



Braintree District Council

Local Plan Examination of Section 2

- Main Matter 14
- The District's Natural Environment
- Policies LPP 67- LPP 81

June 2021

Main Matter 14

The District's Natural Environment (Policies LPP 67- LPP 81)

Policy LPP 67 Natural Environment and Green Infrastructure

Policy LPP 68 Protected Species, Priority Spaces and Priority Habitat

Policy LPP 69 Tree Protection

Policy LPP 70 Protection, Enhancement, Management and Monitoring of Biodiversity

Policy LPP 71 Landscape Character and Features

Policy LPP 72 Green Buffers

Policy LPP 73 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

Policy LPP 74 Climate Change

Policy LPP 75 Energy Efficiency

Policy LPP 76 Renewable Energy Schemes

Policy LPP 77 Renewable Energy Within New Developments

Policy LPP 78 Flooding Risk and Surface Water Drainage

Policy LPP 79 Surface Water Management Plan

Policy LPP 80 Sustainable Urban Drainage Systems

Policy LPP 81 External Lighting

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

- 8.1 The policies are supported by evidence base contained in the Council's submission to the Pt 2 Examination, particularly those under the District's Natural Environment category. This includes:

Braintree District

Braintree District Council draft Climate Change Strategy 2021

[BDC026 Habitats Regulation Assessment Screening Report Section 2 Aug 2016](#)

[BDC027 Habitats Regulation Assessment Section 2 - May 2017](#)

[BDC028 Habitats Regulation Assessment Natural England Response Section 2 June 2017](#)

[BDC049 1 5 Strategic Flood Risk Assessment Update Level 1 November 2016](#)

[BDC049 2 5 Strategic Flood Risk Assessment Update Level 1 November 2016 Appendix pt1](#)

[BDC049 3 5 Strategic Flood Risk Assessment Update Level 1 November 2016 Appendix pt2](#)

[BDC049 4 5 Strategic Flood Risk Assessment Update Level 1 November 2016 Appendix pt3](#)

[BDC049 5 5 Strategic Flood Risk Assessment Level 2 January 2017](#)

[BDC051 Braintree and Witham Surface Water Management Plan](#)

[BDC054 Strategic Flood Risk Assessment Update EB037 Essex Minerals Local Plan Adopted July 2014](#)

[BDC050 BDC Water Cycle Study Update March 2017](#)

[BDC008 Economic Viability Study June 2017](#)

Braintree District Inset Maps and Proposals Map (updated regularly)

Landscape

[BDC044 Landscape Character Assessment preface and Executive Summary 2006](#)

[BDC045 1 6 Landscape Character Assessment Preface and Executive Summary September 2006](#)

[BDC045 2 6 Landscape Character Assessment Section 1 Introduction September 2006](#)

[BDC045 3 6 Landscape Character Assessment section 2 Overview of the Study Area September 2006](#)

[BDC045 4 6 Landscape Character Assessment section 3 Landscape Character of Braintree District September 2006](#)

[BDC045 5 6 Assessment Section 8 Recommendations 2006](#)

[BDC045 6 6 Landscape Character Assessment appendices September 2006](#)

Regional Level

The Essex SuDS Design Guide 2014 (as amended)

[BDC048 Dedham Vale Proposed Search Area AONB Review](#)

National

MaGic Map – managed by Natural England

2018 UK Greenhouse Gas emissions, final figures Statistical summary

Water Stressed areas – final classification (July 2013)

River Basin management plan anglian river basin district 2009, (replaced 2015) Environment Agency

Green Infrastructure Guidance, Natural England

<http://publications.naturalengland.org.uk/publication/35033>

The South Suffolk and North Essex Clayland National Character Area

<http://publications.naturalengland.org.uk/publication/5095677797335040?category=587130>

Code of practice for the sustainable use of soils on construction sites (2009) DEFRA

UK climate change risk assessment: Government report 2012 and 2017, Committee on climate change

The National Adaptation Programme – Making the Country Resilient to a Changing Climate (2013) Committee on climate change

UK Biodiversity Action Plan 1992 – 2012 National legislation and Guidance

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

- 8.2 The policies describe what is required of the applicant in a clear and appropriate manner including criteria and geographical representation on the Proposals Map where necessary.
- 8.3 The Council considers that taken as a whole and read in conjunction with National Planning Policy and Guidance, together with policy SP6 of the BLP Section 1, that these policies provide a clear direction as to how a decision maker should react to a development proposal.

