p>Supporting Strong Centres</p> <p>Design</p> <p>Proposals for shop fronts and forecourts will be required to retain shop fronts of</p>	Main modification sought by Inspector at the Examination Hearings as this element of the policy

~~architectural or historic merit, demonstrate a high quality of design, complementing the building and adjoining properties.~~

~~Forecourt trading will be permitted where it does not cause an obstruction to pedestrians or nuisance to neighbouring residential occupiers.~~

Diversity of uses

Non-A1 or A2 uses will be permitted within town centres where:

- a. it would not reduce the proportion of frontage in A1 and A2 use to less than 65% of the primary frontage; or
- b. if vacancy rates exceed 10% of primary frontage it would not reduce the proportion of frontage in A1 and A2 use to less than 50%; and
- c. the proposal provides, or maintains, an active frontage.

Unviable secondary frontage on the periphery of town centres will be acceptable for residential development.

Retail Impact Assessments

Proposals involving 500 sqm gross retail floorspace or above, which are outside of town centres and do not accord with the Local Plan, should be accompanied by a Retail Impact Assessment.

Meanwhile Uses

The use of vacant sites or buildings for occupation by temporary uses that will benefit a town centre's viability and vitality will be permitted.

was identified to apply both in and outside town centres. This removed text will be included in a main modification of a new additional policy DMP4a.

DMP 3

Non-Retail Uses

Betting shops, adult gaming centres and pawnbrokers

Betting shops, adult gaming centres and pawnbrokers will be permitted where it will result in:-

- no more than 4% of the town ~~centre or neighbourhood centre~~ frontage consisting

Main Modification to address concerns about the appropriateness of the application of the percentage within neighbourhood parades

- of betting shops;
- no more than 3% of the town ~~centre or neighbourhood centre~~ frontage consisting of adult gaming centres or pawnbrokers/payday loan shops;
- no more than 1 unit or 10% of the neighbourhood parade frontage, whichever is the greater, consisting of betting shops, adult gaming centres or pawnbrokers/payday loan shops;
- a minimum of 4 units in an alternative use in-between each.

which might not have much frontage

Takeaways

Subject to other policies within the development plan, takeaways will be approved except where it would result in:-

- an A5 use within 400 metres of a secondary school or further education establishment entrance/exit point;
- more than 6% of the units within a town ~~or neighbourhood~~ centre frontage in A5 use;
- more than 1 unit or 15% of the units within a neighbourhood parade, whichever is the greater, in A5 use;
- less than two non-A5 units between takeaways; or
- on-street parking in front of the premises creating highway safety problems.

Policy WEM 26 in the Wembley Area Action Plan applies to takeaways in Wembley and Wembley Park centre.

Shisha Cafés

Shisha Cafés will only be permitted outside 400 metres of a secondary school or further education establishment entrance/exit point.

DMP 4 Neighbourhood Centres Parades and Isolated Shop Units

Loss of A1, A2, or A3 uses or launderettes in neighbourhood centres parades or isolated shop units outside designated town centres will be permitted where the centre or unit ~~is a~~.

Main Modifications following hearing sessions taking into account the main modifications to DMP3.

	<p>is within 400 metres of equivalent alternative provision; <u>and</u> <u>b-a</u>. is unviable; or <u>e b</u>. the proposal will provide a community facility for which there is a demonstrable need.</p> <p><u>Where there is no equivalent alternative provision within 400 metres, loss will not be permitted unless retention is unviable for these range of uses with associated evidence to show that the premises having been vacant and actively marketed for a minimum of 2 years.</u></p>	<p>Main modification to reflect the local importance of launderettes and clarity sought by the Inspector about premises outside of 400 metres and the Council's more likely pragmatic approach to loss where there is no reasonable prospect of the unit being used.</p>
<p>Paragraph 3.14a</p>	<p><u>Shopfront Design and Forecourt Trading</u></p> <p><u>Shop fronts play a key role in establishing the character of Brent's town centres and neighbourhood parades. Policy DMP 4a is to ensure shop fronts and forecourts contribute to an attractive environment. It is supplemented by detailed guidance in the emerging Shop Front Supplementary Planning Document.</u></p>	<p>Modification provides introductory text for Policy DMP4a main modification.</p>
<p>DMP 4a</p>	<p><u>Shop Front Design and Forecourt Trading</u></p> <p><u>Proposals for shop fronts and forecourts will be required to retain shop fronts of architectural or historic merit, demonstrate a high quality of design, complementing the building and adjoining properties.</u></p> <p><u>Forecourt trading will be permitted where it does not cause an obstruction to pedestrians or nuisance to neighbouring residential occupiers.</u></p>	<p>Main Modification related to DMP 2 to ensure it is clear policy applies to both town centres and neighbourhood parades as sought by the Planning Inspector at the Examination Hearings.</p>
<p>DMP 6</p>	<p>Proposals for hotel development must be inclusive and accessible with applications for <u>detailed planning permission</u> to be accompanied by Accessibility Management Plans.</p>	<p>Main modification issued for clarification as it is recognised at outline application stage such information may not be available.</p>

