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**Braintree District Section 2 Local Plan Examination**

**Supplementary Hearing Statement**

**on behalf of The Granville Group**

**relating to Counsel's Opinion**

**on behalf of The Williams Group**

**Main Matter 1**

**July 2021**

1. Our comments are confined to matters raised in paragraph 5a of the Opinion, namely:

*“The ability to carry out an updated SA process at the Main Modifications stage and the implications for the robustness/legality of the BLP2.”*

2. Some of the concerns and issues now raised in relation to the Main Modifications are similar to those addressed in our Hearing Statement for Main Matter 1. These can be summarised as:-

- I. The removal of the two garden communities constitutes a major change to the spatial strategy - the scale and implications of which are significant and cannot be reasonably held to be “relatively limited” as claimed by the Council.
- II. The SA in its current form does not justify the residual spatial strategy of “growth at and around existing settlements” and will therefore need substantial updating and amendment.
- III. In view of the scale and implications of change to the spatial strategy, further work on the SA should now take account of the preferred and alternative spatial strategies, including how best to compensate for the lost capacity in garden communities, and then be the subject of further consultation.

3. With regard to the latter, it is common ground that further work is required on the SA but it is a matter of dispute whether consultation on an updated SA should be undertaken at the Main Modifications stage or, in order to comply with guidance and safeguard the interest of participants and stakeholders, should be the subject of separate and earlier consultation. At present, however, the nature and extent of the further work on the SA and its robustness in justifying the revised spatial strategy, (either singly or in comparison to alternative spatial strategies), is unknown. The key guidance on the appropriate process is found in paragraph 021 of Planning Policy Guidance (PPG), namely:

*“Modifications to the sustainability appraisal should be considered only where appropriate and proportionate to the level being made to the plan. A change is likely to be significant if it substantially alters the plan and/or is likely to give rise to significant effects.*

*Further assessment may be required if the changes have not previously been assessed and are likely to give rise to significant effects. A further round of consultation on the sustainability appraisal may only be required in such circumstances but this should only be undertaken where necessary. Changes to the plan that are not significant will not require further consultation work.”*

4. It is clear from this that a judgement needs to be made on whether the removal of the garden communities from the plan is relatively limited as claimed by the Council or significant

and fundamental as argued by Emery Planning, Counsel and ourselves. In making this judgement, we note that the wording of paragraph 021 contains an “*and/or*” - such that the wording “*A change is likely to be significant if it substantially alters the plan*” stands alone and is not conditional on the need to demonstrate it “*is likely to give rise to significant effects*”, although it is our view that both are applicable in this case.

5. The Council currently stands somewhere astride these two positions. On the one hand it acknowledges that further work is required on the SA (although the nature and extent of this work has not yet been revealed), and on the other argues that as the changes do not substantially alter the plan, there is no need for consultation on the SA in advance of the Main Modifications.
6. In our view, as outlined in our Main Matter 1 Hearing Statement, it is self-evident that the plan has not only been substantially altered but also that such alterations are significant. It is also self-evident that the changes give rise to significant effects. In rebutting that view, the Council – in its Topic Paper 1 and in relation to its oral evidence on Main Matter 1 at the Examination – put forward two reasons to support its view that the changes were relatively limited: firstly, it claimed the revised spatial strategy did not materially diverge from the wording for the spatial strategy in Policy SP3 in the BLP1 ; secondly, it claimed that the release of housing land since 2017 was compensating for the loss of pre-2033 capacity in the garden communities and was broadly following the strategy of focusing growth on existing settlements.
7. We do not consider either of those reasons justify deferring consultation on the SA or excluding alternative spatial strategies from being considered alongside the amended spatial strategy.
8. Firstly, with regard to the adopted BLP1, the Council point to the residual strategy after deletion of the garden communities as being conformant with Policy SP3, namely: “*Existing settlements will be the principal focus for additional growth across the North Essex Authorities Area within the Local Plan period.*” However, whilst that was still true when the preferred strategy was to promote the garden communities, it was never advocated or tested as a fallback position should the garden communities not be supported. The LUC SA (July 2019) tested 11 different alternative strategies as listed in Table 1.4. The strategy now being pursued is apparently Option 2: Proportionate (hierarchy-based) growth. That work did not establish that Option 2 was the most appropriate: ie: designed to ensure that the plan preparation process maximised the contribution that a plan can make to sustainable development and minimise any potential adverse effects. In any event, as noted above, it is not the degree of conformity that is the yardstick but the degree and significance of change that must determine the extent of the further work needed on the SA. Only when this work programme is known and completed will it be possible to evaluate the need for and timing of further consultation.

9. The fact that approaching a quarter of the pre-2033 housing requirement was being directed towards the garden communities would seem sufficient in itself to suggest that this degree of change substantially altered the plan and was hence “significant”. Additionally, it will have significant effects as it raises the issue of where lost capacity from the garden communities should be located. Requiring such capacity to be largely directed to existing settlements excludes any reconsideration of the role of alternative spatial strategies, for example, continuing to provide for some growth in smaller and sustainable garden communities/villages in the existing A120 corridor or elsewhere in the District.
10. Even at the time when significant pre-2033 growth was to be directed away from existing settlements towards the garden communities, the majority of growth was still be absorbed in existing settlements, but, with the loss of the garden communities, this now raises the new issue of how much of the lost capacity should still be directed to locations outside existing settlements. The SA in its present form does not address this issue and this is of direct relevance to many landowners, stakeholders and participants.
11. Secondly, and finally, with regard to the growth that has already occurred since 2017, we note the Council prays in aid of change being relatively limited because such growth compensates for the “lost capacity” in the garden communities and has generally occurred in accordance with BLP1 Policy SP3. However, these matters represent a fait accompli and are not matters that can be influenced by the Examination. In any event, we see no grounds for this particular element of overall growth to be “singled out” to represent the “lost capacity” from the garden communities as the housing requirement is a minimum figure and the “lost capacity” can be addressed in full or in part in a variety of different ways – possibly in ways which have not yet been tested via the SA.

## **Conclusion**

12. We concur with Counsel’s Opinion that there is a need to update the SA and that this should:
  - (i) take into account the loss of 2033 capacity from the garden communities;
  - (ii) consider the most appropriate revised spatial strategy following the deletion of references to the garden communities; and
  - (iii) be the subject of consultation in advance of the Main Modifications.

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**On behalf of**  
**The Granville Group**

**13<sup>th</sup> July 2021**