

# **London Borough of Brent**

## **Examination of the Brent Local Plan**

### **Matters, Issues and Questions for the Examination**

#### **Response of the Council: Matter 8 – Social, green and sustainable infrastructure**

## Matter 8 – Social, green and sustainable infrastructure

**Main Issues: Does the Plan adequately address social, green and sustainable infrastructure issues across the Borough?**

**Does the Plan take a justified and suitably evidence-based approach to social, green and sustainable infrastructure?**

**Is the Plan and its policies sufficiently positive, clear and consistent with national policy and the London Plan in relation to these matters and effective in implementation?**

**[Policies BSI1, BGI2, BSUI1, BSUI2, BSUI3 and BSUI4]**

### Questions

#### **Social infrastructure**

- 8.1 *Has the Council produced a 'Social Infrastructure Needs Assessment', in accordance with policy S1 of the draft London Plan? If not, why and how has the Council assessed need in this regard?*
- 8.1.1 The council has not produced an individual document but has an accumulation of numerous assessments that come together as an evidence base to inform the borough's infrastructure needs. Specific infrastructure needs required to support development outlined in the Local Plan have been identified within the Infrastructure Delivery Plan (IDP) (EB\_I\_01). More detail on the IDP is covered under Matter 4 (4.8 – 4.9).
- 8.1.2 The approach set out in Policy BSI1 is consistent with London Plan Policy S1 which seeks to ensure the need for new infrastructure is informed by a needs assessment. The Plan defines a range of social infrastructure services and facilities in line with draft London Plan para 5.1.1. This wide range has been distinctly considered in the form of various 'need assessment' documents. These evidence base documents include Brent School Place Planning Strategy 2019-23<sup>1</sup>, Brent Childcare Sufficiency Assessment 2018<sup>2</sup>, Cemeteries Strategy 2013<sup>3</sup>, Brent Inclusive Growth Strategy: Education and Skills 2019-2040 (EB\_S\_01), Inclusive Growth Strategy Health 2019-2040 (EB\_S\_02), Playing Pitch Needs Assessment 2016 (EB\_S\_03), Indoor Sports and Leisure Facilities needs assessment 2018 (EB\_S\_04). The recommendations are borne from the findings of public consultation, engagement with relevant bodies such as CCG, Council's Early Years and Schools and the qualitative and quantitative assessment of areas in Brent. Furthermore, Chapter 7 of the Plan; relevant site allocations and the IDP has set out the infrastructure required to support the Local Plan.

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<sup>1</sup> Brent Council, School Place Planning Strategy, 2019-23 < <https://www.brent.gov.uk/your-council/school-place-planning-strategy-2019-23>>

<sup>2</sup> Brent Council, Brent Childcare Sufficiency Assessment, 2018 <<https://www.brent.gov.uk/brent-childcare-sufficiency-assessment-2018-final.pdf>>

<sup>3</sup> Brent Council, Cemeteries Strategy, 2013 <<https://www.brent.gov.uk/your-council/cemeteries-strategy>>

- 8.2 *Is the Plan's approach to protecting and maintaining existing and providing new social infrastructure and community facilities set out in policy BSI1 reasonable, sufficiently positive, justified and effective? Is the policy based on robust evidence and consistent with the London Plan, national policy and guidance?*
- 8.2.1 It is considered that appropriate methodologies have informed the policy to ensure that social infrastructure will be delivered in accordance with the existing provision and future needs of the borough. The IDP assists in establishing the necessary social infrastructure needed to support sustainable development. In line with para 92 of the NPPF that requires for the provision of such facilities and services to enhance the sustainability of communities and residential environments, the Plan's approach is adaptable to the need of its existing users. Similarly, para 92 ( e) of the NPPF and draft London Plan Policy S1, criterion B and E requires policies to ensure an integrated approach to considering the location of community facilities and services. Policy BSI1 is consistent with this approach by directing community facilities towards the borough's town centres, Growth Areas and located within the community they are intended to serve as these locations are considered to be most accessible to all users. In this relation, the policy is considered consistent with London Plan, National policy and guidance.
- 8.2.2 The need is driven by the recommendations of the social infrastructure evidence base documents (EB\_S\_01- EB\_S\_05) prepared in line with national guidance and best practise. These documents have adopted standard methodologies such as in-house audits, site audits, current supply & demand analysis, engagement & consultation along with dialogue with various internal and external stakeholders. Some documents such as Playing Pitch Needs Assessment (EB\_S\_03) recognised a number of priority areas, unmet demand and short/medium and long term goals based on projected population growth. Such methodologies and assessments have contributed towards the policy's need to protect, maintain and provide new facilities making it reasonable, positively prepared, justified and effective.
- 8.3 *Do the criteria set out in policy BSI1 provide a reasonable, adequate, justified and effective means to protect and maintain existing social infrastructure and community facilities and deliver new or enhanced infrastructure and facilities?*
- 8.3.1 Policy BSI1 seeks to guide social infrastructure to appropriate locations and to meet identified gaps in the provision and needs of the growing population. This is achieved through criteria set out in policy BSI1 consistent with the draft London Plan Policy S1 criteria. The replacement, alternate social infrastructure use, and redevelopment requirements in part 1 of the policy BSI1 are necessary, flexible and adequate to ensure existing facilities are retained, based on demand to respond to the changing need of the population, as well as to avoid redundant spaces.
- 8.3.2 Part 2 of the policy sets out criteria to support new enhanced delivery to ensure the delivery of purposely built community facilities in locations where they are needed and to promote the best use of land. This criterion is also reflected in site allocations and Growth Area policies that specifically state