<p>DMP 7</p>	<p>Proposals for or concerning <u>affecting</u> heritage assets should:</p> <ul style="list-style-type: none"> a. demonstrate a clear understanding of the <u>archaeological</u>, architectural or historic significance and its wider context; b. provide a detailed analysis and justification of the potential impact <u>(including incremental and cumulative)</u> of the development on the heritage asset and its context as well as any public benefit; c. retain buildings, structures, architectural features, hard landscaping and spaces <u>and archaeological remains</u>, where their loss of which would cause harm; d. sustain and enhance the significance of the heritage asset, its curtilage and setting, respecting and reinforcing the streetscene, <u>frontages</u>, views, vistas, street patterns, building line, siting, design, height, plot and planform <u>and ensure that extensions are not overly dominating</u>; e. contribute to local distinctiveness, built form, character and scale of heritage assets by good quality, contextual, subordinate design, <u>and</u> the use of appropriate materials and expertise, <u>and improving public understanding and appreciation</u>; f. <u>where demolition is proposed within a conservation area, provide a befitting-designed replacement with appropriate mitigation measures in place to ensure the replacement is constructed.</u> 	<p>Main modifications for clarification that archaeological heritage assets are also addressed. Modifications also proposed regarding concerns from the Inspector at the Examination Hearings about the strength of the policy in relation to issues identified in the supporting text.</p>
<p>4.23</p>	<p>Heritage assets are valued by the public as established and tangible evidence of the past culture, providing a sense of permanence and belonging. Once lost or detrimentally altered, heritage assets cannot easily be reinstated and it is important that the most valuable are not needlessly or inadvertently destroyed. Policy DMP 7 <u>Brent's Heritage Assets</u>, therefore, specifically seeks <u>to</u> protect Brent's heritage <u>and seeks to</u> ensure that the case for conservation and enhancement is fully considered when assessing all proposals for new development. There must also be <u>The Policy also seeks to safeguard the</u> potential for further investigation on sites and buildings where the <u>heritage asset's</u> significance may hitherto be acknowledged and as archaeological sites become available be previously undiscovered. <u>Archaeological Priority Areas and Archaeological Sites indicate where, according to existing information, there is significant known archaeological interest or particular potential for new discoveries. However, sites of archaeological importance could be discovered elsewhere in the borough.</u></p>	<p>Clarification and greater reference to archaeological assets.</p>
<p>4.25</p>	<p>The Council supports and recognises that change is necessary, but change needs to be</p>	<p>Clarification and</p>

	<p>managed in a way which does not compromise heritage significance and exploits opportunities for enhancement. Any proposal must have special regard to the desirability of preserving a heritage asset or its setting or any features of special <u>archaeological</u>, architectural or historic interest which it possesses. When granting consent, special regard will be given to matters of detailed design, especially within main frontages, prominent elevations and roofs, and to the nature, quality and type of materials proposed to be used. This is because some forms of development, including extensions, roof extensions, dormers and outbuildings may not be subordinate (overly dominating) <u>to the a</u> property, harming its character, integrity and appearance. It is also important to be mindful that even the most minor changes or incremental alterations such as window replacement and the loss of original fittings and features can harm the significance of a property and a heritage asset.</p> <p><u>Special regard will be given to proposals near or affecting heritage assets identified as at risk on Historic England’s Heritage at Risk Register. The Council will use its development management and other planning powers to secure the future viable use of the borough’s heritage assets. For archaeological assets, the layout of the development, extent of basements and design of foundations may need to provide for physical preservation. If significant archaeological remains are not to be preserved in-situ then appropriate investigation, analysis, publication and archiving will be required.</u></p>	<p>typographical error.</p>
<p>4.26</p>	<p>When considering any planning application (including demolition) that affects a conservation area the Council will require the retention of all buildings and structures which make a positive contribution to the significance of a conservation area. Similarly new proposals must pay special attention to the desirability of <u>sustaining conserving</u> or enhancing the character or <u>and</u> appearance of that area. This can be achieved either by a positive contribution to preservation or by development which leaves character or <u>and</u> appearance unharmed, that is to say <u>sustained conserved</u>.</p>	<p>Correction to be consistent with national policy.</p>
<p>6.5</p>	<p>The <u>boundaries of the</u> borough’s Quiet Areas, as shown on the Policies Map, are <u>considered to be consistent with the open space designations for</u> Fryent Country Park, The Welsh Harp, Roundwood Park/Willesden New Cemetery, Paddington cemetery an Alperton Cemetery <u>as shown on the Policies map and can be provided by the Planning Policy Team on request.</u></p>	<p>Clarification as the Quiet Areas have not been added due to it reducing the clarity of the Policies Map</p>

