

# Braintree District Council

## Local Plan Examination of Section 2

# Topic Paper 1 Consequential Changes

February 2021

## 1 **Introduction**

- 1.1 The Braintree District Local Plan was submitted in October 2017. The Plan was made up of a strategic section 1 which was identical to a section 1 of Colchester Borough Council and Tendring District Council Local Plans, which were submitted at the same time. This section included cross boundary strategic policies including those related to Garden Communities. The Planning Inspectorate appointed Mr Roger Clews to examine the section 1 of all three Plans.
- 1.2 Following the examination the Inspector proposed main modifications to the section 1 Local Plan in order to make the Plan sound. The final report on the Section 1 examination was received on the 10<sup>th</sup> December 2020 and is published on the examination website at the following link.  
<https://www.braintree.gov.uk/planning-building-control/section-1-examination>  
The final report includes a list of proposed main modifications to the Plan.
- 1.3 In addition to the main modifications, the authorities have proposed a number of minor modifications to the section 1 to carry through the changes reflected in the main modifications and also to correct any minor typos.
- 1.4 The Planning Inspectors appointed to examination the section 2 of the Braintree District Council Local Plan have asked the local planning authority to prepare this topic paper on the consequential changes to the section 2 Local Plan. The Inspectors note that the topic paper should be in two parts as set out below;
- Part 1 - Specifically address any potential consequential changes to individual policies within the Part 2 plan as a result of the proposed Main Modifications identified within Part 1. Whilst this will predominantly be in the form of a schedule, each Council may wish to expand or give greater detail in relation to issues for example, implications for the spatial strategy etc
  - Part 2 – Whilst each plan is being examined under that transition arrangements, it would be helpful if changes in National Legislation/Policy since the submission of each plan (i.e. changes to the Use Classes Order) are identified and if the Council considers if the changes have any bearing on the soundness of the plan. In doing so, it would be helpful to identify any policies which could potentially be affected.
- 1.5 The report therefore follows this layout and includes tables and, where necessary, narrative to the proposed amendments.
- 1.6 Where changes are suggested to the wording of the document they are in the following format:

~~Strikethrough strikethrough~~ for wording to be deleted

**Bold** for wording to be added

- 1.7 The Council also notes that there will need to be further modifications to the section 2 Local Plan which are as a result of the passage of time from the original submission of the Local Plan, or amendments proposed to aid clarity and/or to address issues which were brought up during the pre-submission consultation period. A separate schedule of those changes has been prepared for the Inspectors and this will be kept as a live document and updated during the progress of the examination.

**2     Part 1 – Consequential changes to the section 2 Local Plan as a result of the modifications to the Shared Strategic Section 1 Plan.**

- 2.1     The main modifications to the section 1 of the Local Plan include, most significantly, the proposed removal of policies and the area of search for garden communities at West of Braintree and Colchester Braintree borders, both of which were located at least partly in Braintree District.
- 2.2.     The overall spatial context established by the section 1 Local Plan (Part 3, Policy Sp2) is therefore proposed to be amended by deleting reference to those Garden Communities. The other amendment to the spatial strategy proposed is as follows;

***“It will continue to be an attractive and vibrant area in which to live and work, making the most of its rich heritage, town centres, natural environment, coastal resorts, excellent educational facilities and strategic transport links which provide access to the ports, Stansted Airport, London and beyond. Rural and urban communities will be encouraged to thrive and prosper and will be supported by adequate community Infrastructure”.***

- 2.3     Notwithstanding the proposed removal of the Garden Communities and the proposed amendment to the spatial context outlined above, the Council consider that the necessary consequential changes to the section 2 Local Plan are relatively limited, with no fundamental changes to the vision, spatial strategy or strategic objectives required.
- 2.4     Apart from the removal of the garden communities, the spatial context established within the section 1 plan, including the additional paragraph outlined above, remains consistent with the overall vision and key objectives set out within the section 2 Local Plan, .
- 2.5     Whilst the Garden Communities were a key part of the Council’s *long term* housing strategy, the vast majority of housing provided by the Garden Communities would have been delivered well beyond the plan period. Of the 15,366 homes contained within the publication Draft Local Plan Appendix 1 Housing Trajectory as being delivered between 2017 and 2033, 11,710 homes were due to be delivered outside of those Garden Communities, in particular around the main towns of Braintree, Halstead and Witham and along the A12/Great Eastern Mainline corridor.
- 2.3     When the Local Plan was submitted in October 2017 Appendix 1 to the Plan was an in depth housing trajectory containing details of where 15,366 homes were to be delivered between 2017 and 2033. This was in addition to the 1,405 homes which were completed between 2013 and 2017 (see the authorities monitoring report for the yearly completion figures). This was

therefore a total of 16,771 homes coming forward in the plan period against a minimum housing requirement in the Plan of 14,320 (716d.p.a), or 2,451 over the minimum target.