social infrastructure delivery informed through the council's needs assessment. For example, the Plan and site allocations recognise short to medium term primary/secondary school planning at York House site, Oriental City site, Chancel House, Church End, Stonebridge primary school, and South Kilburn. Health facilities, school expansion, sports facilities, community facilities are further secured through service delivery/estates strategy and where relevant, the multiple use of premises will be secured through a formal CUA (Community Use Agreements). The policy is therefore justified, adequate, effective and reasonable by the strategies set out above. More detail on the council's approach to infrastructure is explained in Matter 4 (4.8 - 4.13).

## **Green infrastructure**

8.4 *What evidence and assurance is there to support the Council's approach to protecting and enhancing the Borough's green (and blue) infrastructure, as set out in policies BGI1 and BGI2 within Section 6.6 of the Plan? Is the supporting evidence reasonable and justified? Is the Council's policy approach in this regard sufficiently positive, effective and consistent with national planning policy and guidance and the London Plan?*

### Blue infrastructure:

8.4.1 Development management Policy and the Plan recognise the importance of retaining and enhancing the existing blue infrastructure recognising it as an environmental asset. This has been reflected in individual SSAs'. However for greater clarity the following amendments have been proposed during consultation with relevant stakeholders:

- To provide clarity on named blue infrastructure as sought by Environment Agency, minor modification (MiM93) was recommended following consultation.
- Brent's blue infrastructure's heritage value and heritage assets was identified by CRT during consultation. This was considered relevant (MiM95)(MiM96) to add to the Plan to further highlight the significance of watercourses to Brent.
- To include more relevant guidance by Natural England and the Environment Agency minor modification (MiM94) to the list of guidance documents is has been proposed following consultation.

8.4.2 The Policy sets out its requirement to ensure that developments enhance water quality and biodiversity in accordance with the objectives of the Water Framework Directive and Thames River Basin Management Plan. This is considered to be in line with the emerging London Plan where a coordinated approach is required to protect and improve the water environment. Consistent with London Plan requirement, Brent River Corridor Improvement Plan<sup>4</sup> was set out in 2014 (para 6.6.37, Section 6.6 of the Plan). This was jointly produced by the Brent Catchment Partnership, Brent Biodiversity Action

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<sup>4</sup> Brent Catchment Partnership, 2014

<<http://www.thames21.org/brentrivercorridorimprovementplan2014.pdf>>

Plan (2007)<sup>5</sup>, and the London Rivers Action Plan (2009)<sup>6</sup>. The council is also working on a Water Space Strategy in collaboration with Canal and Rivers Trust. Whilst the Policy and its supporting text recognises the commitment to the Water Framework Directive, greater emphasis and clarity on its 'requirement' was identified by the EA which has been proposed (Core\_03 - MiM97).

Green infrastructure:

- 8.4.3 The evidence is reasonable and justified as it adopts the methodologies laid out by the guidance. To determine what green infrastructure provision is required to meet both current and future needs of borough, Brent Open Space Qualitative Assessment 2017<sup>7</sup> was undertaken by Keep Britain Tidy (KBT). This assessed the quality of parks and open spaces. It took account of various guidelines and standards assessments from Natural England, Fields in Trust (FIT) and GLA. All findings were collated and updated with a comprehensive appraisal of open spaces. This has fed into the Open Space, Sports and Recreational Study 2019 and Brent's Inclusive Growth Strategy: Environment 2019-2040. The OSSRS takes account of the existing supply/demand, its quality and accessibility, the demographics and socio economic factors and considers future provision based on population distribution, planned growth and consultation findings. As such, our evidence is in line with NPPF (para 96) and provides reasonable and justified deliverables.
- 8.4.4 In compliance with NPPF (para 96/97/98/99/100) and London Plan Policy G1, the council actively encourages green infrastructure to be planned, designed and managed in an integrated way to achieve multiple benefits. This is informed by Brent's Open Space, Sports and Recreation Study(OSSRS) (EB\_GI\_02) that forms the robust and up-to-date assessment of the need for provision as required by NPPF (para 96). In line with the guidance<sup>8</sup>, OSSRS and the Plan recognises the strategic and local importance of open space designations (such as Metropolitan Open Land, Local Green Space, Green Chains) as shown on the policy maps. Its recommendations are reflected in Policy BGI1 that set forth the requirement for 0.81sqm of public open space per resident in major development. However, greater clarity was needed to recognise from which type of major application this is required. Therefore a major modification (MM254) to Policy BGI1 rectifies this.
- 8.4.5 The evidence is reasonable as it has taken into account the borough's limited open land, its urban nature and topography. In addition, consistent with draft London Plan Policy G5, the need for developments to meet the Urban Greening Factor further assists in enhancing the effectiveness and quality of Borough's green infrastructure. This is reflected in Policy BG11 and Policy BGI2. However Policy BGI2 further recognises the importance of planting/retention/replacement of trees consistent with London Plan Policy S4/G7 and Mayor's target of increasing tree canopy cover in London by 10% by 2050

