



Braintree District Council

Local Plan Examination of Section 2

- Main Matter 13
- Creating Better Places
- Policies LPP 50 - LPP 66

June 2021

Main Matter 13

Creating Better Places Policies LPP 50 - LPP 66

Policy LPP 50 - Built and Historic Environment

Policy LPP 51 - An Inclusive Environment

Policy LPP 52 - Health and Wellbeing Impact Assessment

Policy LPP 53 - Provision for Open Space, Sport and Recreation

Policy LPP 54 - Equestrian Facilities

Policy LPP 55 - Layout and Design of Development

Policy LPP 56 - Conservation Areas

Policy LPP 57 - Demolition In Conservation Areas

Policy LPP 58 - Shop Fronts, Fascias and Signs in Conservation Areas

Policy LPP 59 - Illuminated Signs in Conservation Areas

Policy LPP 60 - Heritage Assets and their settings

Policy LPP 61 - Demolition of Listed Buildings or Structures

Policy LPP 62 - Enabling Development

Policy LPP 63 - Archaeological Evaluation, Excavation and Recording

Policy LPP 64 - Educational Establishments

Policy LPP 65 - Local Community Services and Facilities

Policy LPP 66 - Cemeteries and Churchyards

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

13.1. The above policies are supported by the National Planning Policy Framework (2012). In particular, chapter 7 – requiring good design, chapter 8 – promoting healthy communities and chapter 12 – conserving and enhancing the historic environment.

13.2. Braintree District Council has a rich and varied historic environment. This includes large areas of rural historic agrarian landscapes and buildings, small rural historic settlements with medieval churches and larger towns with urban historic buildings and character. The National Heritage List for England shows that in 2017, the District had 3,237 heritage assets including 3,189 listed buildings of all grades, 40 Scheduled Ancient Monuments, 39 Conservation Areas and 8 Historic Parks and Gardens. Further information is provided within the ‘Heritage and Enabling’ section of the Council’s BLP – Section 2 evidence base (documents: BDC017, BDC041, BDC057 and BDC038).

13.3. The policies above related to the historic environment (LPP 50 and 55-61 and 63) will play a vital role in ensuring Braintree District’s heritage assets are conserved and enhanced through the planning system. The Council proposes that Policy LPP 62 is deleted (MM57 in document SDBDC008a) following representations by Historic England (comment ID: 965). MM52 and MM58 propose wording changes in response to Historic England representations (comment IDs: 956 & 966) on Policies LPP50 and LPP63 respectively.

Historic England also made representations on Policies LPP 56, 60 and 61 (comment IDs: 958, 963 & 964) recommending changes to the wording of the policies and / or supporting text. The Council will suggest additional modifications to address the concerns raised within the representations.

- 13.4. The policies relating to design and the built environment (LPP 50, 51 and 55) build on the relevant principles set out in the NPPF and National Planning Policy Guidance through ensuring that development and places are well designed, accessible to those with disabilities and respond to distinctive local character.
- 13.5. Policy LPP 52 – Health and Wellbeing Impact Assessment will ensure that the health needs of future residents are fully assessed as part of large scale housing applications. It also requires that the impact of developments involving ‘hot food takeaway’ on health be taken into account. Policy LPP 53 – Provision for Open Space, Sport and Recreation ensures that developments will provide adequate open space and recreational facilities. Policy LPP 54 - Equestrian Facilities provides a framework for assessing when proposed new or expanded facilities will be acceptable. This is important in the local context of Braintree, with there being numerous equestrian facilities, both personal and commercial, within rural areas.
- 13.6. Policy LPP 64 – Educational Establishments seeks to provide protection for existing educational establishments and that contributions to or new facilities are provided where required. This policy is supported by Essex County Council the education authority subject to a minor modification (response 285). Similarly, Policy LPP 66 - Cemeteries and Churchyards provides a framework for retaining existing cemeteries and churchyards as well as proposing two extensions to meet the future need of the district. Further information is provided within the Council’s updated Infrastructure Delivery Plan. BDC012 and its update BDC058
- 13.7. Policy LPP 65 Local Community Services and Facilities seeks to protect community facilities as defined in the NPPF through any proposal either needing to provide an alternative facility or conducting a robust marketing exercise to demonstrate the facility is no longer viable. This is to ensure that these facilities which often provide a valuable service to the community (especially in rural areas) are maintained wherever possible, providing both social, economic and sustainability benefits. The policy also provides support for new facilities and specifically identifies three sites. Further information is provided within the ‘Community Facilities’ section of the Council’s BLP – Section 2 evidence base (documents: BDC014, BDC015, BDC042 and BDC043).