- 2.4 In the intervening years since the submission of the Local Plan, a significant number of planning applications have been granted permission, which were not in the original housing supply calculations. Therefore whilst the Council will have to remove the 3,650 homes that were originally estimated to be delivered through the Garden Communities (LPP17), it is also able to add significant housing supply through the granting of permissions. The topic paper on housing will set out more detail on this issue, including a revised and updated housing trajectory. However, for the purposes of this paper, it is worth noting that, even taking account of the loss of the housing delivery from the Garden Communities, and assuming that the housing requirement within the section 1 plan remains at 716dpa, the Council currently considers that it will be able to meet the housing requirement over the plan period with a degree of headroom to ensure flexibility.
- 2.5 The changes that are proposed to section 2 as a result of section 1 modifications are therefore relatively minor. Table 1 sets out these proposed changes in more detail (and it should be noted that at this stage they are not separated into minor and main modifications). However in summary the main consequential changes to the section 2 as a result of the proposed modifications to the section 1 plan are:
- Removal of all references to the two proposed Garden Communities at West of Braintree and Colchester Braintree borders, including removing the areas of search from the map, removing Garden Communities from the spatial hierarchy and removing housing delivery in policies and in the housing trajectory that were proposed on the Garden Community (for further information on changes to the housing elements of the Local Plan please see separate topic paper which will be published in due course).
  - Changes to the amount of employment land proposed within the section 2 Plan, to reflect range which has been agreed within the section 1 Local Plan
  - To make changes to the policies in relation to design and place making to reflect the wording agreed in the strategic Place Shaping Principles policy as part of section 1

Table 1 – Suggested Changes to section 2 as a result of section 1

Paragraph or map	Change suggested	Reason
2.8	This section which includes the <del>40</del> <b>9</b> policies that start with 'SP' reference....	To reflect the number of policies in section 1
Vision for Braintree District (p21)	<del>...Two new garden communities are being built within the District at West of Braintree and Colchester/Braintree borders providing new communities within a high quality environment</del>	To remove reference to garden communities.
5.8	Delete paragraph and title	To remove reference to the position of Garden Communities within the spatial hierarchy
Table after 5.12	Remove West of Braintree Garden Community and Colchester Braintree borders Garden Community from the table of Key Service Villages	To remove reference to Garden Communities in the spatial hierarchy.
Spatial Strategy	That the broad spatial strategy for Braintree District should concentrate development on the town of Braintree, <del>planned new garden communities</del> , Witham and the A12/Great Eastern Mainline corridor and Halstead	To remove reference to Garden Communities
Picture 5.1 Key Diagram	Remove the 'Garden Community area of search' from the key diagram.	To remove references to Garden Communities
Paragraph 6.12	...or land that is required to meet forecast employment needs. <b>Policy SP4 in the section 1 Local Plan has confirmed that Braintree should deliver between 20.9 and 43.3ha of new employment land.</b>	To aid clarity and provide the context to this policy.
Paragraphs 6.14 and 615	Delete both paragraphs	The calculation of employment need is set out in policy SP4 within the section 1.
LPP2	<del>The Council and its partners will be driving forward the growth of the economy in the District and provide for the 32.1ha of industrial land and 19.5ha of office land in the District to support this.</del>  New strategic employment sites <b>to meet the needs set out within policy SP4</b> , and the	The overall employment need is set out in policy SP4 of the section 1.

	proposed uses for those sites, are set out in the table below.	
LPP2	<del>Major Business Park on the West Braintree Garden Community To be determined through a Strategic Growth DPD</del> <del>Major Business Park on the Marks Tey Garden Community To be determined through a Strategic Growth DPD</del>	To remove references to Garden Communities
Paragraph 6.47 final line	Additional Local Centres will be identified at other strategic growth locations <del>and garden communities</del> around the District as work on these sites progresses	To remove references to Garden Communities
LPP16 final line	New retail provision will also be provided at strategic growth locations, <del>new garden communities</del> and site allocations....	To remove references to Garden Communities
LPP17	<del>West of Braintree Garden Community 2,500</del> <del>New Colchester Braintree Borders Garden Community 1,150</del>	To remove references to Garden Communities
6.63	Remove paragraph	To remove references to Garden Communities
LPP33	<del>Standalone new settlements by virtue of their size will be subject to separate viability appraisals, including on affordable housing.</del>	To remove reference to Garden Communities
LPP36	<del>'...at Strategic Growth locations and the garden communities, or through the planning process</del> 6 travelling showpersons plots will be sought at the Strategic Growth locations <del>and garden communities</del> , through the planning...	To remove reference to Garden Communities
LPP55 criteria 2	Buildings and structures should be of the highest architectural quality...	To reflect the wording in SP6 and elsewhere in this policy
LPP55 Criteria 5	Designs shall be sensitive to the need to conserve <b>and enhance</b> local features...	To reflect the wording of SP6.
Paragraph 8.36	Delete whole paragraph	Refers to green buffers around Garden Communities
Monitoring table LPP2	Remove references to delivery at Garden Communities  To deliver the development <b>of between 20 and 43.3 hectares of employment land</b>	To remove reference to garden Communities

