



North Essex Authorities
Shared Strategic (Section 1) Plan

Examination in Public

Further Hearing Statement

by

Andrew Martin – Planning Limited

on behalf of

Bellway Homes Limited

Matters 6 (Transport & Other Infrastructure), 7 (Viability)
and 8 (Sustainability Appraisal)

December 2019



INTRODUCTION

1. This Further Hearing Statement has been prepared by Andrew Martin – Planning Limited (AM-P) on behalf of Bellway Homes Limited (Bellway) who hold an option on 17.8 hectares (ha) of land, known as North East (NE) Witham Phase 4 and shown on the Site Boundary Plan at Appendix 1.
2. NE Witham Phase 4 has been promoted through the Braintree Local Plan process for a seamless urban extension to the committed development to the south on Phases 1 & 2.
3. Phases 1 & 2, to the east of Forest Road, were allocated in the adopted Braintree Core Strategy in September 2011 and granted planning permission (ref. 15/00799/OUT) in July 2016. This comprised:
(i) full permission on Phase 1 for 222 dwellings, 279 sq m of gross A1 retail floorspace (now trading as a convenience store and pharmacy), public open space, sustainable drainage and landscaping; and,
(ii) outline permission on Phase 2 for up to 148 dwellings, public open space, sustainable drainage and landscaping. A subsequent permission (ref. 17/01092/FUL) was obtained in April 2018 to increase the number of dwellings on Phase 2 from 148 to 163.
4. Phase 3, to the south of Rickstones Road, was granted planning permission (ref. 18/00947/OUT) in January 2019 for up to 58 dwellings, public open space, sustainable drainage and retention of the hedgerow facing the main road. Unlike Phases 1 & 2, Phase 3 comprised unallocated land in the ‘countryside’ and was justified on five-year housing land supply grounds.
5. Phase 4 comprises agricultural land, plantation woodland and a construction compound associated with the current development at Phases 1 & 2. The Rivenhall Oaks Golf Centre abuts the northern edge of Phase 4 and provides a defensible boundary to the wider countryside to the north. Phase 4 is capable of accommodating up to 350 dwellings and extensive areas of public open space. To date Phase 4 has not been identified in the Braintree Local Plan (ref. SDBDC/001) and therefore comprises an ‘omission site’.
6. This further statement supplements Bellway’s original Hearing Statement (submitted to the Examination in Public in December 2017) and considers the Inspector’s Matters, Issues and Questions for the Further Hearing Sessions into the Shared Strategic (Section 1) Plan.

MATTER 6 – TRANSPORT & OTHER INFRASTRUCTURE

(Q.6) What are the consequences of the answers to 3(a), 3(b) & 3(c) [related to funding for the A12 to A120 widening scheme] for the feasibility of the West of Braintree and Colchester Braintree Borders GCs?

(Q.7) What are the consequences of the answers to 4(a) & 4(b) [relating to funding for the A12 in the Marks Tey area] for the feasibility of the Colchester Braintree Borders GC?

7. Paragraphs 33-35 of the Inspector’s Post Hearing Letter to the North Essex Authorities (NEAs) (IED011), 8th June 2018, found that:

“... WoBGC [West of Braintree Garden Community] would be reliant on the A120 for eastward strategic road connections to Colchester and beyond, and both the A120 and A12 (which



currently meet at Marks Tey) would provide essential strategic highway links for CBBGC [Colchester Braintree Borders Garden Community].

I understand that decisions on what is included in the RIS2 programme are due to be made in 2019. No firm view on the feasibility of either WoBGC or CBBGC can be taken until it is known whether or not the A120 dualling scheme is included in that programme (or can be otherwise fully funded). While the GCs would contribute to the cost of the scheme, I have seen no evidence that it could be fully funded if it is not included in RIS2. It may be possible to devise interim solutions to accommodate a proportion of the generated traffic, and thereby enable early phases of one or both GCs to proceed, but that would not justify an in-principle endorsement of the GC proposals as a whole.

Moreover, the two alternative alignments currently under consideration for the widened A12 in the Marks Tey area are not compatible with the proposed layout of CBBGC as set out in the Concept Framework. In order to avoid having an unacceptable severance effect, the improved A12 would need to take a line some distance to the south-east of those existing alternatives. The NEAs have made a bid to Government for funds to facilitate that further alternative alignment, but the outcome is not yet known.”

