

Statement of Common Ground between Braintree District Council and Natural England on  
the Braintree District Council section 2 Local Plan.

May 2021

## **Introduction**

This Statement of Common Ground identifies the areas of agreement and disagreement between Natural England (ID 443104) and Braintree District Council (BDC) on matters relating to the Section 2 Local Plan. This Statement addresses key issues raised by Natural England in representations submitted to the section 2 Braintree Local Plan during the Publication Draft Local Plan consultation period in 2017, and subsequent updates in relation to the statutory consultation responses received from Natural England. This statement tabulates the areas of the Local Plan that Natural England supports and lists the one unresolved issue.

## **Background**

Natural England is a statutory consultee in Local Plan making. Their statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Responses have been received to the section 2 Local Plan from Natural England which were given the following reference numbers 688, 689, 690, 691, 694, 695, 697, 698, 699,

BDC has worked with Natural England on the development of the Local Plan, the Sustainability Appraisal (SA), the Habitat Regulations Assessment and the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) from the outset. In accordance with the Town and Country Planning (Local Development) (England) Regulations, Natural England has been formally consulted at every stage of consultation.

## **Areas of Agreement**

That the Braintree District Council section 2 Local Plan is legally compliant and represents a sound basis on which to plan for development within the Council area.

The parties agree that the revised housing completion trajectory which has been sent to the Planning Inspectorate (extract attached as appendix 1) sets out a realistic estimation of the houses which are to be delivered from this site, during the Local Plan period (up to 2033). The parties will work together to ensure that this delivery takes place.

For clarity a copy of the agreement for Policy LPP68 is included as Annex 1.

**Agreed section 2 Local Plan Amendments between Braintree District Council and Natural England**

<b>Rep</b>	<b>Local Plan Section/Policy</b>	<b>Summary of Representation</b>	<b>BDC agreed response with Natural England</b>
688	Vision	The vision should include a commitment to high quality green infrastructure, in accordance with the aspirations of NPPF 114.	It is agreed that BDC have decided not to include Green Infrastructure as part of the Vision for Braintree District but 'Protection of the Environment' is a Key Objective which states that development will be planned with high quality Green Infrastructure.
689	LPP53	We provided advice in January 2015 on the Braintree Open Spaces Study 2016-33 (our ref: 137970), and whilst our advice is described within the Community and Stakeholder Consultation Summary (Final), it is not clear whether our advice has been included in plan policies, nor whether our analysis of the adequacy of open space provision has been included in the evidence base for the Local Plan.	This study was carried out by external consultants Ethos Environmental Planning and the views of natural England was noted In the Open Spaces Study. This fed into the assessment of open spaces and led to the identification of deficiencies to be addressed in the open spaces action plans updated yearly.
690	LPP55	Policy 55 should include the provision of new Priority Habitat.	It is agreed that the proposed MM-NE1 below addresses this point.  MM-NE1, insert in bullet point 9 of LPP55 after the first sentence: <u>"Biodiversity net-gain through the provision of new priority habitat where appropriate is encouraged."</u>
691	8.3	RAMS commitment should be made in Policies within both Section 1 and Section 2 Plans.	It is agreed that the proposed MM-NE2 in Annex 1 of this SOCG makes a satisfactory cross reference to RAMS implementation in Policy LPP1A in Section 1.
694	LPP67	Policy LPP 67 should include the recommendation of the AA Section 1 Report that "specific reference to the role of open space and GI in providing alternatives to European sites, and that such sites should be designed and managed appropriately to maximise their potential effectiveness in this role".	It is agreed that the proposed MM-NE3 below addresses this point.  MM-NE3 , insert before the last sentence of Policy LPP67: <u>"Open space and green infrastructure may be required to provide alternatives to European sites in accordance with the Section 1 Sustainability Appraisal, and that such sites should be designed and managed appropriately to maximise their potential effectiveness in this role."</u>
695	8.11	Nearby European protected sites (outside the District) that could be	European protected sites inside and outside the district are referenced in