	<del>32.1 hectares of industrial land and</del> <del>19.5 hectares of office land including</del> <del>A 10 hectare employment policy area as an</del> <del>extension to Springwood Drive Braintree</del> <del>An 18.5 hectare Innovation and Enterprise</del> <del>Business Park at East Link 120, Great</del> <del>Notley</del> <del>A 6.8 hectare extension to Eastways</del> <del>Industrial Estate Witham</del>	
Housing trajectory	New housing trajectory This will be set out in topic paper 2	To remove Garden Communities and update following submission of Plan
Maps Inset 16 Inset 31 Inset 45 Inset 69	Remove garden community area of search map reference	To remove references to Garden Communities



3 **Part 2 – Changes to the section 2 Local Plan as a result of the changes to the use class order and the amended permitted development rights regime.**

3.1 In July 2020 the government announced that a major change would be made to the use class order which would come into place on the 1<sup>st</sup> September 2020. The changes are summarised as follows;

- Use classes A1, A2, A3, B1, parts of D1 (health, crèches and nurseries) and parts of D2 (indoor sports and recreation) combined into a new Class E commercial, service and business class.
- Class B is modified to the extent set out in regulation 10(3) (and subject to transitional provisions). In essence B2 and B8 remain in place, subject to a definitional change to B2 to except from its application new Class E.
- Class F1 learning and non-residential institutions (which includes the majority of the old D1 use)
- Class F2: local community class – this includes local shops (restrictions apply) and community halls, outdoor leisure and swimming/skating rinks.
- Use Classes A4 and A5 will become Sui Generis, as will some establishments which formerly fell under Use Class D2, such as cinemas, live music venues, concert, bingo and dance halls.

3.2 The Government has made the changes to the UCO primarily to allow greater freedom for high street uses to adapt to potentially rapidly changing circumstances and respond more flexibly to the needs of their local communities. It is clear from the Explanatory Memorandum supporting the Regulations that the central objective is to revitalise high streets and town centres:

*“...These reforms are primarily aimed at creating vibrant, mixed use town centres by allowing businesses greater freedom to change to a broader range of compatible uses which communities expect to find on modern high streets, as well as more generally in town and city centres...” (paragraph 7.9)*

3.3 The LPA have considered whether these changes have an impact on the soundness of the Local Plan section 2 as submitted. We do not believe this is a significant change which undermines the soundness of the Plan. In particular, notwithstanding the changes the UCO:

- It remains a requirement of the NPPF for local authorities to ensure that appropriate employment land needs are met in the District through the allocation of suitable sites and the provision of policies.
- It remains a requirement of the NPPF for local authorities to ensure that appropriate retail, leisure, office and other main town centre uses needs are met in the District and that the definition of a retail hierarchy is still necessary.

3.3 Of course there are a number of policies in the Local Plan in relation to employment land uses, particularly those which allocate or protect B1 uses, which will need to be updated to reflect the new use class order. The changes are proposed to update the policies to reflect the new use class order and also to ensure that the purpose of the policy to retain land for employment uses can, as far as possible, still be maintained in light of the new use class order.

3.4 The Council also has a number of policies in relation to retailing and regeneration which will also need to be reviewed to similarly be assured that policies refer to the new use class orders.

**Table 2 Changes proposed as a result of the change to use classes and permitted development**

Paragraph or Map	Change Suggested
Paragraph 6.13	<del>..was categorised into either Employment Policy Areas (mixed B use class)-or Business use (exclusively B1) through...</del>
Paragraph 6.18	<b>...employment policy areas. In these areas the predominant use should be for employment, including office, light industrial, manufacturing and storage and distribution. Repair of vehicles, waste management facilities and a limited amount of services to support the workers or businesses on the site may also be suitable in some locations.</b>
6.19	<p><del>However in recent years there has been a greater proportion of uses in employment areas turning to other uses such as personal storage, gyms and leisure facilities. The Council wishes to preserve business parks for class B employment use with the following policy.</del></p> <p><b>In September 2020 the use class order was amended and the Commercial E use class was created incorporating uses</b></p>

