



# Braintree District Council

## Local Plan Examination of Section 2

Main Matter 11 - A Prosperous District – Homes  
– Policies LPP 33 – LPP 43

June 2021

## Main Matter 11 -

### A Prosperous District – Homes - Policies LPP 33 – LPP 43

- LPP 33 - Affordable Housing
- LPP 34 - Affordable Housing in the Countryside
- LPP 35 - Specialist Housing
- LPP 36 - Gypsy and Traveller and Travelling Showperson's Accommodation
- LPP 37 - Housing Type and Density
- LPP 38 - Residential Alterations, Extensions and Outbuildings
- LPP 39 - Replacement Dwellings in the Countryside
- LPP 40 – Rural Workers Dwellings in the Countryside
- LPP 41 - Infill Development in Hamlets
- LPP 42 - Residential Conversion of Buildings in the Countryside
- LPP 43 - Garden Extensions

- **Are the above policies justified by appropriate available evidence, having regard to national guidance and local context?**

- 11.1 Yes, in respect of **LPP33 and LPP34** on Affordable Housing, these policies are justified in both national policy and through the Local Plan evidence base, in particular the Affordable Housing Viability Assessment 2015 (BDC029). This document sets out the appropriate level of affordable housing provision in the District in order to ensure that development proposals remain viable as per paragraph 173 of the NPPF.
- 11.2 Paragraph 47 of the NPPF states that Local Plans should “...ensure that their *Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework...*” While case law<sup>1</sup> has confirmed that national policy does not require Local Planning Authorities necessarily to meet their affordable housing needs in full, given the extant need and national policy position it is appropriate for the Local Plan to include provision for affordable housing.
- 11.3 Paragraph 50 of the NPPF states that “*where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock)....*”. The Council’s Strategic Housing Market Assessment has identified a need for affordable housing within the District of 1,360 per annum across the housing market area (Table S.7 – EB/020) as such setting an affordable housing policy is clearly justified by the evidence base and the local and national context.

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<sup>1</sup> Kings Lynn and West Norfolk v Secretary of State for Communities and Local Government [2015] EWHC 2464 at [32]-[37]

- 11.4 **Policy LPP 35** is justified by appropriate available evidence. National guidance draws attention to the need to plan to meet the need for specialist housing. Braintree District Council does not have unusually high levels of need (such as is often associated with retirement migration to coastal areas) but as with the national trend there are existing needs for specialist housing and these are expected to increase over time. LPP35 provides for the development of specialist housing such as for the elderly or those with disabilities.
- 11.5 The development of the policy was based on the evidence in the Strategic Housing Market Assessment 2015 Update (EB019); pages 71 – 74 provide details of households with specific needs. That evidence was based on demographic projections, and identified a significant growth in the need for specialist housing mainly as a result of the projected large increase in the elderly population.
- 11.6 Advice on specialist housing need is provided to the Council by Essex County Council, who are consulted on relevant planning applications and who have regard to updated demographic modelling. The Plan makes clear in paragraph 6.104 of the BLP Section 2 that developers are expected to have regard to the most up to date independent living accommodation information available from Essex County Council, and this takes into account that the assessment of need and supply may change over time, between different locations in the District, and as updated information on projected population change and supported living policies becomes available.
- 11.7 Whilst evidence on the specific quantum of projected population change will be subject to change since the evidence in the 2015 SHMA, it remains clear that there will be a need for additional specialist housing in the District and as Policy LLP35 is a criteria based policy, which does not set a numeric target, it remains justified and effective.
- 11.8 **Policy LPP36** Gypsy and Traveller and Travelling Showperson's Accommodation is justified by the available evidence which is set out in Topic Paper 2 Housing, and in response to specific questions later on in this matter in more detail. This includes BDC007 Gypsy and Traveller and Travelling Showpersons Accommodation Assessment.
- 11.9 **Policy LPP 37** Housing Type and Density builds on Section 7 of the National Planning Policy Framework (2012) in relation to its criteria on density and massing to ensure good design and the amenity of future residents. The policy criteria on housing mix (including the provision for self and custom build) is supported by paragraph 50 of the NPPF which states that planning authorities plan for a housing mix for a range of different groups in the

community. The policy is evidenced through stating that the housing mix should be provided in line with the 2015 SHMA. MM41 in document SDBDC008a proposes a number of modifications to the policy to reflect building regulations and add clarity.