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

- 8.4 The Council has proposed a number of main modifications to this section of the BLP – Section 2 listed as MM60 – MM68 within document SDBDC008a. The reasons for each proposal are set out within that document and are largely amendments proposed by statutory consultees and supported by the Council. As such the Council considers these modifications necessary for soundness.

In addition, in relation to Policy LPP 68 - Protected Species, Priority Spaces and Priority Habitat:

Does the approach to major development in national and internationally protected areas conform with national policy?

- 8.5 The policy as modified by the Statement of Common Ground with Natural England (SOCG008) deals with major development in an appropriate manner. BLP- Section 2 references the approach to be taken to major developments, however it lies within a paragraph which also refers to International Designations. For clarity it this paragraph has been altered to refer to National sites only and the following has been agreed with Natural England as part of the Statement of Common Ground.
- 8.6 Different levels of significance are set out clearly and the avoid-mitigate-compensate hierarchy is appropriately described for each category of designation.
- 8.7 Planning permission for major developments in those areas mentioned in paragraph 115, namely National Parks, the Broads and Areas of Outstanding Natural Beauty should be refused except in exceptional circumstances and where it can be demonstrated that they are in the public interest

In relation to Policy LPP70 - Protection, Enhancement, Management and Monitoring of Biodiversity:

Does the policy take an appropriate approach to biodiversity net gain?

- 8.8 The NPPF 2012 paragraph 109 requires planning to contribute to, and enhance the natural and local environment by providing “*net gains in biodiversity where possible*” and doing so by “*establishing coherent ecological networks that are more resilient to current and future pressures*”. Biodiversity creation and enhancement is required by SP7 of the adopted BLP – Section 1 and is carried into LPP70 Protection, Enhancement, Management and Monitoring of Biodiversity which requires “*enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development*” Whilst the policy is to be judged according to the 2012 NPPF it is acknowledged that new legislation in the form of the Environment Bill is being produced. Plainly, if and when that legislation is promulgated, development proposals will be required to accord with it as a matter of law.
- 8.9 In connection with achieving net gain, NPPF Paragraph 117 requires identification and mapping of components of ecological networks. Inset Maps and the district wide Proposals Map show areas of importance for nature

conservation such as designated Local Wildlife Sites, SSSIs, Ancient and other woodland. In addition, the MaGic map managed by Natural England provides additional geographical data on habitat types across the district and priority species for stewardship. In addition the Strategic Flood Risk Assessment maps main rivers which are for biodiversity.

- 8.9 Development occurs where it is proposed and it is important to improve networks where this opportunity arises by considering how each site can contribute with reference to key features mentioned above and those in the site vicinity. This is done at application stage where the up to date and accurate ecological information is sought as part of the application and where appropriate, can be assessed by the Council's Ecology Officer and the Wildlife Trust.
- 8.10 The Environment Agency has sought wording seeking measures which would assist with net gain and river health. A Statement of Common Ground is in the final stages of preparation and it is envisaged that it will be available well before examination.

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?

- 8.11 The purpose of the Green Buffers is to prevent urban sprawl and coalescence between settlements. Areas adjacent to existing settlements are often under intense pressure to be developed. Paragraph 109 of the NPPF (2012) requires that valued landscapes should be protected and enhanced, but does not prescribe how these valued landscapes should be defined. Policy LPP72 identifies landscapes which are valuable because of the function they play in providing a green buffer between settlements.
- 8.12 The policy does not stifle development around the settlements with Green Buffers as only those areas which have low or Low/Medium landscape capacity for change, or which would reduce the visual separation between settlements, have been identified. In any case the BLP- Section 2 has identified sufficient sites required to meet its development requirements to 2033.
- 8.13 The primary source of evidence for the Green Buffers is the Landscape Character Assessment settlement fringe studies (BDC047 - 1/27 – 27/27). When deciding which areas to designate as Green Buffers, the Council considered the landscape capacity of an area and its proximity to adjacent

settlements. The majority of Green Buffers identified have either low or low/medium landscape capacity, meaning that development in these areas would have the greatest impact.