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<sup>5</sup> Brent Council, Biodiversity Action Plan, 2007 <<https://www.brent.gov.uk/BiodiversityActionPlan2007.pdf> >

<sup>6</sup> Mayor of London, The London Rivers Action Plan, 2009 < <https://LondonRiversActionPlan2009.pdf> >

<sup>7</sup> Keep Britain Tidy, Brent's Open Space Qualitative Assessment, 2017 < <http://www.brent.gov.uk/OpenSpaceQualitativeAssessment.pdf>>

<sup>8</sup> PPG (Open space, sports and recreation facilities, public rights of way and local green space), Para 005-Para 016), 2014

(London Plan, part 8.7.2). Where on site replacement is not possible, this can be achieved through off-site contribution. Therefore, it is considered that the policy positively prepared and effective as it allows deliverability and flexibility to ensure adequate ways of achieving substantial tree canopy.

- 8.4.6 Furthermore, the council's IDP (EB\_I\_01) sets out its successful delivery and how this will be achieved (more details can be found in Matter 4, 4.10).
- 8.4.7 It is noted that the 'Open Space, Sports and Recreation Study 2019' has not been added to the list of 'evidence base' (after para 6.6.12) for the policy BGI1 of the Plan. Although it is uploaded as part of the evidence base (EB\_GI\_02) for Green Infrastructure on the examination website. Therefore, a minor modification is proposed to ensure this assessment is referenced, see Appendix A.
- 8.5 *It has been suggested in representations to the Plan that Part G of policy BGI1 be strengthened to ensure that development does not impede achieving the future goals of the environmental improvement objectives of the Water Framework Directive and Thames River Basin Management Plan. Is this amendment to policy BGI1 necessary with regard to the soundness of the Plan and consistency of the policy with national policy, guidance and the London Plan? If so, why?*
- 8.5.1 The NPPF (para 170) and draft London Plan policy SI5 (D) requires planning policies to enhance the natural and local environment by minimising impact from new and existing developments and taking into account relevant information such as river basin management plan. In addition, the environmental objectives of WFD adapted in the River Basin Management Plan are legally binding and all public bodies must have regard to them. Consistent to the national policy, guidance and London Plan, the Plan policy BGI1 (Part G) has adapted this approach and requires all developments that are likely to impact on waterways, either through their proximity, or water from their sites entering critical pathways to waterways to accord with these objectives. This policy reflects the contents of existing development management policy DMP9, which it is replacing. It is considered that part G is effective and justified. It ties the policy to the objectives of the Water Framework Directive and the Thames River Basin Management Plan. Furthermore, the supporting text (6.6.30) reiterates this.
- 8.5.2 The existing policy is considered sufficient as it does not refer to any specific set of objectives grounded in a specific version of the river basin management plan. It sets out a broad approach making it and resilient to current and future objectives in any future revisions of those documents which might occur across the plan period.
- 8.6 *Policy BGI1 does not directly address the risks, management and eradication of Invasive, Non-Native Species (INNS) and their impact on people, places and the environment. As such:*
- *Would amending the policy, as the Environment Agency suggests, be reasonable, justified and effective?*

- *Is amending the policy necessary to make the policy and the Plan sound and consistent with national policy and guidance?*
- *How else could these matters be appropriately and adequately addressed?*

- 8.6.1 The policy in itself is sound and the Council considers our approach is in conformity to the National Policy, guidance and London Plan. Amendment to the policy is not necessary to make it sound. In law, landowners have responsibility for INNS to ensure that they do not spread. Planning is only likely to have very limited ability to deal with incidences. National guidance does not require measures to be added in related policies that directly address the risks, management and eradication of INNS and their impact on people, places and the environment. NPPF (para 170, 174 and 175) and draft London Plan Policy SI 14 requires planning policies and decisions to contribute, protect and enhance the natural and local environment. This includes water quality, biodiversity, SINC and assessment of any detrimental effect on the environment caused by the development. Plan's Policy BGI1 has been positively prepared in compliance with national and regional guidance. The supporting text to policy BGI1 addresses this effectively.
- 8.6.2 The majority of INNS sites are likely to be those characterised by limited on-going management, such as railway land (unlikely to be subject to planning applications) or the River Brent and its various tributaries. As public bodies are legally bound to adhere to the environmental objectives of WFD adapted in the River Basin Management Plan and as set out in GB Invasive, Non Native Species Strategy, this is adapted in the planning process. Policy BGI1 (Part G) has adapted an adequate approach and requires all waterways to accord with these objectives. It is not specific to any one objective but embraces all the environmental, protected area compliance and waterbody objectives laid out in the River Basin Management Plan. Reference to achieving biodiversity improvements in accordance with the Thames River Basin Management Plan and Paragraph 6.6.36 b) is a sufficient hook to deal with INNS. Identification of such species is likely in ecological assessments considering whether development impacts identified bio-diversity assets such as Sites of Importance for Nature Conservation (which follows watercourses in Brent), or elsewhere a Construction Environmental Management Plan.
- 8.7 *Paragraph 6.6.30 of the Plan refers to the requirement for a minimum 8 metre 'set-back' of development from main river watercourses and states that if a larger 'set-back' exists then this should be retained. Should this requirement be made explicit within policy BGI1 rather than in the supporting text of the policy?*
- 8.7.1 Draft London Plan Policy SI12 (part C) seeks to provide more space for water and sets out '...where possible....aiming for development to be setback from the banks of watercourses'. It does not require policies to be conclusive on the requirement. Similarly, the NPPF and guidance states no minimum set back requirement. The purpose of b) in policy BGI1 is to support the SI12 aspiration, but provide more clarity by identifying it as a landscaped setback, whilst retaining some flexibility by seeking an appropriate set-back taking account of site characteristics. Some sites currently have poor quality