6.22	Additional sentence. <u>This has to take account of the latest climate change allowance as identified by the Environment Agency, but take a precautionary approach to reducing long term risk based on the fact that such allowances are subject to periodic review.</u>	Clarification sought by the Inspector
DMP 9	Developments adjacent to the Blue Ribbon network <u>and other tributaries</u> , or waterways with potential to negatively impact on its water quality will be required to contribute towards restoration and naturalisation of waterways, and seek to enhance water quality and biodiversity in accordance with the objectives of the Water Framework Directive <u>and Thames River Basin Management Plan</u> .	Main modification as agreed with the Environment Agency
<u>DMP 9a</u>	<p><u>Managing Flood Risk</u></p> <p><u>A. Proposals requiring a Flood Risk Assessment must demonstrate that the development will be resistant and resilient to all relevant sources of flooding including surface water. The design and layout of proposals requiring a Flood Risk Assessment must contribute to flood risk management and reduction and:</u></p> <ul style="list-style-type: none"> <u>a. minimise the risk of flooding on site and not increase the risk of flooding elsewhere;</u> <u>b. wherever possible, reduce flood risk overall;</u> <u>c. ensure a dry means of escape;</u> <u>d. achieve appropriate finished floor levels which should be at least 300mm above the modelled 1 in 100 year plus climate change flood level; and</u> <u>e. not create new basement dwellings in areas of high flood risk.</u> <p><u>B. Proposals that would fail to make appropriate provision for flood risk mitigation, or which would increase the risk or consequences of flooding, will be refused.</u></p> <p><u>C. Sites that are mapped as falling within Developed Zone 3B will be treated as having a high probability of flood risk, for the purposes of applying the sequential and (where necessary) exception tests, provided that the development would be safe and would not increase the risk or severity of flooding elsewhere. Opportunities will be sought from the redevelopment of sites in Developed Zone 3B to restore the natural function and storage capacity of the floodplain.</u></p>	Main modification as agreed with the Environment Agency as a result of the Inspector's opinion set out at the Examination Hearings

	<u>D. Sites that are mapped within Greenfield Zone 3B will be treated as functional floodplain for the purposes of applying the sequential and (where necessary) exception tests. Proposals that involve the loss of undeveloped floodplain or otherwise would constrain its natural function, by impeding flow or reducing storage capacity, will be resisted.</u>	
6.26	<u>On Site Water Management and Surface Water Attenuation</u>	Main modification related to Policy 9a
6.27	<u>The London Plan in Policy 5.15 ‘Water Use and Supplies’ identifies the pressure on London’s water supply related to existing scarcity which will be exacerbated by climate change and population growth. Similar to most of London, Brent also has areas of combined sewer network which does not have the capacity to deal with extreme events, consequently causing pollution to water courses. As such consistent with London Plan policy it is necessary to ensure that water use is limited to protect supply, but also reduce potential for pollution. The 105 litres target is consistent with Part G2 of the optional requirement of the 2010 Building Regulations which specifies maximum consumption values for water fittings. Conditions will be applied to planning permissions to ensure the requirement to meet these building regulations.</u>	Main modification related to Policy 9a
6.278	<u>On 6 April 2015 it became a national requirement for all major development and all developments in areas of flood risk to utilise sustainable urban drainage systems (SuDS), unless demonstrated to be inappropriate. London Plan policy 5.13 requires development to aim to achieve greenfield run-off rates and ensure that surface water is managed as close to its source as possible in accordance with the drainage hierarchy. Brent Council will assess applications involving SuDS in its role as lead local flood authority.</u>	Repositioning of text related to main modification associated with Policy 9a
DMP 9b	<u>On Site Water Management and Surface Water Attenuation</u> <u>A. Proposals for new development will be required to make provision for the installation and management of measures for the efficient use of mains water and for the control and reduction of surface water run off. Substantial weight will be afforded to the target for mains water consumption of 105 litres or less per person per day and to the achievement of greenfield run off rates. Where greenfield run- off rates cannot be</u>	Main modification as agreed with the Environment Agency as a result of the Inspector’s opinion set out at the Examination Hearings

