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Braintree District Section 2 Local Plan Examination

Hearing Statement

on behalf of

The Granville Group

Main Matter 1

July 2021

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- **Is it clear how the Sustainability Appraisal influenced the final plan and dealt with mitigation measures?**
- **Does the Braintree Local Plan Section 2 accord with national policy for plan making in the NPPF, specifically:-**
- **Does the Braintree Local Plan Section 2 contribute to the achievement of the three dimensions of sustainable development – economic, social and environmental?**
- **Is the Braintree Local Plan consistent with the NPPF in all other respects?**

Introduction

1. The Braintree Section 2 Local Plan is considered to be unsound on the following grounds:-
 - I) It does not comply with the National Planning Policy Framework as the spatial strategy is not adequately justified and supported by a sustainability appraisal; and
 - II) Alternative spatial strategy options have not been adequately considered prior to or subsequent to the deletion of two garden communities from the Plan.
2. On both counts, there is conflict with paragraph 32 of the National Planning Policy Framework (NPPF) which states:

“Local plans and spatial strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant requirements. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains). Significant adverse impacts on these objectives should be avoided, and wherever possible, alternative options which reduce or eliminate such impacts should be pursued.”
3. At the outset of what has proved to be a long drawn out process, the route chosen to deliver Development Plans for each of the three North Essex Authorities appeared to have much to commend it, namely the preparation of common strategic proposals and policies to operate throughout North Essex providing context for separate Local Plans containing more

detailed proposals and policies specifically drawn up to reflect the varying needs of each District. The duty to co-operate was therefore fully engaged in preparing the Section 1 Strategic Plan. It was common ground between the three authorities that the delivery of Garden Communities was central to their strategy – forming a long-term vision to accommodate growth for decades beyond the end date of the Plan in 2033. That vision began to falter when the Section 1 Inspector excoriated the submitted sustainability appraisal – finding it unfit for purpose. He advised the need for a sustainability appraisal to:

*“Assess alternative strategies for the Section One Local Plan area, using a clear rationale of alternative spatial strategies and description of them. As a minimum, the spatial **strategy** alternatives should include proportionate growth, growth at and around settlements, CAUSE’s Metro Town Proposal, and one, two or more Garden Communities depending on the outcome of the first stage assessment.”* (My emphasis).

4. As a result, LUC were commissioned to produce a new sustainability appraisal which advised that a spatial strategy promoting the three proposed garden communities did not perform noticeably better in sustainability terms than other alternative strategies and sites. Notwithstanding the absence of a ringing endorsement for the submitted spatial strategy, the three Councils did not re-assess or amend their strategy but determined to proceed to the Section 1 Examination by continuing to promote a three garden community strategy. That strategy was severely dented by the Inspector’s findings that both the Colchester Braintree Borders and the West of Braintree Garden Communities were unviable and should not proceed – resulting in the deletion of the two garden communities that were partly within Braintree District. The fact that two garden communities were ultimately lost from the spatial strategy for Braintree District heightens the consequences for its Section 2 Plan compared to Colchester Borough, which only lost one garden community, whilst Tendring’s only garden community shared with Colchester emerged unscathed.
5. As a result of the major changes to the Section 1 spatial strategy, no sustainability appraisal now exists to adequately underpin Braintree’s current Section 2 spatial strategy. The strategy now being pursued in Section 2 is most akin to *“growth at and around existing settlements”* – one of the required minimum alternative strategies identified by the Section 1 Examination Inspector. But there is no sustainability appraisal which points to *“growth*

at and around existing settlements” as the most sustainable alternative to underpin the Braintree Section 2 Local Plan. The LUC sustainability appraisal does not justify Braintree’s residual strategy to the exclusion of others. It therefore does not meet the requirement of NPPF paragraph 32 that: *“Local Plans and spatial strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant requirements.”* (As an analogy, one could not remove the “Big Six” clubs from the Premiership and claim it is the best league in the world. The effect of deleting the garden communities could also be compared to the effect of removing the hairspring from a watch – everything else is in place but the watch doesn’t work). Faced with the removal of its two garden communities, Braintree needed to consider the wider implications arising from their loss on its spatial strategy and to re-assess its strategy having regard to the sustainability appraisal and all the alternatives spatial strategies that were still reasonably available. Instead, the resultant modified strategy has been arrived at by default rather than as a strategy informed and endorsed by a sustainability appraisal – a fundamental defect in the justification of the submitted Section 2 Plan sufficient for it to be held to be unsound.

6. Despite the magnitude of the changes to the spatial strategy, the Council claim the consequential changes are *“relatively limited, with no fundamental changes to the vision, spatial strategy and strategic objectives.”* (Topic Paper 1: para. 2.3). That claim is now challenged in detail.
7. Having regard to the nature, scale and function of Garden Communities – the removal of both Garden Communities would be expected to have far reaching consequences for the content of the Section 2 Plan. In numerical terms alone, the loss of 3,656 dwellings earmarked for the Garden Communities during the Plan period represented nearly 24% of the District’s 15,366 housing requirement. Moreover, some of the consequences arising from the deletion of the Garden Communities have implications in relation to the range of alternative strategies that were initially considered, for the sustainability appraisal which informed the selection of the allocations, and ultimately for the soundness of the Plan as a whole.
8. The Council’s submitted strategy is summarised in paragraph 5.13 of the Section 2 Plan:-

“That the broad spatial strategy for Braintree District should concentrate development on the town of Braintree, planned new garden communities, Witham and the A12/Great Eastern Mainline corridor and Halstead.”