buildings/development to the edge of the riverbank or near it. A specific requirement in policy for a minimum 8 metre set back may compromise development viability, either meaning that the site is not promoted for development, thus leading to no betterment in the waterside environment/potential space for water, or has adverse impacts for other Local Plan policy priorities.

- 8.7.2 Whilst the policy justification identifies a 'requirement', further research indicates that the EA has no specific policy or guidance that a specific width to buffer zone will apply to all schemes. The Environmental Permitting (England and Wales) (Amendment) (No2) Regulations 2016 requires a permit to be obtained from the EA for certain activities within 8 metres of a non-tidal main river. It relates to amongst other things, keeping access to rivers for maintenance and regulating any structures that may obstruct flood flows within 8 metres of the river. Whilst it may be desirable for a minimum 8 metre width to be maintained for access purposes along both sides of a river for its length, it is unlikely to be necessary in all cases. Flexibility may need to be applied in an urban context where existing buildings/ structures on site are already closer than this to the riverbank and a proposal is providing a solution that is an improvement.
- 8.7.3 The desired outcome of the policy is to enhance the setting of the blue ribbon network. The Council can consider representations from the Environment Agency in relation to applications for development that might be within 8 metres of the riverbank and weigh these up against other development plan priorities. The Council however does not feel that it is appropriate for it to be a policy requirement that buildings are set 8 metres back from the river bank.

### **Sustainable infrastructure**

- 8.8 *Is policy BSUI1 reasonable, justified, effective and consistent with the London Plan, national policy and guidance in general and in relation to tackling climate change? Is the policy based on robust evidence?*
- 8.8.1 NPPF (para 151) and draft London Policy SI 3 requires boroughs to help increase the use and supply of renewable and low carbon energy and heat. It requires for plans to identify future energy infrastructure achieved through establishing effective energy supply options. Policy BSUI1 is justified, consistent and reasonable as it achieves this by identifying suitable establishment areas such as Neasden Station, Northwick Park and Staples Corner Growth Area.
- 8.8.2 Para 148 of the NPPF and draft London Policy SI2 supports transition to a low carbon future. This contributes towards reductions in emissions, minimising vulnerability and improving resilience, encouraging reuse of existing resources and supporting renewable and low carbon energy and associated infrastructure. Policy BSUI1 initiates this transition. It requires establishment of district heating networks within all growth areas and for major developments to connect to it. In line with draft London Plan Policy SI 2 and SI 3, other measures include contribution towards a decentralised energy system or 100% renewable heating system, submitting a sustainability

statement and instigating BREEAM standard of excellence for major non-residential developments.

- 8.8.3 Furthermore, consistent with NPPF (para 153), the Plan policy is effective as it allows for flexibility within Growth Areas having regard to the scale, type, location and scope of the project.
- 8.8.4 NPPF para 150 requires for buildings to be sustainable in line with national standards. In compliance with that, Policy BSUI1 requires new developments to mitigate and adapt to climate change over its intended lifetime reflected through a sustainability statement and achieving BREEAM excellence.
- 8.8.5 Policy BSUI1 is also considered to be positively prepared. It seeks to enable development, ensuring Brent can meet energy infrastructure needs, through requiring developments to undertake appropriate mitigations in order to reduce emissions.
- 8.8.6 As such, in general, policy BSUI1 provides a robust (justified, effective, positively prepared and effective) pathway of ensuring that developments are environmentally sustainable and are part of transforming the environment for the future.
- 8.8.7 Climate change: NPPF (para 150) suggests that new developments should manage impacts arising from climate change through suitable adaptation measures. In compliance with this, Policy BSUI1 aims to ensure that all developments have high standards of environmental performance focusing the policy on more specific local requirements to support national and regional guidance.
- 8.8.8 Para 149 of the NPPF, Guidance and Planning and Compulsory Purchase Act 2004 requires local authorities to adopt a proactive strategy to mitigate and adapt to climate change. The Climate Change Act 2008 sets a legal framework for the UK to cut greenhouse gas emissions to 80% below 1990 levels by 2050. Policy BSUI1 sets a pathway towards this over the plan period.
- 8.8.9 Relevant to all development, the Plan policy requires a sustainability statement from all major developments so that proposals do not contribute towards the worsening of the environment in the borough. This encourages them to achieve positive climate action; carbon emission reduction and local resilience. In compliance with draft London Policy SI 2, any shortfall is mitigated through contribution towards the carbon offset fund or through off-site carbon reduction projects.
- 8.8.10 Tackling climate change is a broad spectrum that the chapter's policies and other chapters achieve holistically. In accordance with PPG 19, Policy BSUI1 encompasses objectives for mitigation through low carbon energy technology, opportunities for decentralised energy networks and reduction of energy consumption in buildings. The planning process also takes into account the London Plan energy hierarchy when assessing applications.