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

13.8. These policies provide a clear framework for how relevant applications should be assessed. The policies will vary on their descriptiveness depending on whether it is appropriate for the policy wording to specify specific parameters which must be followed or if it is more appropriate for the decision maker to use their professional judgement on whether a proposal meets the aims of the policy. However the Council considers the wording is clear in all cases where appropriate areas or allocations (including the boundaries of Conservation Areas) are shown on the relevant Proposals Maps.

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

13.9. The Council's proposed modifications are set out in document SDBDC008a. The relevant proposed main modifications for the above policies are MM52 – MM59. The justification for these modifications are set out in the 'reason' column in the table and broadly relate to requests from statutory consultees and amendments for clarity. The most significant of those modifications are as follows;

13.10. MM57, the removal of policy 62 and its supporting text due to a representations received from Historic England which consider the policy to be an unnecessary repeat of national policy.

13.11. MM54 on policy LPP53 to provide additional wording and reorder the policy in response to requests from Sport England; and

13.12. MM55 on policy LPP54 which amends the criteria around vehicle access at the request of Sport England.

In addition, in relation to Policy LPP52 - Health and Wellbeing Assessment:

- **Is the requirement for all development proposals to assess their impact on health and wellbeing reasonable?**

13.13 As stated at paragraph 69 of the NPPF (2012) 'The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities.' The 'Health and Wellbeing' section of the NPPG also states a clear link between health and wellbeing and the planning system.

13.14 Considering the impact upon health and wellbeing should therefore be at the forefront of development proposals, with the specific considerations being relative and proportionate to each application. The requirement for a Health

and Wellbeing Assessment is limited to specific forms of development as set out in paragraphs 2 and 3 of the policy, where it is considered that the implications on health or for health infrastructure are the greatest.

- **Are the requirements of the policy in relation to A5 uses supported by clear evidence?**

13.15 In relation to applications involving hot food takeaways, as set out at 7.12 of the supporting text to the policy, this form of development has the potential to impact upon health and wellbeing through potentially encouraging local residents to eat unhealthily (including children) but also impact upon the amenity of future residents. It is acknowledged that not all hot food takeaways serve unhealthy food, which can be taken into account as part of the assessment.

13.16 It is acknowledged that it is a personal choice for people whether they decide to buy from a hot food takeaway businesses. However, the planning system has a role in promoting healthy communities (section 8 of the NPPF 2012). An over concentration of hot food takeaways within a community would be contrary to this aim. An over concentration of these premises can intensify these issues as well there being less premises available to offer other types of services and facilities within the local community. A Health and Wellbeing Assessment will therefore give the applicants the opportunity to state how these potential issues will be addressed.

13.17 Paragraph 7.11 of the supporting text to the policy provides statistics from NHS Digital demonstrating the need for such a policy approach. More recent figures from Public Health England show a similar trend and could be updated if required¹.

13.18 To address the issue of obesity and excess weight within the district, the Council and its partners have produced the Live-well Strategy 2019-2023². As set out within the Strategy, a key element is encouraging residents to 'eat-well' and has resulted in initiatives such as 'TuckIN' which is a scheme for food businesses to pledge to reduce salt, fat, sugar and offer smaller portions. This action demonstrates that Council and its partners consider the impact of hot food takeaways as having a serious consequences for resident's health.