8. Although the funding for the initial A12 widening scheme is committed via Highway England’s Road Investment Strategy (RIS) 1 programme, this is not the case for the potential revised realignment of the A12 in the Marks Tey area. Highways England’s consultation on alternative route options near Marks Tey only ended on 1st December 2019 and a decision on the preferred revised alignment, along with a further public consultation on the A12 widening scheme as a whole, is not expected before Summer 2020. As a result, it is unlikely that any funding decision on the revised A12 realignment near Marks Tey will be made before late 2020, particularly having regard to the impending General Election and other priorities surrounding the UK’s departure from the EU in early 2020.
9. No funding has been confirmed for the A120 dualling scheme and its ability to proceed will be dependent on whether or not the Department for Transport (DfT) decides to fund the scheme through the RIS2 programme. It is unclear when this decision will be made.
10. The Inspector was clear at paragraph 37 of IED011 that “... *greater certainty over the funding and alignment of the A120 dualling scheme and the feasibility of realigning the widened A12 at Marks Tey is necessary to demonstrate that the GC proposals are deliverable in full.*” In the absence of any greater certainty since 2018, Bellway respectfully submits that the same conclusions should apply now and that the GC proposals are not currently deliverable or ‘effective’ in accordance with paragraph 182 of the NPPF (2012).
11. A failure to obtain funding (particularly for the A120 dualling scheme) would have major implications for WoBGC and CBBGC, along with the quantum of development that can be supported at each.
12. With this in mind, it would be prudent to identify additional growth sites to boost the overall supply of housing land and to make the Plan (as a whole) more resilient to changing circumstances, including future infrastructure funding decisions and viability constraints at the new GCs.
13. NE Witham Phase 4 is a highly sustainable site, with strong connections to a wide variety of existing services, facilities and infrastructure – including Witham railway station which is within walking and



cycling distance, and which at peak times is served by one train every 7.5 minutes in each direction (i.e. one of the highest frequency services in the East of England). Crucially delivery of the site is not dependent on any further funding commitments being made by the DfT in respect of the A12 or the A120.

MATTER 7 – VIABILITY

(Q.10) (a) Should the 2019 Hyas VAU have applied a benchmark land value to the each of the GCs?

(b) If so, what should the benchmark land value(s) be?

(Q.11) (a) Does any of the other viability appraisals submitted to the examination provide a more reliable assessment of the GCs viability than the 2019 Hyas VAU?

(b) If so, what are the key differences in the method(s) and inputs employed in that other appraisal which make it more reliable?

14. Bellway's original Hearing Statement (December 2017) raised specific concerns regarding the likely lead in times for the delivery of the new GCs and the impact this could have on housing delivery during the early to middle years of the Plan period. However, having reviewed the further evidence made available in recent months, it has become increasingly apparent that there is a more fundamental issue with the NEAs intended plans for the new GCs, namely whether the GCs are viable and deliverable at all.
15. It is notable that the Viability Assessment Update (VAU) (June 2019) (EB/068 1/2), prepared by Hyas, concludes at paragraphs 5.22-5.24 that:
- West of Braintree GC (*WoBGC*) "... produces strong residual land values under the Reference Case scenarios...". However, even these 'strong' residual values only fall in the region of £78,000 to £136,500 per acre, according to Figure 5.1 of the VAU.
 - Tendring Colchester Borders GC (*TCBGC*) "... has lower residual land values, and the Reference Case Indicates that higher contingencies would start to drive these down albeit still comfortably in excess of Existing Use Values...". According to Figure 5.3, this GC will only generate a residual land value in the region of £14,500 to £67,400 per acre, unless it benefits from significant Government 'grant' funding for early upfront strategic infrastructure.
 - Colchester Braintree Borders GC (*CBBGC*) "... is demonstrated to not generate sufficient land values under present day costs and values and without investment support to implement strategic infrastructure...". In other words this GC is 'unviable' at present. Even if significant Government 'grant' funding materialises for infrastructure, it will only achieve a residual land value in the region of £58,700 to £102,900 per acre, according to Figure 5.2.



16. These figures are concerning when set against the benchmark land value (i.e. £100,000 per acre) quoted in paragraph 5.18 of the VAU – which itself sits at the bottom end of the circa £100,000 to £150,000 per acre range likely to be included in many option and promotion agreements in Essex – and the ongoing uncertainty regarding whether or not Government funding will be made available for the A120 dualling scheme and the A12 revised realignment near Marks Tey.
17. North Essex Garden Communities Ltd (NEGC) supplemented the VAU report with their own Local Plan Examination – Viability Evidence in September 2019, prepared by Avison Young. This suggests, at paragraph 17, that the new GCs will be viable where the total cost of acquiring the necessary land and buildings is: £40m at WoBGC; £41m at TCBGC; and, £76m at CBBGC. However, when applied to the total site areas (contained in the VAU’s Technical Appendices (EB/086 2/2), this results in an average land value of:
 - **£23,627** per acre for the WoBGC (i.e. £40m divided by 1,693 acres);
 - **£39,122** per acre for the TCBGC (i.e. £41m divided by 1,048 acres); and
 - **£26,288** per acre for the CBBGC (i.e. £76m divided by 2,891 acres).
18. Clearly it is wholly unrealistic to expect landowners to sell their land for development purposes for these land values – which in the case of the WoBGC and the CBBGC is barely double existing agricultural values¹. Therefore, the Avison Young work has been prepared on the basis that land will be acquired at close to existing use values, via Compulsory Purchase Order (CPO).
19. However, using CPO powers to try to acquire in excess of 5,600 acres of land and buildings will be an extremely costly and time consuming undertaking, unprecedented in Essex in recent times. Furthermore, Avison Young’s suggested approach – i.e. to acquire development land after the adoption of a local plan at close to existing use value, when many landowners could have option or promotion agreements in place with developers for circa £100,00 to £150,000 per acre and are keen to bring forward their land for development themselves – could be unlawful and may result in rejected CPOs. The legal obstacles that the NEAs and NEGC will face if they pursue this approach are set out in detail in Martin Edwards’s Legal Opinion (CAUSE Paper 18, appended to their Summer 2019 further evidence). This recognises the need to consider ‘hope value’ in any CPO, as well as the potential for others to carry out the intended development themselves.
20. In summary, the further evidence made available in recent months appears to demonstrate that:
 - (i) two of the three new GCs (i.e. TCBGC and CBBGC) are unviable by any normal measure of a benchmark land value and only become viable with significant Government ‘grant’ funding for infrastructure, which may or may not be made available; and
 - (ii) there is an underlying assumption that land will be acquired at close to existing use values via CPO, when in reality this could be unlawful and may result in rejected CPOs.