8.8.11 Similarly, adaptation to a changing climate in line with the Guidance and NPPF is achieved across the chapters and chapter 6.7 policies. This includes managing flood risk through Policy BSUI3 and promoting water efficiency and management through Policy BSUI4. Promoting sustainable transport through Policy BT1 and BT2. Promoting adaptation approaches in design in Policy DMP1.

Robust evidence:

- 8.8.12 The council has adapted GLA's evidence base such as Energy Planning (March 2016), London Environment Strategy May 2018 and draft Energy Planning Guidance 2020. This is reflected in the Brent's Responsible Growth Strategy (RGS): Environment Theme 2018-2038.
- 8.8.13 In line with London Plan and Government's 'Zero Carbon Homes' policy, Wembley Regeneration Area Energy Masterplan 2013 was commissioned as an evidence base to enable the council to assess and influence development strategies. Similarly, the council in partnership with related stakeholders have supported the delivery of South Kilburn District Heating<sup>9</sup> and Northwick Park District Heating (pre-app discussion stage).
- 8.8.14 Tackling climate change is a national, regional and local priority. The borough's declaration of a Climate Emergency and Brent's Interim Climate & Ecological Emergency Action Plan (2019) (Core\_Gen\_014) complements and reinforces the Plan's approach including policy BSUI1. The Action Plan puts forward various actions/measures. The Brent Climate Assembly in 2019 developed a set of recommendations for the council to focus on to reduce the impact of climate change. The Council will be delivering a new climate strategy in 2020. This will provide clarity on actions to be taken in Brent to address climate change.
- 8.8.15 In addition, Brent's Corporate Sustainability Board is currently working to develop a 'Green Infrastructure Vision and Route Map' to support the Mayor's environmental target of making 50% London green by 2030. Amongst other initiatives, the council is working towards supporting the District Eating project for community food growing schemes in Norwick Park, South Kilburn and Civic Centre. It is considering other initiatives such as expansion of the Bee Corridor and reduction in pesticide use, Re-wilding Brent through greening unused/underutilised land and increasing biodiversity awareness<sup>10</sup>.

8.9 *Does policy BSUI1 provide sufficient clarity and flexibility with regard to the requirement for all major development to connect to or contribute towards a decentralised energy system?*

8.9.1 It is considered that the policy provides sufficient clarity. The policy is structured to separate what is envisioned for the Growth Area, for major

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<sup>9</sup> Brent Council, Cabinet Report, Appendix 1 - South Kilburn Energy Network Background , 2018 < <http://democracy.brent.gov.uk/documents/SouthKilburnEnergyNetworkBackground.pdf>>,

Approval to proceed report < <http://democracy.brent.gov.uk/documents/SouthKilburnDENCabinetPaper.pdf>>

<sup>10</sup> Further details and current initiatives by Brent Council are listed on the website < <https://www.brent.gov.uk/your-community/brent-going-green/climate-emergency/>>

developments and for all major non-residential developments. It is considered that the second paragraph within the policy provides sufficient clarity on the requirement for all major development to connect to or contribute towards a decentralised energy system.

- 8.9.2 Consistent with this, Policy BSUI1, provides a flexible approach for all major developments having regard to the connection's feasibility/viability or for the proposal to have a 100% renewable heating system. It also gives the opportunity to connect to an existing heat network or contribute towards a new decentralised energy system. It provides similar flexibility to developments in Growth Areas. Growth Areas are expected to develop decentralised energy networks, however having regard to the scale and type of network dependant on the location and scope of the proposal. Northwick Park development is progressing to develop an on-site energy centre.
- 8.9.3 This approach is in conformity with National Policy and is positively prepared, reasonable and effective.
- 8.10 *Does policy BSUI1 provide sufficient flexibility in terms of meeting objectively assessed needs for development whilst also seeking development that contributes to and utilises sustainable and renewable energy sources?*
- 8.10.1 The overarching objective set out in the policy is for major developments to be resilient and efficient through various methods of feasible mitigation and practical adaption. This clearly is a flexible approach. The policy pervades all aspects of sustainable energy infrastructure that will meet the borough's objectively assessed needs while allowing for flexibility in certain situations. This forward approach encompasses district heating networks, decentralised energy systems, renewable energy, and off-site contribution towards carbon reduction measures. The energy hierarchy in policy SI2 and the council's need for energy assessment allows for developments to analyse and demonstrate renewable energy opportunities and consider achievability. 6.7.22 of the Plan policy's supporting text further supports for the development to choose suitable and innovative renewable system/s in compliance with the GLA's Energy Assessment guidance 2020.
- 8.10.2 As stated in the policy, the council is mindful of the practicality and consequently allows for a most suitable approach to energy efficiency in light of the draft London Plan Policy SI 2 and recent guidance of GLA's Energy Assessment. This way all major developments will be contributing in some way towards sustainable development.
- 8.11 *Is policy BSUI2 reasonable, justified, effective and consistent with the London Plan, national policy and guidance with regard to air quality and its impacts? Is the policy based on robust evidence?*
- Soundness:
- 8.11.1 In relation to a reasonable, justified, effective and consistent policy, BSUI2 has achieved the balance between considering the council's evidence based,