- 8.14 Green Buffers are identified in locations around Braintree/Bocking (Inset 1A/1B), Great Notley and Black Notley (Inset 9 and 29), Witham North (Inset 2A), between Castle Hedingham (Inset 14) and Sible Hedingham (Inset 53) and between Earls Colne and White Colne (Inset 21A). The buffers appear on other Inset Maps which are close to the main settlements such as at Rivenhall/Rivenhall End (Inset 47 and 49), Panfield (Inset 43) and Rayne (Inset 45).
- 8.15 The Green Buffers provide an additional layer of protection for areas within the District which have a particularly low capacity to accommodate development. Development proposals which would normally be acceptable outside of development boundaries are still able to take place in these areas subject to assessment of the landscape impact and coalescence and does not result in reduction in the visual separation of settlements. This is in addition to other policies in the Plan such as LPP1 – Development Boundaries, LPP50 – Built and Historic Environment and LPP55 – Layout and Design of Development which also require landscape assessment of development proposals. However LPP72 also requires an assessment of their impact on physical separation.

In relation to Policy LPP 73 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards:

Does the policy take appropriate account of the potential for mitigation?

- 8.16 The policy is worded such that proposals should prevent unacceptable risks. It does not go into detail as to how this should be achieved, however it does state that in the case of possible land contamination, conditions and legal agreements may be appropriate. If a proposal is found to have unacceptable impacts, consideration of possible mitigation to eliminate or reduce these to an acceptable level, is a normal part of considering planning applications. Though not explicitly stated in policy LPP73, design amendments, compensatory measures, use of conditions or legal agreements might be used to mitigate adverse impacts and are not prevented by the policy wording and the Council would be supportive of any additional wording proposed by the Inspectors to make this clearer within the policy

In relation to Policy LPP 74 Climate Change:

Is the supporting text to the policy up to date?

- 8.17 The policy text was up to date at the time of the submission of the BLP Sections 1 and 2, however if the Inspector were minded to update the text to the most recent positions then there are some updates which could be included which are set out below. It should be noted these are not currently proposed in document SDBDC008a within the evidence base.

Paragraph 8.49

- 8.18 The Climate Change Act 2008 sets legally binding targets for reducing emissions by 80% from 1990 levels by 2050. Britain's Renewable Energy Strategy sets out to achieve 15% of energy to be generated from renewable energy sources by 2020.
- 8.19 **In 2015 the UK government joined 195 others from around the world and signed the Paris Agreement. The Agreement legally ratified a commitment to prevent average global temperature increasing by no more than 1.5 °C. In addition to the global agreement. In June 2019, parliament passed legislation requiring the government to reduce the UK's net emissions of greenhouse gases by 100% relative to 1990 levels by 2050. This poses a greater challenge than the earlier target and should be included in the supporting text.**

Paragraph 8.50

The Council declared a climate emergency in July 2019 and is currently working on an update to its Climate Change policy.

What will the sustainability statement require, and will it be effective?

- 8.20 The statement should set out measures which have been incorporated into its design and layout showing how measures to adapt to and mitigate against the impacts of climate change, e.g. high temperatures, have been addressed. This would include, but is not limited to:
- Details of renewable energy equipment required to satisfy LPP77, installation details of electric car charging points, LPP44,
 - installation of broadband LPP49 (including connectors where broadband is not yet feasible),
 - green infrastructure,
 - drainage/flood risk management features.
 - Grey water recycling onsite
- 8.21 Whilst this information would usually be contained within the Planning Statement accompanying a planning application, given the high level of

importance the Council and local residents now place on these areas, it is considered helpful if all this information was available in one place.

- 8.22 The Statement will be effective as it will be considered as part of the means by which climate change and mitigation is considered.
- 8.23 The Council would provide more detail of what is required from a Sustainability Statement on its website for applicants.

Is the policy consistent with national policy?