		<p>impacted upon by proposed development should be referenced: further details are available in the HRA Report for Section 2 of the Braintree Publication Draft Local Plan (v3.0 Appropriate Assessment, by Land Use Consultants, dated 12 May 2017).</p>	<p>LPP68. Policies for the mitigation of in-combination effects on European sites outside the district will be in Policy SP1a and LPP67. Both parties agree that the proposed MM-NE3 below is a suitable reference to the HRA.</p> <p>MM-NE4, Insert text into paragraph as underlined:  “development likely to have an adverse effect on their integrity <u>of nearby International designations, as identified in the Habitats Regulation Assessment</u>, whether they are inside or outside the District.”</p>
697	LPP68	<p>Layout should be revised to reflect biodiversity hierarchy. At present the avoid-mitigate-compensate hierarchy is described in the Protected Species, Priority Species and Priority Habitat section of Policy LPP 68 and in Policy LPP 70, and can be difficult to interpret.</p> <p>Clear distinction for level of significance hierarchy.</p> <p>The Policy does not clearly set out that any proposal that adversely affects a European site, or causes significant harm to a SSSI will not normally be granted permission.</p> <p>Embolden words: “Protecting and enhancing those parts of the rights of way network that may benefit open space and access to the wider countryside whilst protecting designated sites from the impacts of increased recreational pressure”.</p>	<p>Following proposed modifications to policy LPP68 MM-NE2 in Annex 1 of this SOCG, it is agreed that the avoid-mitigate-compensate hierarchy is appropriately described for each category of designation.</p> <p>Following proposed MM-NE2 in Annex 1 of this SOCG, LPP68 now sets out different levels of significance clearly.</p> <p>No change made, both parties are satisfied that Policy LPP68 already states: “Planning permission for major development will be refused in these areas except in exceptional circumstances...”</p> <p>Both parties are satisfied that no change is needed as the text is present but the emboldening doesn’t fit with formatting.</p>
698	LPP74	<p>Add “The provision and maintenance of trees to mitigate the effects of air pollution and of climate change by provision of shade and reduction in the heat island effect associated with anticipated increased temperatures.”</p>	<p>It is agreed that MM-NE5 below addresses this point.</p> <p>MM-NE5, Insert text into paragraph 8.55 as the last sentence:  <u>“The Council encourages the provision and maintenance of trees to mitigate the effects of air pollution and of climate change by provision of shade and reduction in the heat island effect associated with anticipated increased temperatures.”</u></p>
699	LPP73	<p>There are 2 policies in Local Plan for BMV Land but there should be a holistic approach.</p>	<p>Agree that the quality of land BMV agricultural land has been taken into account at paragraph 8.28 to 8.30.</p>

		<p>For clarity we recommend a specific policy on BMV (Agricultural) Land. The policy should aim to <i>"protect soil quality during development to protect good quality land and to protect the ability of soil to allow water penetration by avoiding compaction"</i>.</p>	<p>Agree that Soils quality is protected in LPP73 rather than in a standalone policy. Both parties agree that a specific policy is recommended but not required for the Local Plan to be sound.</p>
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**Areas of Disagreement**

The Local Plan refers to the Braintree Open Space Study (BDC040) as justification for green infrastructure and open spaces policies in the plan however Natural England would have the Local Plan refer to the emerging Essex Green Infrastructure Strategy as existing evidence base does not capture all the aspirations of Green Infrastructure. BDC are not planning to formally adopt the Essex Green Infrastructure Strategy and subsequently would be unable to refer to this document in the Section 2 Local Plan.

Signed

Emma Goodings

Head of Planning and Economic Growth

Signed on behalf of Braintree District Council

Camilla Davidge – Lead Advisor

Signed on behalf of Natural England

## Policy LPP 68

### 1. Protected Sites

#### **(a) National and Internationally Designated sites**

Sites designated for their international, ~~and European and national~~ importance to nature conservation; including Ramsar sites, Special Protection Areas (SPA), Special Areas of Conservation (SAC), should be protected from development likely to have an adverse effect on their integrity whether they are inside or outside the District. Proposals which are considered to have a likely significant effect on these sites will require a Habitats Regulations Assessment (HRA) in line with European legislation and developers should provide information sufficient to inform this assessment. In accordance with the Habitats Regulations, development proposals should follow the avoid-mitigate-compensate hierarchy. Where this cannot be achieved, development proposals will not be permitted.

Planning permission for major development will be refused in these areas except in exceptional circumstances where overriding public interest can be demonstrated.

Residential developments must contribute to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS) where they fall within the Zones of Influence of International Designations as defined in the RAMS, in accordance with SP1A.

#### **(b) Nationally Designated sites**

Sites designated for their national importance to nature conservation; including Sites of Special Scientific Interest (SSSIs) and should also be protected from development which is likely to adversely affect the features for which they are designated. Where necessary, developers should therefore ensure that sufficient assessment of potential impacts to SSSIs is also submitted with any planning application.

#### **(c) Locally designated sites**

Proposals likely to have an adverse effect on a Local Wildlife Site (LWS), Local Nature Reserve (LNR) and Special Roadside Verge will not be permitted unless the benefits of the development clearly outweigh the harm to the nature conservation value of the site. If such benefits exist, the developer will be required to demonstrate that impacts will be avoided, and impacts that cannot be avoided will be mitigated on-site.

### 2. Protected Species, Priority Species and Priority Habitats

Proposals that result in a net gain in priority habitats and species will ~~in principle~~ be supported in principle, subject to other policies in this plan. Where priority habitats and species are likely to be adversely impacted by the proposal, the developer must demonstrate that adverse impacts will be avoided, and impacts that cannot be avoided are mitigated on-site. Where residual impacts remain, off-site compensation will be required so that there is no net loss in quantity and quality of priority habitat in Braintree District.

Where there is a confirmed presence or reasonable likelihood of protected species or priority species being present on or immediately adjacent to a development site, the developer will be required to undertake an ecological survey and will be required to demonstrate that an adequate mitigation plan is place to ensure no harm to protected species and no net loss of priority species.

Proposals resulting in the loss, deterioration or fragmentation of irreplaceable habitats such as ancient woodland or veteran trees will not normally be acceptable unless the need for, and benefits of the development in that location clearly outweigh the loss.

**3. All development proposals**

In all cases a precautionary approach will be taken where insufficient information is provided about avoidance, management, mitigation and compensation measures. Management, mitigation and compensation measures will be secured through planning conditions/obligations where necessary.