achieved this should be clearly justified by the applicant.

B. The design and layout of major development proposals will be required to:

a. use appropriate sustainable drainage measures to control the rate and volume of surface water run-off;

b. ensure where feasible separation of surface and foul water systems;

c. make reasonable provision for the safe storage and passage of flood water in excessive events; and

d. demonstrate adequate arrangements for the management and maintenance of the measures used.

C. Proposals for minor developments, householder development, and conversions should make use of sustainable drainage measures wherever feasible and must ensure separation of surface and foul water systems.

D. Proposals that would fail to make adequate provision for the control and reduction of surface water run off will be refused.

6.289	<u>Information in support of applications</u>	Repositioning of text related to main modification associated with Policy 9a
6.2930	<u>The developer is to provide Water Quality and Biodiversity statement and cost benefits for conventional and SuDS system. It must also be demonstrated SuDS have been designed in a way which contributes to the delivery of Brent's Surface Water Management Plan and other policy objectives, including enhancements to biodiversity and water quality</u>	Repositioning of text related to main modification associated with Policy 9a
6.301	<u>Evidence will be required alongside planning applications to demonstrate that the proposed standards of operation are appropriate and clear arrangements are in place for ongoing maintenance.</u>	Repositioning of text related to main modification associated with Policy 9a

7.8	Only where it is clearly demonstrated carbon reduction targets cannot be fully met on site, any shortfall may be off-set through 'Allowable Solutions' <u>local carbon offsetting</u> .	Correction following changes to national policy.
7.13	Only if the feasibility study in the Energy Assessment demonstrates that all on-site options have been considered and are not feasible, will Allowable Solutions <u>carbon offsetting</u> be considered. In accordance with emerging London Plan Policy 5.2 developers should actively seek to deliver their remaining Allowable Solutions <u>carbon savings</u> through local carbon saving projects. Brent Council will establish a price per tonne for carbon or use a nationally recognised price such as that set by the Zero Carbon Hub, and seek payment into a local fund which will be used to deliver Brent's emerging Allowable Solutions <u>carbon offsetting in the borough Strategy</u> .	Correction following changes to national policy.
DMP 11	Other than the North Circular Road , TLRN and London Distributor Roads applications for the creation of an access to a highway or where development will result in the increased use of existing access points will be acceptable where:	Main modification sought by the Inspector. As the North Circular Road is TLRN, this distinction is unnecessary in this part of the policy.
8.18	Heavily Parked Streets have been identified across the borough. This has been done for two reasons: To help manage new residential development parking without detrimental impact on highway safety; and so that any new access created would not result in an excessive loss of on-street parking spaces where there is a current shortage. <u>In relation to criterion c) of the policy, greater flexibility to the loss of more than one parking space may in exceptional cases be justified. An example might be where off-street parking provided as part of a proposed development together with other measures would reduce the on-street parking demand compared to the existing use.</u>	Clarification sought by the Inspector at the Hearings.
DMP 14	<p>Employment Sites</p> <p>To encourage appropriate mixed use environments and local employment generation the Council will support the continued provision of employment sites. It will seek to limit their loss to approximately 11.5 ha in the period to 2029.</p> <p>Employment Land within SIL and LSIS</p>	Main modification to allow greater flexibility with regards to site characteristics and more certainty on the measure of employment provision.

In recognition of the weight attached to retaining SIL and LSIS allocations in policies elsewhere in the Development Plan SIL and LSIS will only be released where:

- a. it is a low quality employment site identified as suitable for release in the Employment Land Demand Study; and
- b. it can be shown to be integral to and delivered as part of a wider comprehensive housing-led regeneration scheme with substantial benefits to Brent, providing at least 50% affordable housing, and consistent with the wider objectives of the Development Plan and/ or is of strategic significance to London; or
- c. when it delivers social and physical infrastructure of a substantial scale, for example secondary schools, for which there is a significant identified Brent need and which cannot reasonably be provided on other sites in the Borough.