- 8.24 The NPPF requires local planning authorities to adopt proactive strategies to mitigate climate change and promote sustainable development, avoiding increased vulnerability to its adverse impacts.
- 8.25 Paragraph 97 states that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should have a positive strategy to promote energy from renewable and low carbon sources; design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily.
- 8.26 The Council considers that this policy addresses those requirements without being overly burdensome on the development industry.

In relation to Policy LPP 75 Energy Efficiency:

Is the supporting text to the policy up to date?

- 8.27 The text was up to date at the time of submission of the BLP – Sections 1 and 2 in October 2017, however if required Paragraph 8.56 could be reworded with up to date information as follows
- 8.28 **15% of the country's greenhouse gas emissions come from residential sources according to the 2019 UK Greenhouse Gas Emissions: Final Figures – statistical summary.**
- 8.29 It should be noted this change is not currently contained with document SDBDC008a
- 8.30 ~~Studies have shown that the thermal performance of housing stock in Britain ranks it as one of the very lowest in the European Union.~~ **15% of the country's greenhouse gas emissions come from residential sources according to the 2019 UK Greenhouse Gas Emissions: Final Figures – statistical summary.**

What does the policy require of developers and will it be effective?

- 8.31 If the amendment as set out in BLP – Section 2 is approved this would necessitate an appropriate condition to be attached to residential planning consents which would then be reflected in the application of Building Regs. A developer would need to provide a water consumption calculation to demonstrate that the standard would be met. This requirement would be enforced under the Building Regulations. The Optional Building Control Standard can only be applied under the Building Regulations if it is required by a Local Plan policy. Such a policy has been requested by Anglian Water and the Environment Agency and is required to ensure the efficient use of water.

Is the policy consistent with national policy?

- 8.32 NPPF 2012 paragraph 94 requires Local Planning Authorities to adopt proactive strategies to mitigate and adapt to climate change taking full account of water supply and demand considerations and this includes planning new developments to use resources efficiently. As such it is considered entirely in line with that policy that the Council should require buildings to be built in a resource efficient way, including limiting the amount of water consumption of each dwellings, particularly given the low levels of rainfall in this region which is recognised as one under water stress
- 8.33 The main amendment is to introduce the optional Building Control Standard water efficiency standard of 110 litres of water per occupier per day. Others are proposed to improve clarity.
- 8.34 It is recognised that Braintree District falls within an area of acknowledged water stress according the Environment Agency’s “Water Stressed Areas – Final Classification 2013”, and efforts should be made improve water efficiency. This is therefore a reasonable justification for seeking improved efficiency and applying the specific higher standard.
- 8.35 The additional cost of complying from the developer’s perspective are minimal (£6 - £9 per dwelling, DCLG Housing Standards Review (Sept 2014))(and therefore the Council considers this amendment supported by clear evidence and necessary for the soundness of the Plan.

Are the proposed amendments supported by clear evidence?

- 8.36 The main amendment is to introduce the optional Building Control Standard water efficiency standard of 110 litres of water per occupier per day. Others are proposed are minor alterations to improve clarity.
- 8.37 It is recognised that Braintree District falls within an area of acknowledged water stress according the Environment Agency’s “Water Stressed Areas – Final Classification 2013”, and efforts should be made improve water

efficiency. There is therefore reasonable justification for seeking improved efficiency and applying the specific higher standard.

- 8.38 The additional cost of complying from the developer's perspective are minimal (£6 - £9 per dwelling, DCLG Housing Standards Review (Sept 2014) and therefore the Council considers this amendment supported by clear evidence and necessary for the soundness of the Plan.

In relation to Policy LPP 76 Renewable Energy Schemes:

Is the supporting text to the policy up to date?

- 8.39 The BLP – Section 2 was up to date at the time of submission in October 2017, however if the Inspectors consider this an opportunity to update the text then the following changes could be made;

- 8.40 Paragraph 8.63

This paragraph mentions a fuel poverty statistic for Braintree in 2009 as being 16.5% and almost 30%. The Local Government Association cites a more up to date figure of that fuel poverty in Braintree for 2019 is 13.1% and this could replace the statistic in this paragraph. This change is not currently included within SDBDC008a

- 8.41 Paragraph 8.65

The Sustainable Design and Construction Checklist is no longer a requirement and this paragraph should therefore be deleted. This recommendation is Minor 50 in the Further Suggested Modifications to the BLP - Section 2

Is the policy consistent with national policy?