13.19 In relation to the section of the Policy which restricts new hot food takeaway premises within close proximity to schools, the Council and partners have

¹ <https://fingertips.phe.org.uk/static-reports/healthprofiles/2019/E07000067.html?area-name=Braintree>

² <https://www.livewellcampaign.co.uk/app/uploads/2020/03/livewell-strategy-2019.pdf>

launched a 'live-well child' initiative³ to tackle child obesity within the district. National figures state that 1 in 4 children starting reception year are overweight which rises to 1:3 by the end of primary school⁴.

- 13.20 The Policy in relation to the regulation of hot food takeaways including the 400m zone from schools is also supported by guidance from Public Health England '*Healthy weight environments: using the planning system*' published February 2020⁵
- 13.21 Proposed modification MM53 in document SDBDC008a amends the policy to removes the specific details in restricting the opening hours of premises which are within 400m of a school as it is considered that this would be difficult to control within the planning system, particularly recognising that school policies change at any time.
- **Does the policy provide sufficient guidance as to the scope of such assessments and what mitigation might be considered reasonable to offset impacts? Does it provide sufficient clarity as to how assessments might be calculated or required?**
- 13.22 The Council are proposing an additional *modification to amend the second paragraph of the policy to state: 'To ensure new development is designed to promote good health all developments over 50 residential units and non-residential developments over 1,000sqm will be required to undertake a Health Impact Assessment having regard to the Essex Healthy Places Guide – Advice Notes for Planners, Developers and Designers or successor document. Negative health impacts identified in a Health Impact Assessment must be resolved in the development or mitigations secured through planning condition(s) and / or a Section 106 Agreement'*.
- 13.23 The Essex Healthy Places Guide – Advice Notes for Planners, Developers and Designers⁶ provides a clear framework for the scope of assessments and how they should be carried out. The mitigation required to offset negative impacts of the scheme will be specific to each development and be identified through the HIA assessment. The proposed amended policy text states that: '*Negative health impacts identified in a Health Impact Assessment must be*

³ <https://www.livewellcampaign.co.uk/home/livewell-child/>

⁴ <https://digital.nhs.uk/news-and-events/news-archive/2017-news-archive/obesity-prevalence-increases-in-reception-age-primary-school-children>

⁵ <https://www.gov.uk/government/publications/healthy-weight-environments-using-the-planning-system>

⁶ <https://www.essexdesignguide.co.uk/media/2262/essex-healthy-places-advice-notes-for-planners-developers-and-designers.pdf>

resolved in the development or mitigations secured through planning condition(s) and / or a Section 106 Agreement'.

- 13.24 Comments (ID: 680) states that more detail should be included within the policy on scope of the assessment. As described above, the proposed modification of the policy to include reference to The Essex Healthy Places Guide – Advice Notes for Planners, Developers and Designers provides now a clear framework for the scope of assessments.
- 13.25 A number of comments were received stating that the policy or parts of the policy should be deleted (including IDs: 79, 313, 334) due to the policy being overly restrictive, unnecessary and a burden upon businesses. However, the Council maintain that for the reasons above and set out in the supporting text of the policy, the requirements of policy LPP52 are reasonable and justified to support public health and health and wellbeing.