For developments falling under criteria a) the development shall incorporate employment uses providing ~~high density employment~~ an efficient use of land on ~~approximately~~ 20% of the site ~~area~~.

The Council will expect the existing restrictive allocation of the site as SIL or LSIS and the fact that the site will be of low quality for employment use to be recognised in the residual land value assumed for the site.

Local Employment Sites

The Council will allow the release of Local Employment Sites to non-employment uses where:

- a. continued wholly employment use is unviable; or
- b. significant benefits consistent with the wider objectives of the Development Plan are achieved.

Main modifications sought by the Inspector at the Examination Hearings re: changing the term high density and related to the additional flexibility re: viability, which will be also be incorporated into the policy's supporting text.

Where non-employment uses are proposed the site shall incorporate the maximum amount of existing floorspace type [or Managed Affordable Workspace](#) possible ~~or if unviable employment space that meets an identified need in the borough.~~

Work-Live

Work-Live units will be acceptable where they are managed by an organisation committed to their use primarily for employment, as evidenced by a management plan.

Paragraph 9.2

To help retain an appropriate balance of supply and demand of industrial land over the planning period the Brent Employment Land Demand Study identifies low quality employment sites, where a more flexible approach to changes of use away from industrial uses could be appropriate. This will be taken into account in identifying which sites are suitable for release, alongside the need to achieve the strategic objectives in the Development Plan, to achieve at least 50% affordable housing on sites and to meet an identified need for secondary schools. [It is recognised for instance that some sites might have unusually high remediation or other abnormal costs to be met to make them acceptable as a residential environment. As such, in the evidence used within any viability testing to support the case for any affordable housing provision below 50% on an individual scheme, the Council will expect the benchmark land value of the site to be consistent with the Existing Use Value \(EUV\) of its allocation as SIL or LSIS. An appropriate site specific premium over the EUV to provide a competitive return to the landowner will be expected within the usual 0-20% range, with most industrial sites coming forward for release anticipated to attract a premium at the lower end of the range, reflecting their existing poor quality for employment occupiers. On the basis that the owner will be seeking to argue that there is no longer a realistic prospect of continued employment use on the site, the benchmark land value should specifically exclude options which include a redevelopment of industrial or other business space.](#)

Main modification sought by the Inspector as a result of the Examination Hearings to identify that consistent with national and London Plan policy, flexibility is required in relation to viability.

Paragraph 9.2a

[Sites within SIL and LSIS which scored highly in the qualitative assessment and remain suitable for employment uses will be retained. To create mixed use areas and limit the loss of employment land and jobs, where redevelopment for predominantly residential purposes is proposed where possible \(and subject to viability\) approximately 20% of the](#)

Modification in light of changes to policy DMP14 sought by the Inspector at the Examination Hearings

site should be used for employment purposes. The type of employment use will depend on the characteristics of the site and its compatibility with the residential development, however the Council would prefer higher employment ratios and the efficient use of sites to maximise employment generation. Where the viability of delivery of affordable housing is being affected by the re-provision of employment space, the Council will seek to prioritise affordable housing delivery whilst recognising that successful places usually comprise a mix of uses, rather than being wholly residential.

to clarify that an efficient use of re-provision of employment land will be sought.

DMP 15 Affordable Housing

- a. Brent’s Core Strategy policy CP2 sets the target that 50% of new homes delivered in the borough will be affordable. The maximum reasonable amount of affordable housing will be sought on individual residential and mixed use developments on sites with the capacity to provide 10 or more homes.
- b. 70% of new affordable housing provision should be social/affordable rented housing and 30% intermediate housing at affordability levels meeting local needs.

Main modification as agreed with the Inspector at the Examination relating to consistency with the London Housing SPG on contingent obligations.

Where a reduction to affordable housing obligations is sought on economic viability grounds, developers should provide a development appraisal to demonstrate that schemes are maximising affordable housing output. The Council will rigorously evaluate such appraisals and:

Main modification in relation to the Vacant Building Credit following representations received from the GLA during the Examination process.