	<p>previously considered as B1, A1, A2, A3, D1 and D2. This means that employment buildings used for offices or light industrial processes and research can now be converted to other uses within class E without the need for planning permission.</p>
Paragraph 6.20	<p><del>Development of change of use to a non-employment use will only be permitted when it would not detract from the employment use of the remaining sites in the area and; where new developments or changes of use impact on existing business, adequate mitigation measures are designed into the new site.</del></p> <p><b>The Council is concerned that the new use class could lead to a loss of employment land for traditional employment purposes and could lead to unacceptable impacts on parking, traffic and amenity of businesses located on employment sites if substantial numbers of buildings become used as retail units and indoor leisure facilities in particularly, and the detrimental impact this could have on town centres. As such, it may be necessary in appropriate circumstances to restrict the use of new buildings in these areas via condition. Those in B2 or B8 uses will not be permitted to change to an E use class.</b></p>
LPP3	<p>Employment policy areas are identified on the Proposals Map, where the following uses will be considered appropriate and will be permitted and retained:</p> <p><b>A Office use, research and development, and industrial processes (other than industrial processes falling within Use Class B2). Business (use-class B1)</b></p> <p>B. general industrial (use class B2) and storage and distribution (use class B8)</p> <p>C. Repair of vehicle and vehicle parts</p> <p>D Waste management facilities as appropriate taking into account neighbouring uses</p> <p><b>E services specifically provided for the benefit of businesses or workers based on the employment area</b></p>

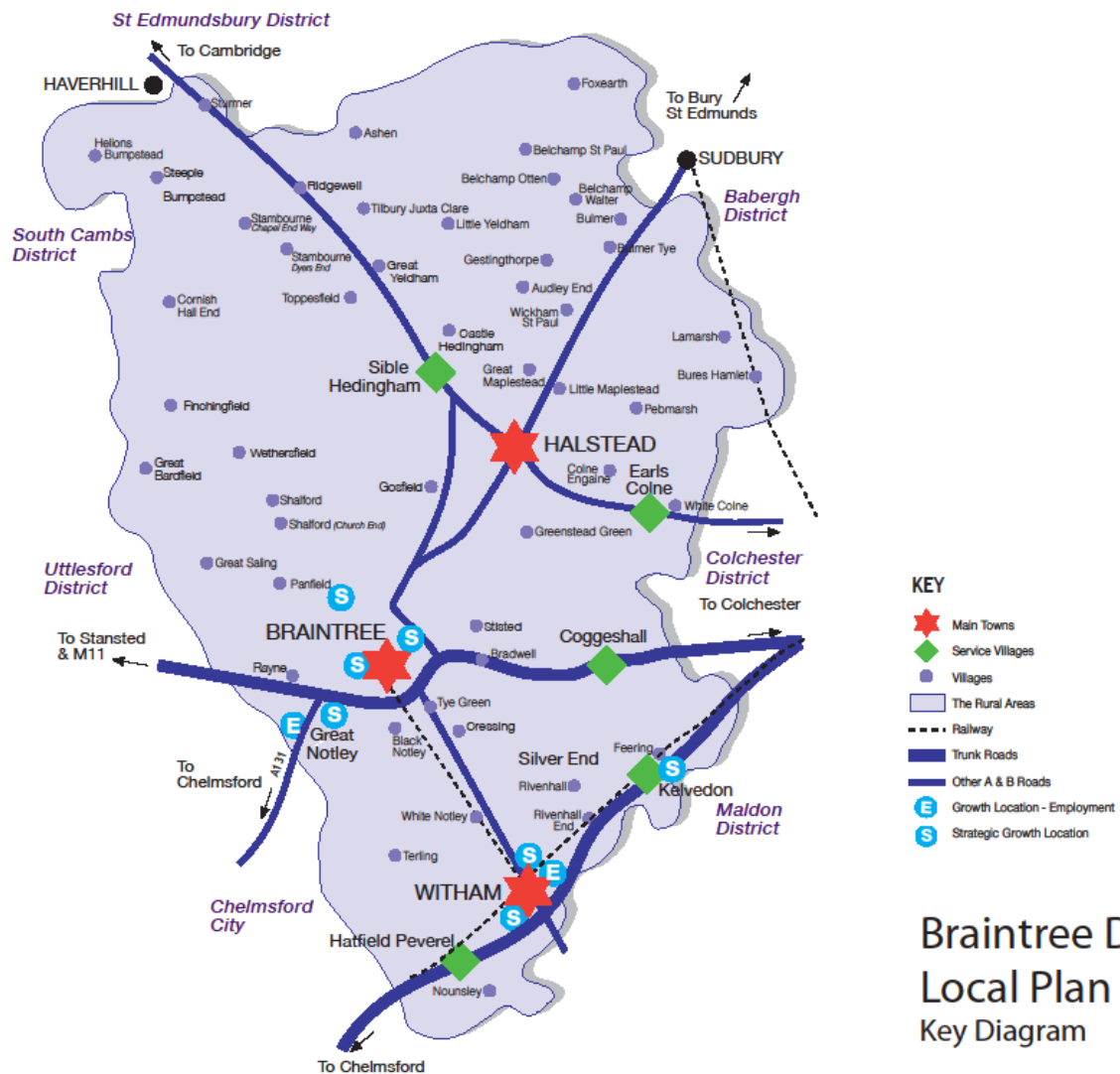
	<b>Changes from B2 or B8 to E will not be permitted.</b>
Paragraph 6.22	<p><del>The Council has also identified a number of employment areas which are not suitable for more general industrial or distribution uses by virtue of the surrounding uses, location, or access to the strategic road network. Therefore a number of employment sites, often in rural areas, are proposed for B1 business use only.</del></p> <p><b>The Council has historically identified a number of employment areas which by virtue of their location, often in rural areas, are only suitable for office or business uses. The new use class order introduced in September 2020 has removed the B1 use class and those uses now fall within a wider commercial E use class which also includes a range of other uses. In order to retain the character of these areas as employment uses, and to ensure that identified needs are met, it may be necessary in appropriate circumstances for new buildings to be conditioned for certain specific uses only.</b></p>
LPP6	<p><del>Employment locations for Use class B1 Business Parks business uses are identified on the Proposals Map. To maintain the character of these sites only uses falling within Use Class B1 business will be permitted., and to meet identified needs, they</del></p> <p><b>are allocated for office use, research and development, and industrial processes (other than industrial processes falling within Use Class B2).</b></p>
Paragraph 6.44	<p><del>...Uses acceptable in secondary frontages include A1, A2, A3, A4 and A5 and B1 office, D1 (non-residential institutions) and D2 (assembly and leisure) <b>E, F1, pubs or other drinking establishments, hot food takeaways and cinema, concert halls or other music or community venues which are considered sui generis.</b></del></p>
LPP11	<p>Within the Primary Shopping Areas, as defined on the Proposals Maps, primary and secondary frontages have been identified. A balance between A1 retail shops and non-retail town centre uses has to be maintained in order to secure the vitality and viability of the primary shopping area.</p> <p>The following uses will be permitted within primary frontages:</p> <ul style="list-style-type: none"> <li>a. <b>Commercial Retail development (Use Class A1 <u>E</u>)</b></li> <li>b. <b>Local Community uses (Use class F.2)</b></li> </ul> <p><del>Proposals for use classes A2–A5 and D1–D2 provided that:</del>  <del>It would not result in 3 or more non-A1) Use class units in adjoining premises within the primary shopping area</del></p>