¹ Page 23 of The Rural Report 2019, by Knight Frank, estimates agricultural land values to be approximately £8,500 to £12,000 per acre in the East of England.



21. As a result the GCs are not demonstrably 'deliverable' and the shared Section 1 Plan is still not 'effective' in accordance with paragraph 182 of the NPPF (2012).
22. In order to address this shortcoming, Bellway respectfully requests that the NEAs are directed to: (a) revisit their proposed approach to the new GCs; (b) further supplement their extended evidence base; and, (c) allocate additional growth sites to boost the overall supply of housing land and to make the Plan (as a whole) more resilient to the uncertainties and viability issues identified above.

MATTER 8 – SUSTAINABILITY APPRAISAL

(Q.1) (a) Is there adequate justification for the threshold of approximately 2,000 dwellings (ASA Main Report para 2.52) which was applied when selecting the strategic sites to be appraised at Stage 1 of the ASA?

(b) If not, what threshold should have been applied, and why?

(Q.7) (a) Is there adequate justification (including in Appendix 6) for the selection of spatial strategy options to be appraised at Stage 2 of the ASA?

(b) If not, what other spatial strategy option(s) should be assessed, and why?

23. Bellway made further representations to the NEAs Additional Sustainability Appraisal (SA) Consultation in September 2019. These representations (Comment ID: SA77) are available on Braintree District Council's (BDC's) online consultation portal and it is understood that the Inspector does not require such comments to be repeated in full here.
24. However, in summary, Bellway submitted that the Additional SA:
 - (i) does not use an appropriate threshold to identify and assess reasonable alternatives (particularly as the CBBGC is now expected to deliver just 1,350 dwellings during the Plan period) and in doing so fails to test thoroughly '*proportionate growth at and around existing settlements*' in accordance with the Inspector's June 2018 advice and in a consistent manner with the NEAs preferred GC sites; and
 - (ii) does not consider various sites near Witham (North) which could cumulatively accommodate in excess of 2,000 dwellings and is therefore inconsistent with the approach taken when assessing other alternatives near Halstead and Kelvedon.
25. As a result it is unclear whether the Plan is 'justified' (i.e. the most appropriate strategy when considered against the reasonable alternatives), in accordance with paragraph 182 of the NPPF (2012).

SUMMARY

26. Bellway hold an option on 17.8 ha of land, known as NE Witham Phase 4 and shown on the Site Boundary Plan at Appendix 1. This has been promoted through the Braintree Local Plan process for a seamless urban extension to the committed development to the south on Phases 1 & 2. However, to date, Phase 4 has not been identified for development by BDC and therefore comprises an 'omission site'.



-
27. Bellway originally submitted a Hearing Statement to the Examination in Public process in December 2017. This Further Hearing Statement supplements that work and considers the Inspector's Matters, Issues and Questions for the Further Hearing Sessions into the Shared Strategic (Section 1) Plan.
28. In particular, this Further Hearing Statement highlights:
- the uncertainty that remains in respect of funding for the A120 dualling scheme and the A12 revised realignment near Marks Tey, which could have major implications for WoBGC and CBBGC;
 - that two of the three new GCs (i.e. TCBGC and CBBGC) are likely to be unviable, unless significant Government 'grant' funding for infrastructure is made available and land is acquired at close to existing use value via CPO, even though the latter could be unlawful; and
 - that the Additional SA does not use an appropriate threshold to identify and assess reasonable alternatives and does not consider various sites near Witham (North) which could cumulatively accommodate in excess of 2,000 dwellings.



Appendix 1 – Site Boundary Plan, NE Witham Phase 4