- 1. The developer will be required to underwrite the reasonable costs of a Council commissioned economic viability assessment
- 2. on major phased development sites or major sites where housing development commences 18 months after consent is issued, the proportion of affordable housing agreed is significantly below 50% appropriate provisions to re-appraise scheme viability will be sought at agreed stages in S106 agreements to secure contingent obligations
- 3. in most circumstances the Existing Use Value plus a premium (EUV+) approach

to assessing benchmark land value in development appraisals and viability assessments should form the primary basis for determining the benchmark land value.

Vacant Building Credit will only be applicable to:

1. the Gross Internal Area of buildings (buildings as defined in the Community Infrastructure Regulations)
2. buildings that have been in lawful use for a continuous period of less than six months in the three years before which planning permission first permits the chargeable development
3. [buildings where evidence of concerted marketing activity at appropriate rents levels and terms for the quality of the existing accommodation has taken place](#)
4. [buildings that have not been abandoned, made vacant for the purposes of development or subject to extant or recently expired planning permission for the same or substantially the same development](#)

10.9

The predominant Brent affordable housing need is for [social/affordable](#) rented accommodation [\(as evidenced by the latest Brent Strategic Housing Market Assessment\)](#). [This accommodation requires significant amounts of subsidy to be provided in new developments. Changes in national policy mean that for those submitting planning applications social rented properties are less likely to be provided as the preferred rented accommodation for affordable dwellings. In the majority cases affordable rented dwellings \(defined as up to 80% market rent\) are most likely to be proposed. The incorporation of affordable rented accommodation \(rather than social rent\) within developments has been assumed in the latest viability assessment used to support affordable housing policies. As a recognised affordable tenure the provision of such accommodation where social rent is not possible to otherwise meet affordable needs is accepted and supported by the Council. Nevertheless within the policy the Council has](#)

Clarification sought by the Inspector at the Hearings related to comments from the Home Builders Federation.

incorporated social rent to allow for situations where the Council (as a developer/landowner) or other registered providers are seeking to provide such tenures as part of the affordable housing mix. The need for intermediate affordable housing (such as shared ownership) is more limited. as such the tenure mix target ratio for affordable housing is set at 70:30 rent to intermediate housing. Whilst in terms of meeting needs this is the appropriate ratio for the borough, site specific viability considerations, site and area characteristics may result in a different appropriate mix, such exceptions could include:

10.14

NPPG provides some guidance on Vacant Building Credit. However, further clarity is needed to define qualifying buildings, floorspace measures and vacancy and whether the application of the credit is assisting a development opportunity in addition to that which might otherwise have occurred in any case. The Community Infrastructure Levy (CIL) regulations clearly define what a building is. As it is likely an assessment of existing floorspace will be used to reduce CIL liability it is sensible for the same measure to be used. The same is true of building measurements, which use gross internal area. CIL regulations also set out a timescale related to minimum time of occupation to gain exemptions to CIL liability. There is a logic in using an approach to identify the qualifying periods for vacancy that is consistent with this approach. NPPG sets out where the credit will not apply. It outlines scenarios which the local planning authority may take into account in its application having regard to the intention of national policy. It regards the intention of the national policy of the Credit of encouraging development of long term vacant sites where there is no realistic prospect of that site being used for its existing use, or there not being a realistic prospect of it being developed for other purposes without the financial incentive afforded by the Credit. Therefore to avoid any doubt it seeks to confirm that it will apply the scenarios set out in NPPG in policy DMP15 to remove the possibility of perverse incentives to delay development or provide rewards on sites that have or would in any case be subject to development proposals. In support of applications, as well as proof of vacancy for the time period, evidence of concerted marketing activity at appropriate rents levels will be required. The Council will also want to be assured in addition that no other mechanisms, such as the terms of the lease are such that they would act as a distinctive to occupation and thus promote the building's continued vacancy, e.g. a short lease period despite significant likely capital expenditure being

Main modifications to provide clarity on scope of policy following modifications made to the policy in light of representations made during the examination.

required by the tenant to make the building fit for purpose for their occupation.

Planning applications where both a Vacant Building Credit claim, and a development viability assessment to support lower than a policy level of affordable housing, are submitted, will need to ensure the Credit claim is appropriately treated in the development viability assessment.

DMP 16 Resisting Housing Loss

In addition to circumstances identified in London Plan Policy 3.14 development resulting in the net loss of residential units will be supported where:

- a. sub-standard units would be brought in line with space standards;
- b. de-conversion of flats would create a family size home (3 bed or more) resulting in the net loss of no more than one dwelling of 2 bedrooms or less;
- c. providing social or physical infrastructure to meet an identified local need.
- d. the proposed loss of housing would radically improve the sustainability of the neighbourhood

Main modification relating to concerns raised by the Inspector about the consistency of policy compared to the policy justification and the use of the term 'sustainability'.