actions to improve air quality and ensuring development is not unduly restricted.

- 8.11.2 Improving air quality is a national, regional and local priority, as reflected in Brent's Air Quality Action Plan<sup>11</sup> (AQAP) (2017-2022). The AQAP takes into account how, locally, air pollution is significant and its impact on health. Consistent with paragraph 181 of the NPPF, Measure 4 'Emissions from developments and Buildings' of the AQAP ensures that any new development within AQMA mitigates and adapts reduction measures.
- 8.11.3 The policy is consistent with the NPPF and Guidance. It is in the context of the draft London Plan and the Mayor's Environment Strategy, that Policy BSUI2 requires developments to be 'air quality neutral' and meet a higher standard of 'air quality positive'. The council has adapted this approach by declaring AQMA in 2001 and incorporating Air Quality Focus Areas. This allows for the policy to focus on those areas where air quality is already breaching EU/national limits and where developments will have the most adverse impact on air quality. The Council has set out the policy based on detailed evidence (listed in part b. below) in support of this approach with further guidance provided in supporting text para 6.7.28, 6.7.31, 6.7.32 and 6.7.33.
- 8.11.4 Para 181 of the NPPF requires planning policies to sustain and contribute towards compliance with relevant/national limit values for pollutants. This is suggested through taking into account the presence of AQMA and the cumulative impacts from individual sites in local areas. As such, Policy BSUI1 seeks compliance through Air Quality Positive approach within designated AQMA and in other places neutral. It also seeks off-site mitigation measures where on-site standards is not met.
- 8.11.5 Additionally, consistent with Planning Guidance, Brent's IIA (Core\_Gen\_02) incorporates the SA (Sustainability Appraisal) and SEA (Strategic Environmental Assessment) and has established Objective EN4 stating: 'Minimise air, noise and light pollution and improve existing areas of poor air quality and contaminated land'. This objective has been used to shape to Plan.
- 8.11.6 It is important to note that NPPF (para 181) and draft London Plan recognise that an air quality positive approach is linked to several other strategies within a plan. Therefore a holistic approach is important to assess the soundness of the policy. The Plan includes a number of cross cutting policies to improve air quality or mitigate impacts through transport and Healthy Streets (Policy BT1, BT2, BT3 - Chapter 6.8); design choices (Policy DMP1, Policy BH13- Chapter 6.2, Policy BD1, BD3 - Chapter 6.1); sustainable energy infrastructure (Policy BSUI1 – Chapter 6.7) and green infrastructure (Policy BGI1, Policy BGI2 - Chapter 6.6).

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<sup>11</sup> Brent Council, Air Quality Action Plan (summary report), 2017 < <https://www.brent.gov.uk/air-quality-action-plan-2017-2022.pdf>>

8.11.7 It is considered that Policy BSUI2 is reasonable, justified, effective and consistent with the London Plan, national policy and guidance with regard to air quality and its impacts within Brent.

Robust evidence:

8.11.8 In light of the above, the Council considers that the policy is sound and based on robust evidence. The purpose of this policy and Brent's Air Quality Action Plan 2017 is to ensure new developments do not contribute towards the worsening of air quality in the borough and that development users are not exposed to undesirable levels of poor air quality. Moreover, it provides sufficient mitigation and adaptation measures.

8.11.9 The council is working towards the Cleaner Air Borough status and Brent's Environmental Monitoring team is looking to publish the 2019 Air Quality Annual Status Report (ASR). The Air Quality Progress Report and ASR are published every year since 2010<sup>12</sup>. It provides a detailed overview of air quality and progress against Brent's Air Quality Action Plan. The action plan covers measures such as cleaner transport, public health, exposure reduction measures, and delivery service and freight and community engagement.

8.11.10 Brent first declared some areas AQMAs in 2001 and in line with The Environment Act 2005, areas included in the AQMAs were extended. The council has borough-wide monitoring stations in place along with diffusion tubes. Brent also joined the Mayor's 'No Idling Campaign' 2016 and launched AirText. The council also has Non Road Mobile Machinery (NRMM) conformity with EU Engine Emissions Stage for major developments which will include all developments by September 2020.

8.11.11 As such, policy BSUI1 is informed by sufficient and robust baseline evidence. It provides a justified, positively prepared and deliverable means of ensuring that developments do not worsen air quality in line with the NPPF, Guidance and the draft London Plan.