- 11.10 **Policy LPP 38** Residential Alterations, Extensions and Outbuildings provides criteria to ensure sound principles and good design when considering residential alterations, extensions and outbuildings in order to protect local character. MM42 in document SDBDC008a proposes a modification to provide guidance on development involving annexes as the Plan is currently silent in this area.
- 11.11 **LPP39** Replacement Dwellings in the Countryside provides guidance for development involving replacing dwellings in the countryside to ensure that the new dwellings will not negatively impact upon rural character or setting, and is particularly relevant for a rural authority such as Braintree. Recognising the intrinsic character and beauty of the countryside is a core principle of the NPPF (paragraph 17). MM43 in document SDBDC008a proposes a modification in response to a representation by Historic England on the policy.
- 11.12 **LPP 40** Rural Workers Dwellings in the Countryside provides guidance on when rural workers dwellings should be permitted in order to protect the countryside from inappropriate development but also to support the rural economy where there is a genuine need (as described in Section 3 of the NPPF). MM44 in document SDBDC008a proposes a modification to the wording of this policy to aid clarity.
- 11.13 **LPP41** Infill Developments in Hamlets sets criteria on how infill development in hamlets should be approached through setting a clear framework for decision makers. This policy allows for small scale residential development in the form of a single dwelling where appropriately located to support rural communities as promoted in the NPPF paragraph 55.
- 11.14 **LPP42** – Residential Conversion of Buildings in the Countryside – this policy and supporting text demonstrates a clear preference for rural buildings to remain in commercial use to support rural enterprise. Permitted development rights have led to large numbers of agricultural buildings to changing to residential use. It is therefore important that there is sufficient availability of commercial buildings within the countryside to support the rural economy as supported by the NPPF paragraph 28. Where conversions to residential are necessary to seek planning permission, the policy sets out a number of criteria to ensure the impacts of the development are acceptable.
- 11.15 **LPP43** - Garden Extensions provide criteria on when this would be acceptable in order to protect the countryside and aid the decision maker in taking into

account potential impacts. MM45 in document SDBDC008a proposes a modification to the wording of this policy.

- **Do the policies provide clear direction as to how a decision maker should react to a development proposal?**

11.16 **Policy LPP33** sets two different thresholds for the provision for affordable housing in the District. The first is a target of 30% of the total number of residential units on sites located in the main towns of Braintree (including Great Notley, Bocking and High Garrett), Witham, Halstead, Sible Hedingham and development sites directly adjacent to these areas on sites of 0.5ha or proposals for 15 or more dwellings. The second is a target of up to 40% on a threshold of 11 dwellings or more with a maximum combined gross internal floor space of 1,000sqm will apply in all other areas of the District. The definition of the areas to which the policy applies is reflective of the current adopted policy from 2011 and provides a clear direction. However, the Council has added wording into the policy to provide additional clarification for major sites which sit on the edges of the towns and may be functionally part of them, even if they sit within a neighbouring rural parish. These need for and viability of securing affordable housing at this level have been determined through evidence base BDC008 and BDC029 and are considered to be robust and credible, however it is acknowledge that the threshold of 11 dwellings will need to be altered to 10 dwellings in order to bring it in line with national policy, as is proposed within MM39 within document SDBDC008a.

11.17 **Policy LPP 35** provides clear direction, by setting out the criteria that should be taken into account when determining planning applications; in addition the supporting text in Paragraph 6.104 makes clear that developers will be expected to have regard to the most up to date specialist advice from Essex County Council on Independent Living

11.18 **Policy LPP36** and its supporting text provide a clear number of pitches which are required to be provided and a clear criteria based policy which sets out what matters should be taken into account when determining planning applications for Gypsy and Traveller sites. The policy is subject to modification in respect of the number of pitches and plots are to be provided (MM40), this is a factual correction.

11.19 In relation to policies **LPP37 to LPP43** the Council considers that these policies (taking into account proposed modifications) provide a clear framework for how relevant applications should be assessed. The polices will vary on their descriptiveness depending on whether it is appropriate for the policy wording to specify specific parameters which must be followed or if it is

more appropriate for the decision maker to use their professional judgement on whether a proposal meets the aims of the policy.

- **Are the Council's proposed modifications to the policies necessary for soundness?**

11.20 Yes, the proposed modifications are required to bring the policy in line with national policy and are updated to reflect the adoption of the Section 1 Local Plan as modified. These are listed as modifications MM39 – MM45 of document SDBDC008a.