10.23 As identified in the SHMA and as a priority provision in Brent Core Strategy Policy CP 2 provision of family accommodation (3 bed or more dwellings) to meet Brent's needs is a priority. Consequently, the de-conversion of flats into a family size dwelling will be supported where it results in the net loss of no more than one dwelling of 2 bedrooms or less.

Modification following comments from the Inspector on clarifying what is meant by family accommodation

10.28 The policy seeks to allow for efficient use of existing housing stock through the conversion of existing larger dwellings to assist in meeting housing targets. However, it also seeks to ensure continued provision of family sized housing (3 bedroom or more) houses or flats suitable for occupation by families to meet Brent's housing needs. Consequently where larger properties are suitable for conversion, schemes should include at least a 3-bed or more dwelling suitable for at least 4 people. Ideally the family sized accommodation will

Modification sought by the Inspector to eliminate inconsistencies between the policy and supporting text

	<p>This will normally be at ground floor (if there is no access to a lift) to provide for ease of entry and also have direct access to associated amenity space. maintain the quality and accessibility of existing family housing. In larger properties consideration should be given to the provision of 4-bed units for at least 5 people. Individual solutions, including modest extensions, may be appropriate to accommodate the required family size units <u>dwelling</u>s. <u>Effort should be made to provide all additional flats with amenity space.</u></p>	
DMP 17	<p>Conversion of Family Sized Dwellings</p> <p>To maintain family size housing conversion of a family sized home (<u>3 bedrooms or more</u>) to <u>two or more</u> other dwellings will only be allowed where the following criteria are met:</p> <ol style="list-style-type: none"> the existing home is 130 sq.m. or more and it results in at least a 3-bedroom dwelling, <u>preferably</u> with <u>direct</u> access to a garden/<u>amenity space</u>. <p>Exceptions to this will only be allowed where the amenity of the existing family sized home is so deficient that family occupation is unlikely and it could not reasonably be changed to overcome such deficiencies.</p>	<p>Main modification sought by the Inspector to eliminate inconsistencies between the policy and supporting text</p>
DMP 18	<p>Dwelling Size and Residential Outbuildings</p> <p>The size of dwellings should be consistent with London Plan Policy 3.5 Table 3.3 Minimum Space Standards for New <u>Development-Dwellings</u>.</p> <p>In order to prevent the potential for overcrowding planning permission will only be granted where dwellings intended for occupation by one person is internally laid out as studio accommodation a single habitable room.</p> <p>Planning permission will only be granted for outbuildings that will not be residential accommodation or do not support the increased occupation of a dwelling.</p>	<p>Main modification for consistency with MALP</p> <p>Removal of part of the policy related to the Inspector's comments at the Examination Hearings in seeking consistency with London Plan terminology. After further consideration the Council has decided to remove this element of the policy due to uncertainties over the practicalities of its implementation.</p>
10.32	<p>The policy seeks reduce the potential for overcrowding of residential properties to be</p>	<p>Main modification following</p>

	<p>controlled through means available through the planning process. In particular it clarifies the standard for one person dwellings and seeks to reduce the potential addition or use of outbuildings to increase the capacity of a dwelling's occupation.</p>	<p>Inspector's requirement for greater clarity related to studio accommodation typology which the policy is related to. The Council now considers it appropriate to remove the part of the policy this text relates to and associated text within the Plan.</p>
<p>10.34</p>	<p>The policy identifies that the provision of smaller dwellings will only be acceptable where it makes good use of space when a two person dwelling cannot be accommodated. A property designed as a one person one bed home through the provision of a separate bedroom provides a greater opportunity for over-occupation. Its layout as a studio reduces this potential. It gives an indication to occupiers (including potential renters) that the property has essentially been designed for occupation by one person. Consequently dwellings smaller than 50 sq.m. will be expected to be laid out as a studio.</p>	<p>Main modification following Inspector's requirement for greater clarity related to studio accommodation typology which the policy is related to. The Council now considers it appropriate to remove the part of the policy this text relates to and associated text within the Plan.</p>
<p>10.37</p>	<p>For dwellings for occupation by one person, a drawing showing an internal layout as a studio</p>	<p>Main modification following Inspector's requirement for greater clarity related to studio accommodation typology which the policy is related to. The Council now considers it appropriate to remove the part of the policy this text relates to and associated text within the Plan.</p>