In relation to Policy LPP 53 - Provision for Open Space, Sport and Recreation:

- **Are the standards based on sound criteria? What evidence are they based on?**
 - **Should the policy define the quantity of open space required? How will a surplus be identified? Is the approach to the loss of playing fields appropriate?**
- 13.26 The provision of open space, sport and recreation as set out in policy LPP53 is evidenced by the Open Spaces Study BDC040 by expert consultants Ethos. This is actually a suite of documents which include the Braintree Open Space Study, Playing Pitch and Outdoor Sports Needs Assessment and a Playing Pitch Strategy and Action Plan. These were completed alongside a very detailed consultation and engagement exercise with local residents, owners of provision, sports clubs and overarching bodies such as Active Essex and Sport England the details of which are included in full within the study. The policy does not contain the specific standards in relation to open spaces and these will be set out in an SPD. Standards for types of uses are set out in section 6 of the Braintree Open Spaces study and include quantity, quality and accessibility standards for each typology of open space and appendix 6 of the playing pitch and outdoor sports study for different types of sports pitches. The Council is content that it is based on a reliable and proportionate evidence base.
- 13.27 However, noting some concerns expressed by Sport England in the 2017 Submission consultation the Council has prepared a Statement of Common Ground (SOCG003) which proposes some amendments to the policy which address these concerns. These are relatively minor changes to wording within the policy to provide clarity and direction to the reader. The Council has also

proposed some reordering of the policy in MM54 of SDBCD008a and suggests an additional line of text to make it clear that contributions will be sought in line with detail set out within a subsequent SPD.

- 13.28 The Council currently operates an Open Spaces SPD and this will be updated once the BLP-Section 2 is adopted with the information from the evidence base listed above. Given the local context, assessments are taken into account on each planning application, alongside the needs of particularly local clubs or typology shortages within the vicinity or even topography of the development site under consideration it is considered that reference to the SPD provides the best way to deliver this in a clear and concise form to deliver the best open space for that particular area, rather than placing a general requirement of quantity and type within the policy.
- 13.29 A surplus of one type of sports provision or another is identified through the Open Spaces Study and in particular in section 7, including a summary by ward at table 16. Figure 21 of the Braintree Open Spaces Study indicates via a flow chat how the decision maker should consider the issue of surplus provision. These will be summarised and detailed within the updated Open Spaces SPD.
- 13.30 The Council considers it is appropriate to consider the loss of all open space, rather than playing fields alone (as described in paragraph 4 of the submitted BLP). As set out within the policy this determination should be made to consider all the uses that the land could be used for and should be done in consultation with the local community. The Council considers that publically accessible open space is an essential requirement of all our towns and villages and as such whilst recognising that this sets a high bar for the reuse of open space for other development, considers that the benefits to mental and physical health and wellbeing that these spaces bring, as a finite resources in towns, villages and neighbourhoods should be recognised thus.
- 13.31 In addition it is worth noting that LPP64 deals with educational establishments and the reuse of their buildings and land specifically which could include school playing fields. This policy has the support of the education authority (ECC) provided a small modification is made.

In relation to Policy LPP 54 - Equestrian Facilities:

- **Is the approach taken to new accesses consistent with national policy?**

- 13.32 Whilst equestrian facilities are not specifically mentioned within the NPPF, it is considered that the policy is consistent with the emphasis with the NPPF to Support a prosperous rural economy (section 3) and to Promote Sustainable transport (section 4), particularly where it relates to equestrian uses for commercial development and to support the use of bridleways. As explained

above, there are numerous equestrian facilities within the District, and therefore it is considered that a bespoke policy addressing equestrian facilities is appropriate.

- 13.33 Criteria b within the policy as submitted proposes that applications should only be approved where no alterations to the highway are required. However within SDBDC008a MM55 the Council recognises that this criteria may be unduly restrictive and proposes amended wording so that it is less restrictive, but that the impacts of additional vehicle traffic, and often large vehicles, are managed on a rural road network.

In relation to Policy LPP 55 - Layout and Design of Development:

- **Are the criteria within the policy reasonable and in accordance with national policy?**

- 13.34 National Planning Policy Framework (2012) section 7 – requiring good design states at paragraph 56 that: *‘The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people’*. The remaining paragraphs of section 7 set out guidance and a number of key principles relating to design. Recent publications such as the Building Better, Building Beautiful Commission and the Planning White Paper continue to place great emphasis on good design.