	<p><del>It would not break a continuous A1 primary retail frontage</del></p> <p>The following <b>additional</b> uses will be permitted within Secondary Frontages:</p> <p><del>Use Classes A1 to A5, B1 and D1 to D2</del><b>Pubs and drinking establishments</b></p> <p><b>Hot food takeaways</b></p> <p><b>Cinemas, concert halls, music venues and similar</b></p>
LPP12	<p>Within the District centre as defined on the Proposals Map, the following uses will be permitted:</p> <p>a. <del>Retail development (Use Class A1)</del> <b>Commercial E use</b></p> <p>b. <b>Use Classes F1, F2, pubs and drinking establishments, hot food takeaways and cinemas, concert halls, music venues and similar providing this does not lead to an over proliferation of these uses to the detriment of the amenity of the surrounding area or viability of the centre.</b> <del>Proposals for use classes A2 – A5 and D1 – D2), provided that it does not result in the loss of an existing A1 retail use, or where a A1 unit has become vacant, it can be demonstrated through a marketing and viability assessment that an A1 user cannot be found.</del></p>
New paragraph after 6.52	<p><b>Areas are allocated on the proposals map for leisure and entertainment to meet the identified need for these uses. In September 2020 the use class order was amended and a new wider class E was created which included those leisure and entertainment uses previously in use class D2. In order to maintain the purpose and viability of these areas in appropriate circumstances the Council will consider imposing conditions on planning applications to restrict the use of a building to a specific use.</b></p>
LPP14	<p>The areas identified on the Proposals Map for Leisure and Entertainment shall be retained for leisure and entertainment-related uses. <b>This includes use for indoor sport, recreation or fitness; local community shops (Use Class F2); bingo halls, music venues and other similar uses; and expansion of the existing cinema will be acceptable.</b></p>
LPP18	<p>A new primary school with co-located 56 early years and childcare <del>(D1 use)</del> on 2.7ha...</p> <p>Two new 56 place stand alone early years and childcare nursery <del>(D1 use)</del> each on 0.13ha...</p>