### **LP33 & LP34- Affordable Housing and Affordable Housing in Rural Areas:**

- **On what evidence has the 30% and 40% thresholds been set?**

11.21 Policy LPP33 sets 2 different thresholds for the provision for affordable housing in the area. The first is a target of 30% of the total number of residential units on sites located in the main towns of Braintree (including Great Notley, Bocking and High Garrett), Witham, Halstead, Sible Hedingham and development sites directly adjacent to these areas on sites of 0.5ha or proposals for 15 or more dwellings. The second is a target of up to 40% on a threshold of 11 dwellings or more with a maximum combined gross internal floor space of 1,000 sqm will apply in all other areas of the District. These figures have been determined through evidence base Affordable Housing Viability Assessment (2015) (BDC029) and are considered to be robust and credible.

11.22 These thresholds reflect the thresholds which are within the current adopted Local Plan policies from the 2011 Core Strategy. These have now been in place for almost 10 years and have been found to be appropriate and viable for developments to provide in the vast majority of cases.

- **Is the requirement for 15 dwellings or 0.5ha sufficiently clear?**

11.23 Yes, the policy makes it clear that affordable thresholds will be sought on proposals which either (a) consist of 15 or more dwellings or (b) where the application site is 0.5ha or greater.

- **How was the threshold of a village population of 3,000 identified?**

11.24 The 3000 threshold is necessary as affordable housing through rural exceptions sites needs to be provided in perpetuity. This can only apply to villages with a population of less than 3000, otherwise the right to buy would apply. In the larger villages, the Plan provides for additional affordable housing to be secured through Section 106 agreements on housing

development sites that meet the site size criteria. The rural parishes in the District, with the exception of the five largest – Coggeshall; Earls Colne; Hatfield Peverel; Sible Hedingham and Silver End - are Designated Rural Areas, as designated by the Housing (Right to Acquire and Enfranchise) (Designated Rural Areas in the East) Order 1997 (UK Statutory Instrument 1997 No. 623).

### **LPP 35 – Specialist Housing:**

- **Which sites are allocated for specialist housing and does this meet local need?**

11.25 The sites allocated for specialist housing were allocated in response to proposals seeking those specific site allocations, and when the allocations were included these were sites where exceptions were being made because of the specific nature of the proposal:

- **Blamsters Mount Hill Halstead**, to help meet needs of people with learning disabilities and physical impairments, requested by the then owner of with the existing Blamsters residential care home to be developed in association with that home; this site now has outline planning consent for 16 supported living homes and 9 market homes (16/01646/OUT).
- **Polly’s Hill Braintree**, to help meet needs for supported living for elderly people, this allocation was sought by Abbeyfield housing association who had been bequeathed the site for it to be developed for specialist housing; this site was granted permission and is now under construction for 99 supported living homes for elderly people (15/01584/FUL)
- **Land adjacent St Dominic’s Care Home Church Street Kelvedon**, to help meet needs for supported living for elderly people ; this site is now the subject of a planning application which extends to adjacent, unallocated land, for the erection of a 21 bed care home, 13 close-care bungalows and a 12 close-care apartment block (20/00707/FUL, pending consideration) .

11.26 Those allocations would not be sufficient to meet future need for specialist housing as set out in Pages 71-74 of the Strategic Housing Market Assessment 2015 Update (EB019), but the Plan does not seek to confine the development of specialist housing to those allocations. The Plan includes policies to secure a mix of housing within larger sites, including provision for wheelchair accessible accommodation (Policies LPP 33 and LPP 37). Specialist housing developments have been and are being built on suitable sites within the development boundary in settlements in the District, including sheltered housing under construction at Bridge Street Witham, and care homes at Riverside Duggers Lane Braintree, now being extended; and at part of the Braintree College site. Two “retirement villages” have been developed

in the District, at Priory Hall Halstead which completed in 2017 and earlier, completed in 2008, at Tortoiseshell Way Braintree; and these offer a spectrum of supported housing on the site. Sites for a care home are included in the permission for the North West Braintree Panfield Lane Strategic Growth Location and the current outline planning application for the Wood End Strategic Growth Location at Witham. The Development Management process provides the main supply of specialist housing in the District, and are in addition to the specific specialist housing allocation sites.

11.27 Information on specialist housing development in the District is set out in Topic Paper 2 and in paragraphs 2.2 and 2.3 and Appendix 1 of the Braintree District Housing Land Statement 2021-2026 (published May 2021). Small scale proposals for supported living as new build or change of use of existing dwellings are the now ECC Supported Living preferred approach for integration into the community as far as possible for people with physical or learning disabilities and children's homes, and such proposals have been approved and developed in recent years in the District, as is shown in the Topic Paper. These have replaced the approach of larger residential institutions such as the former Scope Grangewood Centre at Kelvedon and the former home for deaf/blind people at Foley House Braintree.