- 13.35 Policy LPP 55 builds on section 7 of the NPPF and sets out a number of criteria to promote a high standard of layout and design in all developments in the District. The relevance and importance attached to each criterion will depend upon the specifics of the development being assessed and provide the decision maker with the ability to apply their professional judgement.

- 13.36 A number of representations were received on LPP 55. Common themes included that LPP 55 was not needed because it duplicates the NPPF, the criteria within the policy are too vague and that criteria within the policy are too onerous and should be more flexible.

- 13.37 The Council considers that LPP 55 builds upon the design principles set out within section 7 of the NPPF and policy SP7 Place Shaping Principles of the BLP Section 1 rather than duplicates them. It is also considered that the criteria strike the right balance between setting clear requirements and guidance but not being overly descriptive and allowing the decision maker to apply their own professional judgement where appropriate. In regard to the comments stating that the policy is too onerous, the Council consider that the policy criteria are reasonable to ensure high quality design and place making whilst not placing an unreasonable burden upon those carrying out

development. MM56 within document SDBDC008a among other changes proposes amendments to the second criteria of the policy to state that 'Buildings and structures should be of a high architectural quality' rather than '*the highest*'.

In relation to LP56-LP63 – policies relating to Heritage Matters:

- Are the policies consistent with national policy?

13.38 As previously stated, it is proposed that Policy LPP 62 should be removed from the Plan as requested by Historic England (MM57 in document SDBDC008a) as an unnecessary duplication of National Policy. The Council considers that policies LPP56 – 63 are consistent with Section 12 of the NPPF 'conserving and enhancing the natural environment' and the framework as a whole taking into account the Council's proposed modifications on these policies.

- Are there any omissions from the policies?

13.39 SDBDC008a proposes a small change to correct the name of the Registered Park and Garden but otherwise does not consider that there are any omissions from these policies

In relation to Policy LPP 65 - Local Community Services and Facilities:

- Are local community services and facilities clearly defined?

13.40 Policy LPP 65 as currently submitted seeks to protect 'community facilities as specified in the NPPF'. Although the BLP Section 2 is being examined under the 2012 NPPF – from adoption the Plan will be used alongside the most recent (2019) version of the NPPF which has changed its 'list' of community facilities. There have also been substantial changes to the planning use class order which took effect from September 2020. In light of these changes, the Council therefore propose the clearest way to define local community services and facilities is to modify the policy and supporting text to define them as uses generally covered by 'Use Class F2 local community and public houses'. Public houses are now classed as 'sui generis' under the new use class order.

- Are the requirements of the policy reasonable and based on sound evidence?

13.41 The Council considers the policy sets reasonable criteria in order to protect social and community facilities which may have a higher market value if changed into a non-community use, for example residential. Once a social or community facility has changed use, the facility is unlikely to change back to a social or community use in the future. Therefore, it is important to give facilities every chance to retain their existing use (in compliance with the

NPPF 2012 Paragraphs 28 and 70), before alternative uses are considered. The 12 month marketing exercise specified in paragraph 7.56 is considered reasonable and proportionate in providing the facility with the chance to remain within a community use whilst allowing a change if the facility is demonstrated to be unviable.

- 13.42 The 12 month marketing period has been found sound and adopted in a number of Local Plans across the country⁷ and is also recommended by the Campaign For Real Ale – Public House Viability Test⁸. It reflects the importance to a local community for these types of communities and a 12 month period also allows time for communities to develop proposals to retain a social or community facility in their area if they wish to do so.
- 13.43 Therefore the Council considers that Policy LPP 65 strikes the right balance between being focused on protecting social and community facilities whilst being flexible to take account of changing circumstances in the future.

⁷ Plan for Stafford Borough Part 2 (Policy SB2) & Exmoor National Park Local Plan (Policy HC-D19)

⁸ https://camra.org.uk/campaign_resources/public-house-viability-test/