LPP19	<p>A new primary school, with co-located 56 place early years and childcare (<del>D4 use</del>) on 2.1hectares...</p> <p>A new 56 place stand alone early years and childcare nursery (<del>D4 use</del>) on 0.13hectares....</p>
LPP20	A new 56 place stand alone early years and childcare nursery ( <del>D4 use</del> ) on 0.13hectares...
LPP23	A new 30 place stand alone early years and childcare nursery ( <del>D4 use</del> ) on 0.065hectares of
LPP26	Employment <b>uses E B4</b> and B8
LPP28	Retention of <del>A class</del> retail uses along the secondary retail frontage
LPP47 last section	<p>Transport related development, comprising of either;</p> <p>C1 overnight accommodation</p> <p>Appropriate sui generis, such as petrol filling station, car showrooms, car wash, car rental or garden centres and ancillary <b>retail b-uses</b>, or</p> <p><b>D4 Nursery and café/restaurants which fall within the E use class</b></p> <p><del>A3 café/restaurant.</del></p>
7.12	<del>A5 use (h</del> <b>Hot food takeaways</b> <del>)</del> are considered town centre uses and so will not normally be permitted beyond core retail areas...
LPP52	<del>For Use Class A5 developments (hot food takeaways),</del> a health Impact Assessment will be required....
Monitoring table LPP3	<p>To retain land in defined Employment Policy Areas within <del>B1/B2/B8 business</del> the uses identified in paragraphs A-D of that policy <del>repair of vehicles and vehicle parts, services specifically provided for the benefit of businesses or workers based on the employment area, or waste management facilities as appropriate.</del></p>