11.28 One of the features of specialist housing supply in recent years has been the replacement by conversion or redevelopment of outdated supply that is in some cases was no longer fit for purpose, such as flats for elderly people that lacked their own bathroom facilities, with modern accommodation. In such cases the existing accommodation has often been vacant, or at low levels of occupancy for some time, if the accommodation is unpopular or occupancy of the building has been run down in preparation for the redevelopment project; and has not been meeting housing need for some time. Topic Paper 2 provides details of the individual schemes from 2013. These projects continue to come forward through the development management process; in addition to those listed there is a current planning application pending consideration for the redevelopment of the former 10-bed Abbeyfield care home in the village of Kelvedon, which closed in 2017, to provide a 28 bed care home (21/0461).

- **Should the criteria for new developments also apply to extensions?**

11.29 Yes, the criteria in Policy LPP 35 should also apply to extensions. For sites within the built up area, criteria in the policy such as the need for adequate private amenity space would be relevant to consideration of proposed expanded sites; and for sites in the countryside it is important for the Council to take into account the criteria in bullet points i) to iii) of the policy in ensuring



that the development is appropriate in its setting and location. The Council would welcome any wording which the Inspectors may wish to add to this policy to make this position clear.

### **LPP 36 - Gypsy and Traveller and Travelling Showperson's Accommodation:**

- **Is the policy justified and consistent with national policy? Are the requirements of the policy clear, and would they be effective?**

**(a) Is the Gypsy and Traveller Accommodation Assessment (2017) up to date and robust in its identification of needs for plots and pitches?**

- 11.30 The Braintree Gypsy and Traveller Accommodation Assessment (GTAA) was completed by Opinion Research Services (ORS) in May 2017 (BDC007), ORS are considered to be one of the county's foremost consultants on the preparation of GTAA. The methodology and assessments have previously been found sound by the Planning Inspector for the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy. It was part of a wider study to undertake accommodation assessments for all local authorities in Essex including Southend-on-Sea and Thurrock. The report is considered to be up to date as it reflects the requirements of the Planning Policy for Traveller Sites (2015) (PPTS). The report concludes that in Braintree District in the period until 2033 there is a need for 2 additional pitches for those travellers who meet the planning definition (as per the PPTS(2015)) and 24 additional pitches for travellers who do not meet that definition. In addition there is an identified need for 5 plots for Travelling Showpeople who meet the planning definition and 1 additional plot which does not meet the definition. Further details are set out in the Housing Topic Paper paragraphs 4.15 – 4.32.
- 11.31 The evidence base is considered to be robust and credible, and was conducted using a mixture of desk based review, surveys of the travelling communities, as well as engagement with Gypsy and Traveller households that currently live in bricks and mortar accommodation. The evidence base included an estimate for unknown households which may meet the 2015 definition. The evidence base is considered to be up to date as it has been produced in accordance with the 2015 PPTS.
- 11.32 Further work is currently being undertaken across Essex to determine if Transit pitches are required, however this work has been delayed due to the ongoing pandemic which has meant a study of usual travel patterns have not been possible.

**Does the Council's approach in relation to traveller sites generally conform with the expectations of Planning Policy for Traveller Sites (PPTS) (August 2015)?**

11.33 Yes, the Council's policy seeks to meet the identified need for those Gypsy and Travellers which meet the definition as set out in the PPTS 2015. Policy LPP 36 (if amended as proposed) proposes to support the provision of up to 26 pitches either at Strategic Growth Locations or through the planning process. The evidence base has been developed in accordance with the guidance laid out in paragraph 7 of the PPTS and policy LPP 36 has been developed in accordance with paragraphs 8-10. Indeed, the policy goes beyond the expectations in the PPTS by making provision not just for those household which meet the definition but also those households which do not meet the definition. Following on from this policy, LPP18, land at Great Notley, LPP19 Land East of Broad Road and LPP22 Land at Feering, all include note that they are expected to include provision for a Gypsy and Traveller site. This is proposed to be modified in each policy to include provision of or contributions to Gypsy and Traveller sites.

(b) The Local Plan is able to demonstrate a 5 year supply of Gypsy and Traveller sites as shown in the Housing Topic Paper paragraph 4.24.

Given the relatively small identified need for Gypsy and Traveller sites in the District the Council considers that is approach is sound.

**Does policy LPP36 provide an adequate criterion-based policy for the assessment of Gypsy and Traveller site proposals?**

11.34 Yes, the criteria based policy as amended should provide sufficient guidance for Development Management to assess individual proposals for Gypsy and Traveller sites within the District. It is considered that the criteria is reflective of paragraph 11 and 13 and that as set out in the guidance the policy is fair and facilitates the traditional and nomadic ways of the traveller community as well as respecting the interests of the settled community.

