



RIDGE

**EXAMINATION OF THE
BRAINTREE DISTRICT LOCAL PLAN
SECTION 2: MATTER 14**

FOR ACORN BRAINTREE LIMITED

June 2021

EXAMINATION OF THE BRAINTREE DISTRICT LOCAL PLAN SECTION 2 MATTER 14

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Prepared for

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1. INTRODUCTION

- 1.1. This representation has been made by Ridge and Partners LLP on behalf of Acorn Braintree Limited to answer the matters, issues and questions set out by the Inspector in relation to the Braintree District Local Plan Section 2 (BLP Section 2) which has been submitted to the Secretary of State under Regulation 22(3) of the Town and County Planning (Local Planning) (England) Regulations 2012.
- 1.2. Our client continues to promote land to the west of Braintree, between Rayne Road and A120, through the BLP Section 2, having submitted representations for its suitability and availability to deliver circa. 1500 residential dwellings (class C3) on 32.75ha of land; an 800m² local centre (use classes A1/A2/D1/D2 – no more than 200m² A1) on 0.29ha of land; 0.65ha employment land (class B1); 12.3ha of public open space; and associated highway works with new accesses via Pods Brook Road and Rayne Road. The site is an omission site, and we note that the Inspector does not want to hear the merits of omission sites as part of this stage of the Examination process.
- 1.3. Specifically, this representation seeks to address “Matter 14: The District’s Natural Environment” focusing on “Policy LPP 72: Green Buffers” of the Inspector’s list.

2. MATTER 14: THE DISTRICT'S NATURAL ENVIRONMENT

2.1 The following section relates to "Matter 14: The District's Natural Environment" where the Inspector raises a number of questions. Those which we wish to comment on are as follows:

- *Are the above policies justified by appropriate available evidence, having regard to national guidance and local context?*
- *Do the policies provide clear direction as to how a decision maker should react to a development proposal?*
- *In relation to Policy LPP 72 Green Buffers:*
 - *Is the approach taken by the policy consistent with the Framework and the aims of sustainable development? Is it supported by appropriate evidence? Does it duplicate other policies in the plan?"*

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

2.2 It is not considered that emerging Policy LPP72 in its currently restrictive form is consistent with national policy in the NPPF. This is one of the requirements of soundness (NPPF 35(d)). Although it sits within the landscape section of the BLP Section 2, it appears to be similar in nature to that contained in Green Belt policy in identifying a restricted list of uses considered to be appropriate on land covered by the proposed Green Buffer designations. However, it has not been justified by any demonstration of the exceptional circumstances that would be needed to create a new piece of Green Belt. It is also unclear how a highly restrictive "buffer" policy of this kind can sit alongside the hierarchy of landscape designations of which plans are required to distinguish between under paragraph 171 of the NPPF, which advises that "*Plans should: distinguish between the hierarchy of international, national and locally designated sites ...*".

2.3 Secondly, the justification at paragraph 8.31 of the BLP Section 2 states that '*Uncertainty over which locations may be appropriate for development has led to a need for further measures to be taken to ensure that gaps are maintained between urban areas and the surrounding villages*'. This is illogical given that the Plan is clear as to where the main settlement boundaries are and what land falls within the countryside or other designations. Furthermore, draft Policy LPP1 (Development Boundaries) is clear as to the protection afforded to the Countryside stating: '*Development outside development boundaries will be strictly controlled to uses appropriate to the countryside to protect the intrinsic character and beauty of the countryside*'.

- 2.4 Indeed the basis for a policy should not be around uncertainties which may exist, particularly not in relation to that which may be appropriate for the siting of planned growth. Whilst a Local Plan cannot be expected to address every single eventuality its policies should at least be positively prepared and serve a clear purpose (as per paragraph 16 of the NPPF).
- 2.5 The justification for the Green Buffers refers to the prevention of the coalescence of settlements. The protection afforded by draft LPP1 (Landscape Character and Features) provides control of development within the countryside requiring development to be sympathetic to the character of the landscape. Furthermore, policy SP3 of the recently adopted BLP Section 1 requires that future growth be planned to ensure that existing settlements “maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting.” Policy LPP72 is therefore unnecessary and essentially duplicates existing planning policy in the BLP Section 1.
- 2.6 Thirdly the BLP Section 2 (which was prepared and then published in 2017) was formulated on the basis of a vision for development that saw a significant level of development at two garden communities. However, following the examination of the BLP Section 2, these two garden communities have now been removed from the BLP Section 1 and therefore the draft BLP Section 2, published in 2017, is clearly based upon aspects of a vision and spatial strategy that no longer apply.
- 2.7 This suggests to us that that the Green Buffers policy may need to be revisited, not least to ensure that the BLP Section 2 has been properly assessed for the purposes of the Strategic Environmental Assessment Regulation 2004. If the spatial vision underpinning the plan has been altered, then it will be important to demonstrate that reasonable alternatives to the revised vision (i.e. the vision without garden communities) has been assessed and these may well include either a less restrictive approach to non-allocated development in the proposed buffer, or specific new allocations within it.
- 2.8 Finally, a Green Wedge Policy was proposed for the Local Plan 2005, which set out to impose a similar policy over similar zones in Braintree. During the examination process the Inspector deemed these to be unnecessary, as “all protection necessary to prevent inappropriate development in all countryside areas including those between development” had been provided in other policies. This is still the case with the current proposed Policy LPP72 for Green Buffers. Circumstances have not changed and therefore there is no reason to justify a reintroduction of the previous policy.
- 2.9 For the above reasons it is recommended that Policy LPP72 be deleted. It conflicts with the need for the Plan to be positively prepared, it is not unambiguous, could prevent sustainable development, does not serve a clear purpose and duplicates other policies in the Plan, and conflicts with paragraph 171 of the NPPF. In the alternative it is not necessary for the Plan to be sound. The policy should therefore be deleted.