DMP 20	Accommodation with shared facilities and additional support	Main modification. Clarification as some smaller scale student accommodation may be designed as self-contained dwellings
<p>Proposals for <u>student accommodation</u>, non-self contained or self contained residential accommodation with shared facilities or on site support/care to assist residents in their daily lives will be supported where the development is:</p> <ul style="list-style-type: none"> a) located in an area with good access to public transport and other amenities, including shops (normally within 400m); b) is of an acceptable quality meeting appropriate standards for the needs of its occupants, including external amenity space, appropriate communal facilities, levels of support/care and mobility; c) includes management arrangements suitable for its proposed use and size; d) demonstrates that there is a specific Brent, or in the case of education a London, need for the particular use which are secured by planning agreement related to use of the land or to its occupation by members of specified educational institutions. <p>The loss of accommodation will only be acceptable where:</p> <ul style="list-style-type: none"> a) demonstration of no Brent need for the accommodation type, or residents' needs can be better met by other existing accommodation; or b) unsatisfactory existing accommodation cannot be improved to achieve current standards 		
10.67	<p>Addition of another sentence at the end of the paragraph <u>It also protects existing sites where there is currently such provision.</u></p>	Clarification sought by the Inspector at the examination hearings.
DMP 21	Public Houses	Main modification to provide clarification as agreed with CAMRA. Modification sought by the Inspector at the Examination Hearings so that criterion a) is consistent with paragraph 11.9 bullet 1.
<p>The Council will support the loss of public houses <u>only</u> where:</p> <ul style="list-style-type: none"> ba) its continued use <u>as a pub or as an alternative community facility within the D1 use class</u> is not economically viable <u>as demonstrated by meeting the marketing requirements in paragraph 11.9;</u> eb) the proposed alternative use will not detrimentally affect the <u>character and</u> vitality of the area and <u>will</u> retain as much of the building's defining external fabric and 		

appearance as a pub as possible; and

d) the proposal does not constitute the loss of a service of particular value to the local community; and

ad) if registered as an Asset of Community Value the premises can be shown to have been offered for sale to local community groups and no credible offer has been received from such a group at a price that is reflective of the condition of the building and its future use as a public house. The Council will treat registration as an Asset of Community Value as a material planning consideration.

11.9

Where applications for a change of use or redevelopment of a public house are received, to make an assessment against criteria in policy DMP 21, the Council will require evidence that:

- the public house has been marketed for 24 months as a public house and for an alternative local community facility, at a price agreed with the Council following an independent professional valuation (paid for by the developer) and there has been no interest in either the free-or lease-hold either as a public house or as a community facility falling within 'D1' use class;
- the public house has been offered for sale locally, and in the region, in appropriate publications and through specialised licensed trade agents;
- all reasonable efforts have been made to preserve the facility, including all diversification options explored – and evidence supplied to illustrate this;
- the CAMRA Public House Viability Test, or a similar objective evaluation method, has been employed to assess the viability of the business and the outcomes demonstrate that the public house is no longer economically viable;
- there has been public consultation to ascertain the value of the public house to with the local community;
- an assessment has been made of ~~there are~~ alternative licensed premises within easy walking distance of the public house; and
- ~~any~~ whether such alternative premises offer similar facilities and a similar

Clarification as agreed with CAMRA and related to Inspector's comments at the Examination Hearings on ensuring consistency of the policy with the supporting text.

community environment to the public house which is the subject of the application.

Delivery and Monitoring Table 1

Add affordable housing and public house monitoring measures

Performance Measure

[Percentage of affordable housing within major development with an affordable housing planning obligation](#)

Target

[50%](#)

Specific Policy to be monitored

[DMP15 Affordable Housing](#)

Performance Measure

[Tenure split of affordable housing within major development with an affordable housing planning obligation](#)

Target

[70% social/affordable rent 30% intermediate](#)

Specific Policy to be monitored

[DMP15 Affordable Housing](#)

Performance Measure

Additional Measures proposed at the Examination Hearings in response to suggestions by the Inspector

[Number of public houses lost to development](#)

Target

[No loss of viable public houses](#)

Specific Policy to be monitored

[DMP21 Public Houses](#)