- 8.42 LPP76 supports the transition to a low carbon future which the NPPF mentions as a core planning principle, supporting the delivery of renewable and low carbon energy.
- 8.43 The policy takes a positive attitude to renewable energy where it does not result in serious harm and can be connected to the national energy infrastructure.
- 8.44 Whilst national policy suggests that the plan should consider identifying suitable areas for renewable energy it is not necessary to do so. The plan approach is to look at each case on its merits.

- 8.45 The plan does not require applicants to demonstrate the need for renewable or low carbon energy.
- 8.46 Representations have been received requesting that the policy is strengthened though some of the proposals go beyond what is possible for the plan. One representation has highlighted the potential for connecting a major national energy infrastructure installation to the grid in the south east of the district. I can confirm that a Nationally Significant Infrastructure Project for a solar farm has been lodged south of the district.

have the Council considered identifying zones for renewable energy projects?

- 8.47 Whilst national policy suggests that the plan should consider identifying suitable areas for renewable energy this is not compulsory. The plan approach is to look at each case on its merits as with wide differences in landscape quality, rurality and accessibility throughout the District this approach offers a finer degree of control. However if the Inspectors considered that a necessary part of the process then it is considered that this would be best dealt with through an SPD which could be referenced within the policy.

In relation to Policy LPP 77 Renewable Energy Within New Developments:

How have the thresholds identified been arrived at and

- 8.48 The 20% threshold approximately correlates to the reduction in emissions required by the Code for Sustainable Homes Level 4 which was an earlier Building Regulations standard which was abandoned but has not yet been replaced. Its replacement is now being developed and will seek greater reductions leading to a net zero standard. This was the maximum permitted whilst complying with National Policy. The lower threshold of 10% was included to acknowledge the greater costs in developing smaller sites and that there may be a more limited range of options available to developers on smaller sites.

Is the policy supported by appropriate evidence?

- 8.49 The policy has been tested in the Braintree Economic Viability Study June 2017. This showed that whilst the policy affected viability of some types of scheme, the policy resulted in broadly positive values. The policy is worded to allow some flexibility where viability is an issue.

Is the policy consistent with national policy?

- 8.50 The government has a legal commitment to reduce greenhouse gas emissions to net zero by 2050. This policy aims to support the achievement of the government's lower emissions targets. The plan period covers a significant part of this period and the large scale of development will be in existence during a period during which climate change effects are likely to be experienced. The 2008 Planning and Energy Act allows Councils to specify energy efficiency and renewable energy targets for new buildings which exceed those defined by the Building Regulations. However, the 2015 Written Ministerial Statement, allowed Planning Authorities to set energy generation standards at no greater than the level 4 Code for Sustainable Homes. This policy complies with that albeit with a minor rounding up. Given the importance of reducing climate change emissions as a local, national and international issue it is considered that this policy is essential to meet this need.

In relation to Policy LPP 78 Flooding Risk and Surface Water Drainage:

Is the supporting text to the policy up to date?

- 8.51 The text was up to date at the time of submission of the Local Plan in October 2017. However if the Inspectors wish to take the opportunity to update the text then the following amendments could be made;
- 8.52 A representation from the Environment Agency relating to paragraph 8.74 has sought replacement of Sequential Test to Sequential approach to aid clarity and this has been proposed as "Minor 49". This will form part of a Statement of Common Ground with the Environment Agency which is in the final stages of preparation and will be available well before the Examination.
- 8.53 Paragraph 8.72 refers to a review of floodrisk zones mapped by the Environment Agency at the time of writing the plan. This will form part of a Statement of Common Ground with the Environment Agency which is in the final stages of preparation and will be available well before the Examination.
- 8.54 Paragraph 8.76 refers to the Climate Change Risk Assessment (2012). This was updated in 2017 therefore 2017 should replace 2012.
- 8.55 Paragraph 8.79 – 80. These paragraphs relate to climate change temporary climate change allowances which were to be applied in lieu of the flood zone reassessment in paragraph 8.72. This will form part of a Statement of Common Ground with the Environment Agency which is in the final stages of

preparation and will be available well before the Examination.