## Appendix 1 - Copies of Map Changes

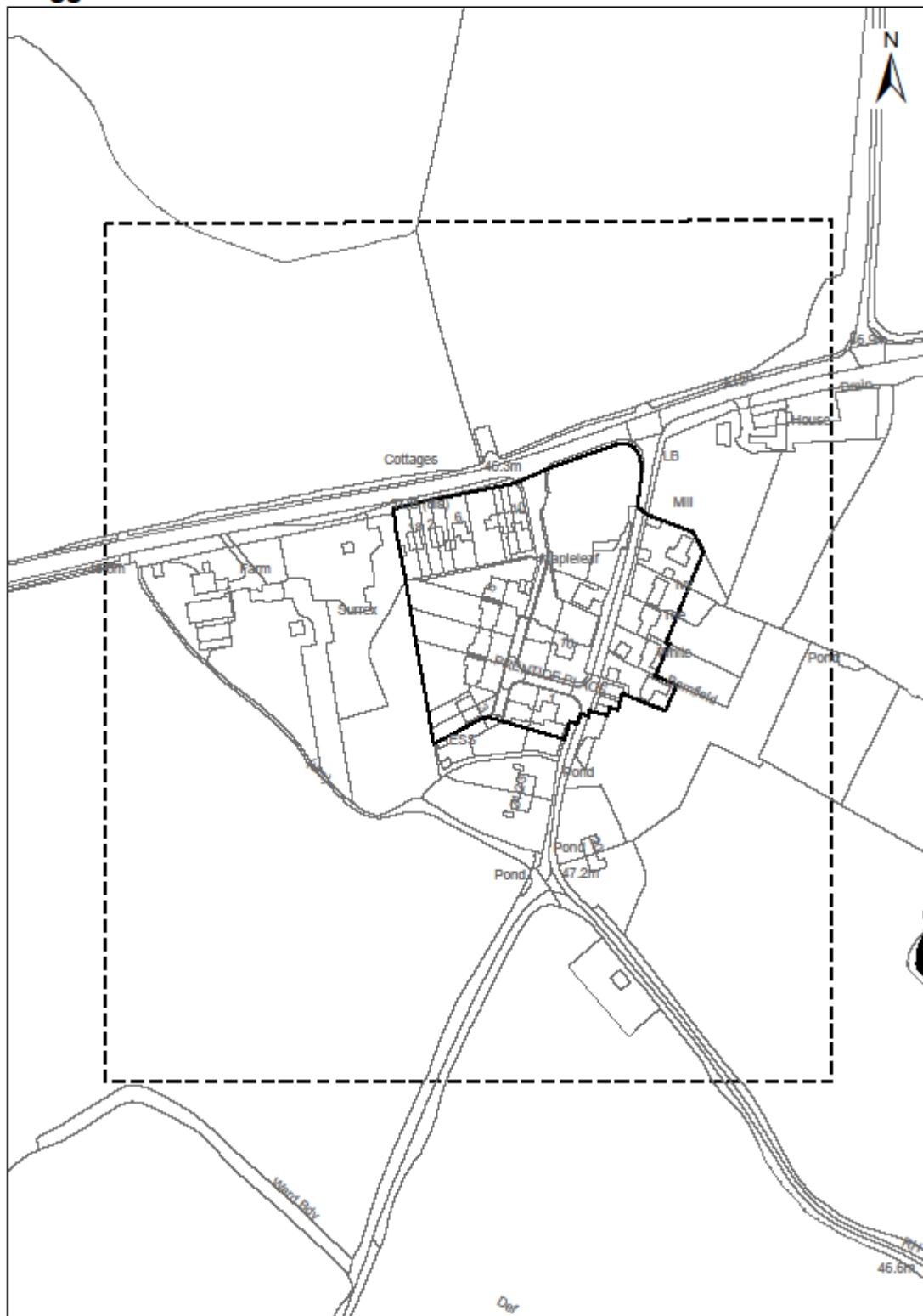
### Key Diagram



## Inset 16

### Coggeshall Surrex - Post Submission Draft Local Plan

### Inset 16

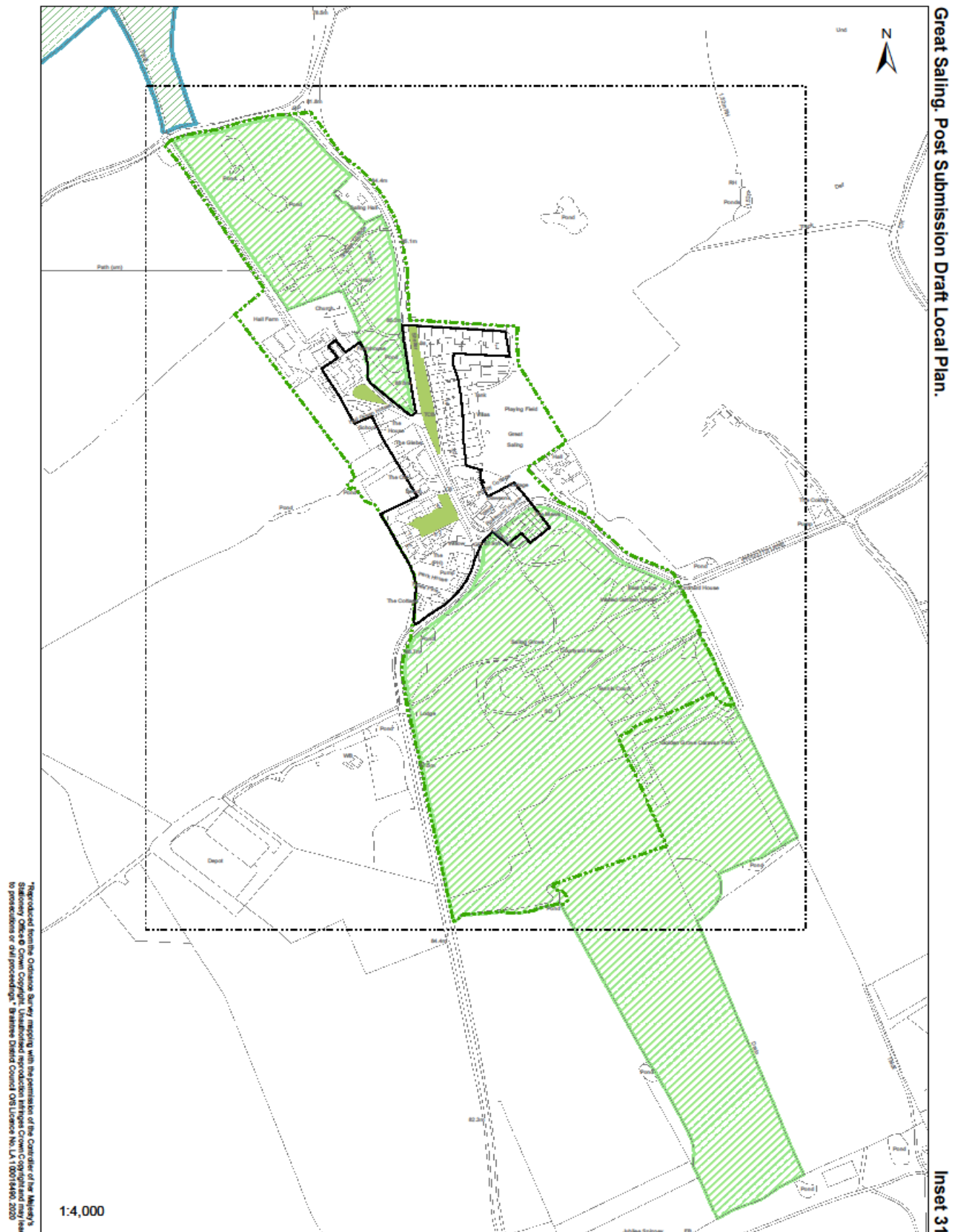


