

Bengeo Neighbourhood Area Plan 2019 -2033

Initial Comments of the Independent Examiner

Prepared by

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7th October 2020

Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the Bengoe Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents. I visited Hertford on 5th October, spending the morning visiting all the sites and I walked Byway No 1 at Bengoe Field.
2. My preliminary view is that I should be able to deal with the examination of this Plan by the consideration of the written material only. I do still have to reserve the right to call for a public hearing, if I consider that it will assist my examination, but that may only be necessary if there are issues that emerge from the responses to this note, which I feel warrant further exploration. If I were to have to call a hearing, it would have to be via a video conference call, in the current COVID 19 climate.
3. Set out in the following paragraphs are a number of matters that I wish to receive either clarification or further comments from the Town Council or in some cases from East Hertfordshire District Council. Such requests are quite normal during the examination process and the replies will help me prepare my report and come to my conclusions.

Regulation 16

4. I would firstly like to offer the Town Council the opportunity to comment on any of the representations that were submitted as part of the Regulation 16 consultation.

Local Green Space

5. Can the Town Council explain the basis for restricting the LGS to just the east side of the Byway, at LGS1, as it appears that the field on the west side of the right of way, possesses very similar characteristics? I note the reference to the beauty of the site, but I believe that to be covered by Policy HBN3 i.e. it is the view of the countryside in the distance, rather than the field itself, that is important.

Community Garden

6. Could the District Council confirm whether it consider that the landscaping of the small parcel of land at the corner of Tower Street and Duncombe Road constitutes *development* requiring planning permission? (whether it be through the actual planting or through a change of use of the land). If there is no need for planning permission, should what this planning policy be better included as a Community Aspiration?

Nature Conservation

7. Can the East Herts planners confirm what the District Council's requirements are, in terms of the need for an applicant to have to submit a tree survey and arboricultural report, as currently set out in the Local Validation Checklist?

Assets of Community Value

8. It is my understanding that the designation of an Assets of Community Value remains in place, only for 5 years. Can the Town Council confirm whether a property would be expected to be protected by Policy HPC1 if that designation lapses? Would it be better for the properties to be protected as community facilities by Policy HPC2?
9. I note that the properties ACV1, ACV4 and ACV5 refer to the building *and the surrounding land*. It would be helpful if the extent of the *surrounding land* could be shown on a map.

Traffic Congestion and Road Safety

10. What thresholds do the District Council currently use for requiring applicants to have to prepare and submit a transport assessment? I am conscious that the NPPF refers to "developments that generate a significant amount of movement". Is the Town Council expecting an assessment to accompany every development proposal, such as a change of use or domestic extensions, even if on a proportionate basis or does it have an idea as to the threshold of when an applicant would be expected to prepare such an assessment?
11. A number of the policies refer to Section 106 funds being used for a whole range of projects. Is it expected that Section 106 contributions will be used across the plan areas or specific areas or types of development? I have in mind that there are 3 statutory tests that planning obligations are expected to meet including that the contribution is necessary to make the development acceptable in planning terms, be directly related to the development as well as being fairly and reasonably related in scale and time to the development. Therefore Section 106 fund must be required as a result of that development and should be spent on areas that are directly affected by that development rather than being a pot which can then be used for a disparate range of projects
12. Can the District Council comment on whether there is a Community Infrastructure Levy Scheme in place or is there any intention of introducing such a scheme to collect payments off all types of development – 25% of which could be spent by the Town Council on projects that it has identified.

Encouraging More Walking

13. Can the Town Council clarify what it considers will be a major development – is the definition used in the Town and Country Planning (Development

Management Procedures) Order 2015 or is it larger sites such as the local plan allocations or sites which will be masterplanned?

Housing Supply

14. Could the Town Council suggest ways that an applicant would be able to demonstrate that their scheme “would meet unmet demand.” Is it a question of the type / size of property or the tenure?

Design and Layout

15. Has the District Council access to the necessary skills, either through in-house staff or consultants, to be able to assess whether a scheme meets the Building for Life 12 criteria?
16. Does the Town Council expect that 2 off road parking spaces should be a minimum or a maximum requirement e.g. is it suitable for both a one bed and a five-bed unit?
17. Does the District Council have a view on whether a planning application could be determined on the basis of “whether it reflects the best examples of local housing density etc , as demonstrated in the Brewhouse Lane development” and is that the correct benchmark say for a development in an edge of the urban area such as HERT4.
18. Could the Town Council clarify on what basis a decision maker would use to assess whether a planning application “employs innovative, sustainable design principles to the best national standards, taking account of the latest peer reviewed research on the impact of climate change, to optimise energy and water conservation”? Does such a policy comply with the Secretary of State’s Written Ministerial Statement dated 25th March 2015, specifically that neighbourhood plans should not set “any additional local technical standards or requirements relating to the construction, layout or performance of new dwellings”?
19. Can the District Council advise me whether the allocation site at HERT4 has been granted planning permission or a Masterplan has been agreed and whether the requirement to provide school parking is being required of the developer?

Landscape Design

20. Is it the expectation of the Town Council that states that the HERT4 allocation provides opportunities to grow food should be through more allotments or gardens for the new houses or is it that public open space should be given over for that purpose?

21. Does the Planning Dept have the skills to assess applications under the Building for Nature Scheme and is that certification issued pre or post construction?

Local Business Development

22. Can the Town Council clarify how a decision maker would assess whether a planning application will provide “sustainable options for long term business use”? Can it specify what type of community facilities it would be looking for as per the third bullet point of Policy HBB1?
23. Can the Town Council point to ways that planning policy can ensure that there is a mix of national and independent retailers as required in the policy relating to St Andrew Quarter.

Concluding Remarks

24. I am sending this note direct to Hertford Town Council, as well as East Hertfordshire District Council. I would request that both parties’ responses to my questions should be sent to me by 5 pm on **22nd October 2020**. If either party needs extra time to respond, please let me know ,but I wish to maintain the momentum on this examination.
25. I would also request that copies of this note and the respective responses are placed on the Neighbourhood Plan’s and also the LPA’s websites

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Independent Examiner to the Bengeo Neighbourhood Plan.

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