11.35 It is noted that no sites for Gypsy and Traveller use were put forward for consideration through the Local Plan. The Council has therefore taken the approach that it will support pitches at Strategic Growth Locations and will also provide a criteria based policy which will be able to meet this need. In addition the Council will consider developing its own sites for Gypsy and Travellers and Travelling Showpeople if this is necessary to meet a need which is not being meet through the private sector.

## In relation to LPP37 - Housing Type and Density:

- **Are the Council's requirements in relation to custom and self-build housing reasonable and necessary? On what evidence has the threshold been set?**

11.36 The National Planning Policy Framework (2012) paragraph 50 states that local planning authorities should plan for a mix of housing including *'people wishing to build their own home'*.

11.37 The Council is also required keep a self-build and custom housebuilding register as set out in section 1 of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).

11.38 The 2015 Act (as amended) places a duty upon the Council to give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by the number of entries added to the register within each base period. At the end of each base period, relevant authorities have 3 years in which to permission an equivalent number of plots of land.

11.39 The number of entries onto the Council's Register for the full 5 base periods (up until 30 October 2020) is provided below.

- Entries on the register in the first base period, to 30.10.2016: 38 individuals, no group entries.
- Entries on the register in the second base period, 31.10.2016 to 30.10.2017: 42 individuals, no group entries.
- Entries on the register in the third base period, 31.10.2017 to 30.10.2018: 56 individuals, no group entries.
- Entries on the register in the fourth base period, 31.10.2018 to 30.10.2019: 26 individuals, no group entries.
- Entries on the register in the fifth base period, 31.10.2019 to 30.10.2020: 23 individuals, no group entries.
- Total: 185 individual entries and no group entries.

11.40 The current legislation and guidance is unclear in terms of what permission can be counted towards meeting the authorities demand generated by the register. The relevant legislation states: Development permission is "suitable" if it is permission in respect of development that could include self-build and custom housebuilding (Housing and Planning Act 2016).

11.41 The approach taken towards the monitoring of "suitable" is therefore largely down to each local authority. Braintree District Council consider that by

counting permissions for single dwellings and barn conversions where the permission was applied for by an individual(s) rather than a developer or company the authority has so far been meeting its demand generated by the register. This approach was recently discussed with the Self Build Task Force who considered the approach reasonable.

11.42 However, the Council considers that the number of people on the authorities register warrants the inclusion of self / custom build provision within this policy. The relevant section of LPP 37 currently states: *'On sites of 500 dwellings or more, 2% of homes will be required to be available for self or custom builders'*. Only two proposed allocated sites remain without permission which are over the 500 dwelling threshold: the growth locations at Feering and Great Notley. The representatives of both of these sites are aware of this requirement and have not objected. It is estimated that these sites will provide a combined total of around 50 plots. It is considered that the 2% requirement will deliver a sufficient amount of self-built plots whilst not placing a too onerous burden on the developer of the site or impacting upon viability.

11.43 Whilst the Council maintains that to date it has met its self / custom build requirement through granting windfall permissions for single dwellings and conversion, there is no certainty that this trend will continue. This policy will therefore play a key role in bolstering the provision of self / custom build plots within the district.

#### **In relation to LPP42 Residential Conversion of Buildings in the Countryside:**

- **Are the requirements of the policy and supporting text, reasonable, necessary, and consistent with national policy?**

11.44 The NPPF (2012) paragraph 28 sets out policy for supporting rural economic growth and enterprise. The availability of rural commercial premises will therefore play a key role in the economic activity in rural areas through providing employment opportunities for local people and bringing visitors and spending into the local area. Permitted development rights have allowed a number of rural buildings (including agricultural) to be converted to residential use. It is therefore considered that a preference for other rural buildings to be used for a commercial use over residential is warranted. Especially given that Braintree District which has large rural areas and populations.

11.45 Supporting paragraph 6.142 to this policy states that: *'If these buildings are no longer suitable for commercial uses, and therefore have become redundant or disused, then the site must have been marketed for commercial uses for at least a year and the application must be accompanied by a marketing*

*appraisal which may be independently verified at the expense of the applicant.'*

- 11.46 The 12 month marketing exercise specified in this paragraph is considered reasonable and proportional in providing the rural building with the chance to become or remain within a commercial use whilst allowing a change if the facility is demonstrated to be unviable.
- 11.47 Criteria a –e within the policy ensure that a conversion of the building will be sustainable and not have unacceptable impacts, proving the decision maker will a framework for assessing relevant applications.