8.12 *Does policy BSUI2 clearly and sufficiently address the identified issues in relation to the impact of major development on air quality? If so, how?*

8.12.1 Whilst the policy is concise, it avoids repetition by making reference to Air Quality Positive and Air Quality Neutral requirement set out in detail supporting text para 6.7.31 and in the Guidance and draft London Plan Policy SI1. Additionally, the policy's supporting text provides further detail with regard to air quality and its impacts in para 6.7.26, 6.7.29, 6.7.30. NPPF, Guidance and draft London Plan do not require the policy to be descriptive.

8.12.2 NPPF (para 181) requires planning decisions to ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan. The Brent AQ assessment and AQMA review 2016 identified Air Quality Action Areas that encompass most of the GLA's Focus Areas but also include areas of planned development, areas of concern for

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<sup>12</sup> Brent Council, The Air Quality Progress Reports(2010-2014) and Air Quality Annual Status Reports (2015-2018) <<https://www.brent.gov.uk/services-for-residents/environment/air-quality/air-quality-reports/>>

communities and regeneration zones. The AQAP recognises these as AQFA and sufficiently takes into account the impacts of new developments on air quality. AQAP's Measure 4's actions 12-18 address the following: reduce construction emissions; limit impacts of new development; promote and enforce Smoke Control Zones; emission reduction from waste facilities; promote energy efficiency retrofitting projects in workplaces and homes; and improve energy efficiency in council buildings.

- 8.13 *Does policy BSUI3 – 'Managing Flood Risk' provide sufficient clarity and detail as to which proposals will require a flood risk assessment (FRA) and when? Is the policy effective, appropriate, justified, consistent and compliant with national planning policy and guidance in relation to the sequential and exception testing of development sites?*
- 8.13.1 To address the matter on when a flood risk assessment is required, along with matters 8.14 and 8.15 the Council now proposes a main modification to policy BSUI3 to signpost the circumstances when a flood risk assessment is required. This provides a balance between unnecessary repetition of national policy and development plan policy clarity. The proposed main modification is "Proposals requiring a flood risk assessment as set out in paragraph 6.7.37 must demonstrate that the development will be resistant and resilient to all relevant sources of flooding including surface water....."
- 8.13.2 In relation to sequential and exceptions tests, the NPPF in the Planning and Flood Risk section, paragraphs 155-165 and the associated National Planning Practice Guidance in Section 'Flood Risk and Coastal Change' provide a full suite of policy and associated guidance that applies in Brent. Brent does not seek to apply a locally distinctive approach that differentiates it from this. Nevertheless, to clarify that development must be in accordance with national policy, the Council proposed MM255 in Core\_04 Schedule of Proposed Modifications "...surface water flooding. Proposed development must pass the sequential and exceptions test as required by national policy. The design and layout..."
- 8.14 *Paragraphs 6.7.5–6.7.7 of the Plan appear contradictory, stating that no major flooding has occurred in the Borough in the last 20 years but then indicating that there have been several instances of sewer flooding over the last 5 years. Is this correct? If so, how does the Council intend to clarify and rectify this?*
- 8.14.1 Proposed minor modification to paragraph 6.7.5 rectifies this as set out in Core\_03 MiM100. It specifies that Brent has not experienced major flooding from 'its brooks and rivers' with the most recent events that occurred in 2007 and 2010.
- 8.15 *Does policy BSUI3 provide sufficient clarity in terms of the proposals which would be required to undertake a flood risk assessment? If not, why?*
- 8.15.1 See response to Matter 8.13.

- 8.16 *Paragraph 6.7.37 of the Plan outlines where a flood risk assessment would be required. Should this explanation be made more prominent and explicit within policy BSUI3?*
- 8.16.1 See response to Matter 8.13.
- 8.17 *In accordance with paragraph 157 of the Framework, should reference be made to the requirement for development sites to pass the sequential and exception tests relating to flood risk? Should policy BSUI3 be amended accordingly in order to comply with the Framework?*
- 8.17.1 See response to Matter 8.13.
- 8.18 *What is the 'developed functional floodplain' within the Borough and where is this defined and explained in the Plan? Should this be set out within policy BSUI3 to provide more clarity for users of the Plan?*
- 8.18.1 The Council considers that there is an alternative approach that will not necessitate providing the definition of developed functional floodplain and explanation in the Plan. Subsequent to the Council's proposed minor modification MiM102 the EA has made further comment. Taking account of this, the Council recognises that what it was seeking to address through MiM102 in terms of potential development within the functional floodplain was an issue that was discussed by all the participating boroughs and the EA during the SFRA Level 1 process and the response has been satisfactorily set out in the Level 1's sections 3.11.1 and 3.11.2. (EB\_SI\_01).
- 8.18.2 Consequently, the Council has also considered the EA's proposed alternative wording to MiM102 in light of the contents of these sections of the Level 1 and is proposing that MiM102 is replaced as set out in Appendix A. Taking account of the approach to this potential flexibility the Council is willing to accept the EA's request to also modify policy BUSI3 so that reference to 'resisted' at the end of the policy is amended to 'refused'.
- 8.19 *Is policy BSUI4 reasonable, justified, effective and consistent with the London Plan, national policy and guidance in general and in relation to water management and surface water attenuation? Is the policy based on robust evidence?*
- 8.19.1 As a general approach, Policy BSUI4 is designed to inform the management of surface water, water supply/demand and its impact on drainage capacity. It then sets out relevant sustainable measures consistent with Building Regulations (part G2), draft London Plan Policy SI5 and SI13, NPPF Chapter 14 and Guidance on 'Water supply, wastewater and water quality'. The Guidance also does not limit the extent to the types of issues addressed and 'these will vary depending on the character of the local area'. However amongst the broad considerations listed in the Guidance, Policy BSUI4 covers water supply and wastewater.
- 8.19.2 The policy approach is reasonable, justified and effective as the policy is informed by the establishment of the West London Strategic Flood Group