9. However, following the deletion of the two Garden Communities, the strategy is now reduced to concentrating development on the three towns of Braintree, Witham and Halstead plus the A12 and mainline rail corridor. (See Topic Paper 1: Table 1). From a position of concentrating massive growth along the existing line of the A120 in the form of Garden Communities, the A120 corridor is now erased from the spatial strategy for Braintree District entirely. Having regard to the sustainability appraisal and all the technical studies in the evidence base adduced to support the sustainability of growth along the A120 corridor, it is difficult to comprehend how this element of the spatial strategy could be discarded at a stroke. (Indeed, it could be argued that with the intervening progress on the new line of the A120 from Braintree to the A12 at Kelvedon, this might open up new opportunities for less ambitious scales of growth along the existing A120 trunk road corridor later in the plan period or indeed elsewhere within the District). In the vacuum left by the Garden Communities, therefore, there is scope to consider scaled-down proposals – perhaps in the form of smaller Garden Communities or a different pattern of expanded settlements - not only within the A120 corridor but also elsewhere in the District – options that were never contemplated as a result of the NEA’s predilection for large scale Garden Communities.
10. The abandonment of the two Garden Communities therefore opened up an opportunity to reconsider alternative strategies and sites which had fallen by the wayside; in other words, there was an opportunity to assess alternative ways of making good the lost capacity whilst also possibly providing a platform for post-2033 growth. As noted, however, no reappraisal was undertaken to take full account of the implications of the loss of the two Garden Communities for the spatial strategy.
11. What is clear is that the Local Plan process has involved many alternative strategies and omission sites having been rejected as a direct result of the preferred strategy involving large scale Garden Communities. The reasoning behind such decisions probably reflected a view that such alternative strategies and sites either did not “fit in” with the preferred strategy, were regarded as less sustainable or simply judged to be surplus to requirements.

12. We will never know for certain – but it is possible that omission sites would have been assessed differently if the promotion of Garden Communities had not been so assiduously pursued as a central pillar of the Plan’s spatial strategy. With the demise of the Garden Communities, the nature and scale of the modifications needed to reflect such a major change to the spatial strategy therefore demanded a re-appraisal of the overall strategy in relation to the Section 2 Plan rather than simply air-brushing the references to the Garden Communities from the Plan.

13. The Council argue in Topic Paper 2 that housing delivery in recent years has compensated for the loss of pre-2033 capacity in the lost Garden Communities (namely 3,656 dwellings) in support of its view that the need to make consequential changes is “*relatively limited*”. In other words, there is no need to make compensatory allocations to redress the balance. That view is disputed for several reasons:-
 1. Delivering sustainable development is not solely about housing figures or location but ensuring that all types of development meet the NPPF’s economic, social and environmental roles of sustainable development.
 2. The Council has not adduced evidence to demonstrate how the location of the compensatory housing provision conforms or conflicts with an amended strategy excluding Garden Communities nor are the sustainability credentials of this provision known in relation to the amended strategy.
 3. Whilst the compensatory provision will assist with housing delivery in the early years of the Plan period, Topic Paper 2 (Table 3) also shows it contributes to a trajectory whereby annual dwelling completions tail off markedly in the later years of the Plan. There is also no post-2033 provision and the Plan has only about 12 years life with no knowledge as yet when it might be rolled forward, whilst the 15 year horizon would already take us through to 2036.

Conclusions

14. The promotion of large scale Garden Communities throughout the Section 1 and Section 2 Plan-making stages deflected attention from alternative spatial strategies which were either not identified or otherwise rejected. This directly influenced the process of sieving the sites and allocations put forward for consideration. With the abandonment of a spatial strategy including Garden Communities, there was a duty to re-evaluate those alternative strategies and sites which had not been supported as a direct result of allegiance to the preferred strategy. The removal of the Garden Communities from the spatial strategy was not an insignificant event to be addressed through a few textual and numerical deletions or adjustments. Indeed, the decision effectively made irrelevant or marginalised vast tracts of the Plan's evidence base which the Councils' argued underpinned the case that the Garden Communities were key to delivering the most sustainable spatial strategy.

15. At the very least, having regard to the major changes to the spatial strategy affecting Braintree District in particular, the Council should have undertaken further consultation on the implications for the spatial strategy and whether it would be appropriate to make compensatory provision or not, especially as the stated provision are minimum requirements. Perhaps of even greater importance, many landowners and landowning interests have been faced with the rejection of their sites – such decisions being taken in the context of a very different spatial strategy than that which now prevails. As this is highly unlikely to be addressed via the forthcoming consultation on the Main Modifications, it raises questions of what might have been if the current strategy had been pursued from the outset.

16. As noted, NPPF paragraph 32 includes the requirement that:-

“Local Plans and spatial development strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant requirements. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains)”.

17. Given the large volume of material within the Sustainability Appraisals which is directly relevant to Garden Communities, it is very difficult to extricate that part of the sustainability

appraisal which underpins the modified strategy and understand how it is justified by what is left. Those elements of the Sustainability Appraisal which supported the Garden Communities and the elements which supported growth elsewhere are entwined and indivisible – they form an inextricable body of information which cannot be easily disaggregated once a key element of the strategy is removed. (Hence the previous analogies to the Premier League and the hair spring of a watch). This creates a fissure between the evidence base on the one hand and the proposals and policies on the other.

18. In brief, as a body of information, the contents of the Sustainability Appraisal no longer justify the residual spatial strategy with the Garden Communities omitted. There is therefore direct conflict with NPPF paragraph 32 as the Sustainability Appraisal does not demonstrate that a spatial strategy devoid of two of the three large scale Garden Communities will meet the three sustainability objectives. This is not arguing in support of large scale Garden Communities – that race is thankfully run – but that the modified spatial strategy has lost its connectivity to the Sustainability Appraisal with the deletion of two large scale Garden Communities as a key element.

19. It is on that basis that the spatial strategy is regarded as unsound.

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June 2021