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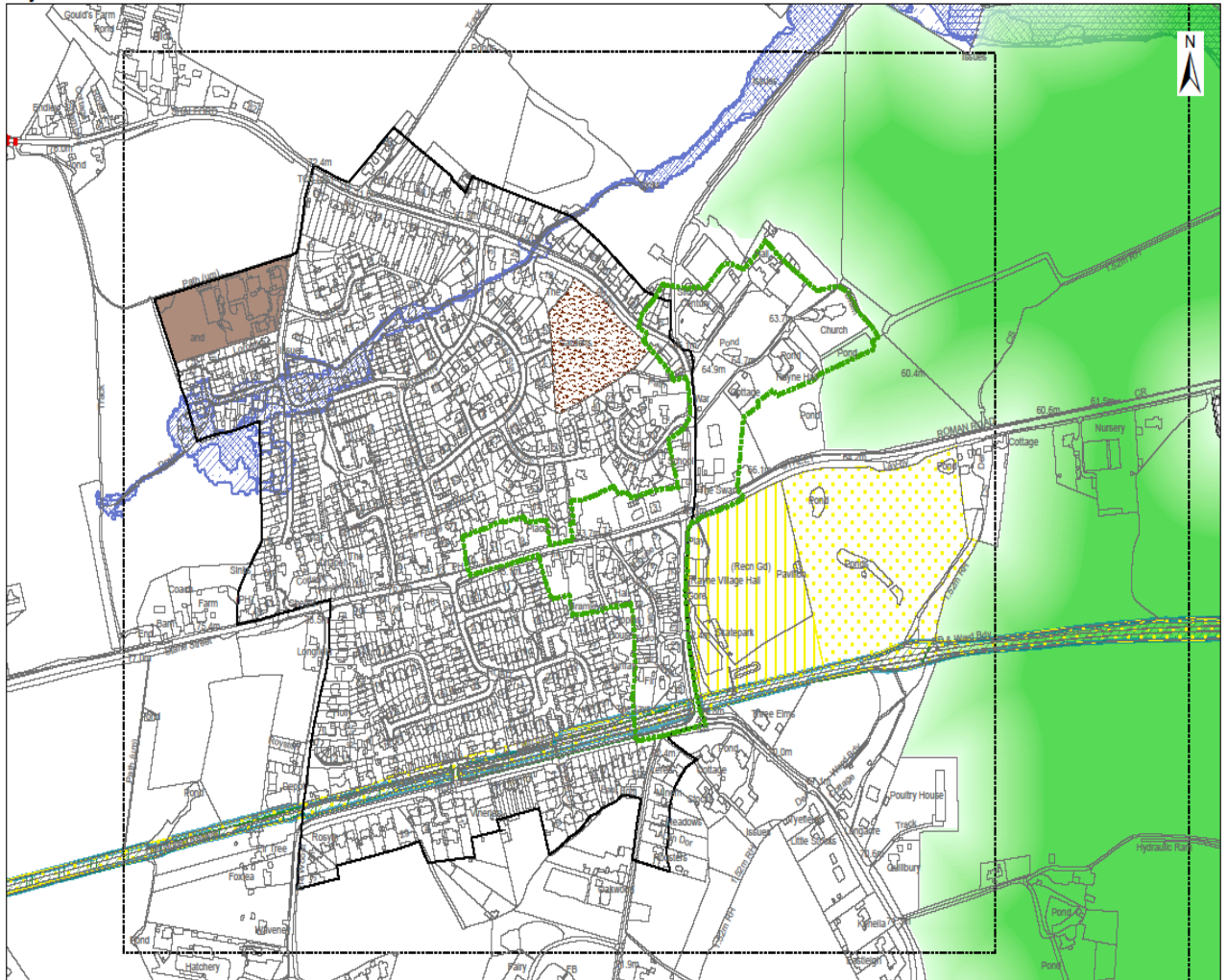
# Inset 31



## Inset 45

Rayne - Post Submission Draft Local Plan.

Inset 45



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