contributing towards the Surface Water Management Plan & Long-term Action Plan worked in collaboration with GLA, TfL, EA and Thames Water. This approach is further adopted in Brent's Inclusive Growth Strategy that sets out an action plan to highlight the 'Growing water demand and widening gap in available water supply' in Brent. Further consideration to water infrastructure need has also been secured through site-specific policies.

- 8.19.3 In relation to water management and surface water attenuation, the Policy is reasonable, justified and consistent with regional and national guidance. It meets the sustainable development approach set out in draft London Plan GG6 'Increasing efficiency and resilience' of water infrastructure. Consistent with draft London Plan Policy SI5 / SI13, Policy BSUI4 sets out water consumption targets and achievement of Greenfield runoff rates for surface water. Furthermore, the policy has a reasonable and consistent approach by setting out measures to ensure water management and effective maintenance on-site through SuDs (NPPF Para 163/165, London Plan Policy SI 13), separation of foul and surface water network (London Plan Policy SI 5, E (2)), safe water storage (NPPF Para 155/157 (c)/ 160 (b)/165 (c)).
- 8.19.4 The Policy has been informed by robust evidence. Such Brent's Surface Water Management Plan & Long-term Action, West London SFRA and other guidance such as the SuDs Manual 2015 CIRIA.
- 8.20 *Do the requirements and criteria set out in policy BSUI4 provide adequate and reasonable measures for all developments to undertake and contribute effectively to the mitigation of their impact regarding on-site water management and the control and reduction of surface water run off?*
- 8.20.1 The policy adequately addresses both major and minor developments within the borough in line with regional and national guidance. In addition to this, in line with draft London Plan Policy SI 5 (C) the policy's supporting text para 6.7.39 further iterates importance of effective mitigation and management of on-site water management by requiring conditions to planning permission.
- 8.20.2 The policy is reasonable and effective in providing flexibility to allow applicants to justify where greenfield run-off rates cannot be achieved. Feedback from the Lead Local Flood Authority representative is that developments can meet this requirement, mostly through underground attenuation measures with restricted outfall. Most sites previously have had no controls on surface water outflows, so addressing this matter is contributing to flood risk reduction in the wider catchment. Furthermore for minor developments, the policy positively allows for a feasible approach to adapting sustainable drainage measures. However for the policy to be positively prepared and consistent, the council cannot allow proposals that do not demonstrate that development will be safe for its lifetime and reduce flood risk overall.

## Appendix A

### Proposed Main Modifications

Chapter/Policy Number	Paragraph Number or Section	Proposed Modification	Reason for Modification
6.7 Sustainable Infrastructure	BSUI3	Amend to: "Proposals that involve the loss of functional floodplain or otherwise would constrain its natural function, by impeding flow or reducing storage capacity, will be resisted <u>refused</u> ."	To provide a stronger response to potential development in functional floodplain.

### Proposed Minor Modifications to the Plan

Chapter/Policy Number	Paragraph Number or Section	Modification Proposed	Reason for Modification
6.7 Sustainable Infrastructure	6.7.35a	<p>Delete proposed MiM102 and replace with "...</p> <p><u>The Council will only consider the redevelopment of sites in functional floodplain to occur within the already identified site allocations and intensification corridors that have been supported by a Level 2 SFRA and Sequential Test. When applying this policy the guidance in the West London SFRA (2018) specifically Sections 3.11.1 and 3.11.2 must be adhered to, so that it is clear which parts of the site are developable and which areas of the site should remain for flood storage (i.e. functional floodplain). The compatibility of development vulnerability classifications for Flood Zones 3a and 3b as shown in Table 3 of the Planning Practice Guidance will apply. The policy is specific about the improvements that will be</u></p>	To provide clarity on as requested by the Environment Agency.

Chapter/Policy Number	Paragraph Number or Section	Modification Proposed	Reason for Modification
		<p><u>sought such as restoring natural function and storage capacity of the floodplain. The Council will also seek to improve the environmental quality of any watercourse on these sites. The high level of flood risk warrants very careful consideration of design, mitigation and overall environmental improvement, taking into account climate change, and early discussions with the Environment Agency are recommended.</u></p>	
6.6 Green Infrastructure and Natural Environment	Evidence Base	Add " <u>Open Space, Sports and Recreation Study 2019</u> "	Include evidence base document