- 8.56 Paragraph 8.83 – 8.85 Requirements have changed since the plan was written. This will form part of a Statement of Common Ground with the Environment Agency which is in the final stages of preparation and will be available well before the Examination.

Is the wording of the policy clear and would it be effective?

- 8.57 The Council considers that the policy wording is clear and effective though and whilst noting the policy is substantial in length it is necessary to clearly explain the various issues and process. However floodplain storage is referred to twice within the policy and therefore some deletion of wording to avoid duplication may be necessary.

Is the policy consistent with national policy?

- 8.57 LPP78 seeks to steer inappropriate development away from the areas at highest flood risk but where it is necessary making it safe without increasing flood risk elsewhere as is required by NPPF paragraph 100. The Environment Agency has not objected to the policy itself although it has made comment on supporting text
- 8.58 Requirements relating to Flood Warnings and Evacuation Plans have altered and the second last paragraph should be altered accordingly. This will form part of a Statement of Common Ground with the Environment Agency which is in the final stages of preparation and will be available well before the Examination.

Are the proposed amendments supported by clear evidence?

- 8.59 The requirement to consider flood risk “from all sources” is set out in NPPF100 and the Strategic Flood Risk Assessment. The inclusion of this phrase into the policy is intended to more fully reflect the national guidance.

In relation to Policy LPP 79 Surface Water Management Plan:

Is the wording of the policy clear and would it be effective?

- 8.60 This plan relates to defined areas within Braintree and Witham which are at particular risk of surface water flooding and their catchments and does not relate to the whole areas of these settlements. It attempts to predict the risk and propose measures to reduce it. Not all of those measures are included in the plan.

8.61 The policy is effective where planning permission is required and it is acknowledged that not all developments or mitigation measures require permission and hence improvements could not always be secured or enforced.

In relation to Policy LPP 80 Sustainable Urban Drainage Systems:

Is the wording of the policy clear and would it be effective?

- 8.62 This policy requires provision of Sustainable Urban Drainage Systems appropriate to the nature of the site. It requires optimum water runoff rates and volumes on, which advice can be gained from the Lead Local Flood Authority and the report entitled Sustainable Drainage Systems – Non statutory technical standards for sustainable drainage systems DEFRA (March 2015).
- 8.63 It refers to the need to take account of the Water Directive impact on flood risk issues. This relates to the need to ensure that surface waters including ground water reaches good status. This implies the absence of damaging pollution and low levels of chemical contamination.
- 8.64 The policy indicates the need for drainage installations to adhere to the relevant professional standards to the satisfaction of the Lead Local Drainage Authority.
- 8.65 There follows a number of design elements which were encouraged by the Essex SuDs Design Guide 2014. These require joint drainage schemes across adjacent allocation sites. Surface water should be managed as close to its source as possible and mentions measures to manage surface water. Sustainable drainage should be integrated into to the development to create amenity and biodiversity
- 8.66 The policy allows for circumstances where SuDs may not be appropriate and the Environment Agency representation seeks inclusion of wording to refer to Groundwater Protection zones either in this policy or in the supporting paragraph. There are no objections to this request and the response will feature in the Statement of Common Ground with the Environment Agency.
- 8.67 The policy mentions requirement for a successful planning application include SuDS features to be an integral part of the design together with details of their management and design. It does allow for situations where SuDs features may not incorporated into a site or are unviable and indicates that commuted

sums could be necessary to support maintenance.

- 8.68 The final paragraph seeks to ensure that a dual use as open space is proposed and this is to prevent SuDS features being proposed as open space

Are the proposed amendments supported by clear evidence?

- 8.69 MM68 proposes two modifications to aid clarity which have been proposed by officers and considered necessary to ensure the reader has a clear direction from the policy
- 8.70 A new paragraph has been suggested by the Environment Agency in their representation on LPP80 to instances where SuDS provision may not be appropriate. It is suggested for inclusion either within the policy or as supporting text. This will form part of a Statement of Common Ground with the Environment Agency which is in the final stages of preparation and will be available well before the Examination.