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

- 2.10 The policy lists various uses which would be considered appropriate including: *“agricultural and forestry development, formal and informal recreation, footpaths and cycle ways, cemeteries, the re-development of suitable brownfield sites, development which relates to an existing use, and the extension or replacement of existing homes. Proposals for strategic infrastructure within green buffers would be supported provided suitable consideration is given to their impact on the surrounding area.”*
- 2.11 However, it also goes on to state *“Where development is necessary it will have regard to the local landscape character and be of a design, density and layout which minimises the coalescence and consolidation between built areas and preserves the setting of those areas.”*. It is assumed that this part of the policy is intended to be in reference to the uses which are considered appropriate, rather than other development proposals which could be considered necessary. In this regard, the policy wording does not provide a clear direction on how the decision maker should react to a proposal.
- 2.12 Furthermore, it is unclear why the Policy wording goes on to request *“An assessment of the local landscape and physical separation between settlements will be required, demonstrating that the development is to be located on an area which has the least detrimental impact to the character of the countryside and does not reduce the visually sensitive buffer between settlements or groups of houses.”*
- 2.13 Firstly, surely such an assessment of local landscape and physical separation between settlements should form part of the evidence base for Policy LPP72 demonstrating the need for land to be designated as a green buffer in the first place.
- 2.14 Secondly, the requirement to then also demonstrate that development is to be located in an area which has the least detrimental impact to the character of the countryside and does not reduce the visually sensitive buffer between settlements or groups of houses would be impossible to meet because land within the ‘Green Buffer’ is designated on the basis that if developed it would contribute to the coalescence of settlements. This part of the policy is therefore essentially impossible to satisfy.
- 2.15 Paragraph 16 of the NPPF states that plans should contain policies that are *“clearly written and unambiguous”*. In our opinion, Policy LPP72 fails to meet that test.

In relation to Policy LPP 72 Green Buffers:

Is the approach taken by the policy consistent with the Framework and the aims of sustainable development? Is it supported by appropriate evidence? Does it duplicate other policies in the plan?"

- 2.16 The identification of any local environmental designations, including Strategic Green Buffers and separation policies, must be predicated on a robust and comprehensive evidence base as advocated by the NPPF. Acorn is of the view that the Council's evidence base does not support the extensive areas that have been identified as 'green buffers', indeed we have not been able to locate any specific evidence base document to support the introduction of Green Buffers in the emerging BLP Section 2. Therefore, Policy LPP72 is contrary to Paragraph 31 of the NPPF which requires the preparation and review of all policies to be underpinned by relevant and up-to-date evidence. It goes on to say that the evidence should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned.
- 2.17 In addition, as identified earlier, the justification for the Green Buffers Policy refers to the prevention of the coalescence of settlements. However, Policy LPP1 provides control of development within the countryside. There is also a variety of other policies in the emerging plan which affords protection to landscape character and setting and the setting of conservation areas including Policy LPP50 (Built and Historic Environment), Policy LPP56 (Conservation Areas) and Policy LPP55 (Layout and Design of Development). It is therefore considered that Policy LPP72 creates unnecessary duplication of policy, contrary to paragraph 16 of the NPPF.
- 2.18 To that end, it is concluded that Policy LPP72 of the emerging BLP Section 2 in its current form does not comply with Paragraph 16 or 31 of the NPPF. The Plan therefore fails to comply with paragraph 35d) of the NPPF which requires plans to be consistent with national policy for them to be considered 'sound'.
- 2.19 We respectfully request the above is given due consideration during the examination of the BLP Section 2 and that Policy LPP72 be deleted from the Plan.