

Report to Braintree District Council

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Inspectors appointed by the Secretary of State

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Section 20

Report on the Examination of the Braintree Local Plan Section 2

The Plan was submitted for examination on 9 October 2017

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Abbreviations used in this report

AMR	Annual Monitoring Report
AONB	Area of Outstanding Natural Beauty
ARBMP	Anglian River Basin Management Plan
BNG	Biodiversity Net Gain
BLPs1	Braintree Local Plan 2013 – 2033 (Section 1)
BLPs2	Braintree Local Plan 2013 – 2033 (Section 2)
BWSWMP	Braintree and Witham Surface Water Management Plan
CCG	Clinical Commissioning Group
CNEB	Chelmsford North Eastern Bypass
DPD	Development Plan Document
DtC	Duty to Co-operate
EA	Environment Agency
ECC	Essex County Council
GTAA	Gypsy and Traveller Accommodation Assessment
HE	Historic England
HIA	Health Impact Assessment
HRA	Habitat Regulations Assessment
LPA	Local Planning Authority
NE	Natural England
NPPF	National Planning Policy Framework
PHE	Public Health England
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
PROW	Public Rights of Way
RAMS	Recreational Avoidance and Mitigation Strategy
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document
SSSI	Sites of Special Scientific Interest
SUDs	Sustainable Urban Drainage Systems
UCO	Use Classes Order

Non-Technical Summary

This report concludes that the Braintree Local Plan Section 2 [BLPs2] provides an appropriate basis for the planning of Braintree District provided that a number of main modifications [MMs] are made to it. Braintree District Council has specifically requested that we recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared a schedule of the proposed modifications and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MMs were subject to public consultation over a six week period. In some cases, we have amended their detailed wording and/or added consequential modifications where necessary. We have recommended their inclusion in the Plan after considering the sustainability appraisal and habitats regulations assessment and all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- Revised housing and employment figures and sites;
- Amending or deleting site allocations and designations to ensure consistency with the National Planning Policy Framework [NPPF];
- Rewording policies to ensure they are positively prepared and consistent with the NPPF;
- Adding, amending or deleting policies and explanatory text to effectively guide development; and
- A number of other MMs to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

Introduction

1. This report contains our assessment of the Braintree Local Plan Section 2 [BLPs2] in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The NPPF (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority [LPA] has submitted what it considers to be a sound plan. The Plan, submitted in October 2017 is the basis for our examination. It is the same document as was published for consultation in June 2017.

Main Modifications

3. In accordance with section 20(7C) of the 2004 Act, the Council requested that we should recommend any MMs necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. Our report explains why the recommended MMs are necessary. The MMs are referenced in bold in this report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
4. Following the examination hearings, the Council prepared a schedule of proposed MMs and where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MM schedule was subject to public consultation for six weeks. We have taken account of the consultation responses in coming to our conclusions in this report and in this light, we have made some amendments to the detailed wording of the MMs and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the MMs as published for consultation or undermines the participatory processes and sustainability appraisal/habitats regulations assessments that have been undertaken. Where necessary we have highlighted these amendments in the report.

Policies Map

5. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the Plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as Braintree Local Plan Policies Maps as set out in documents referenced SDBDC001 2 of 7 to 7 of 7 inclusive.

6. The policies map is not defined in statute as a development plan document and so we do not have the power to recommend MMs to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective.
7. These further changes to the policies map were published for consultation alongside the MMs in the Schedule of Proposed Policies Map Modifications.
8. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in Braintree Local Plan Policies Maps and the further changes published alongside the MMs (S2 Revised Maps).

Context of the Plan

9. The BLPs2 is intended to replace the Braintree District Council Local Development Framework Core Strategy 2011 and the Braintree District Local Plan Review 2005. It will form part of the development plan for the area along with the Braintree District Local Plan 2013 – 2033 (Section 1) (BLPs1), which is a joint strategic plan for the North Essex Authorities, prepared with Colchester and Tendring Councils, and adopted by Braintree District Council in February 2021. The BLPs2 was submitted for examination alongside the Section 1 plan and seeks to implement the strategic aims of the BLPs1 in respect of the amount and location of development in the District.
10. Braintree is a predominantly rural district which includes the towns of Braintree, Halstead and Witham as the largest settlements. The district also has a growing population which is projected to rise substantially by 2033. The south of the district benefits from good rail and road connections to London and to Stansted Airport to the west. The district also has high levels of out commuting to Chelmsford, Uttlesford and London. As well as numerous historic buildings and local wildlife sites, the district has 4 Sites of Special Scientific Interest (SSSIs) and is adjoined to the north by the Dedham Vale Area of Outstanding Natural Beauty [AONB].

Public Sector Equality Duty

11. We have had due regard to the aims expressed in S149 of the Equality Act 2010. This, amongst other matters, sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
12. We have considered several matters during the examination including provision for specialist housing and care homes (Policies LPP 35, LPP 52), for those who

need accessible and adaptable housing (Policy LPP 37) and ensuring there is adequate provision to meet the accommodation needs of Gypsies, Travellers and Travelling Showpeople (Policy LPP 36). In this way the disadvantages that they suffer would be minimised and their needs met in so far as they are different to those without a relevant protected characteristic. There is also no compelling evidence that the BLPs2 as a whole would bear disproportionately or negatively on them or others in this category.

Assessment of Duty to Co-operate (DtC)

13. Section 20(5)(c) of the 2004 Act requires that we consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
14. The Council has engaged with Essex County Council, the adjoining local planning authorities and the prescribed bodies on all relevant strategic matters from an early stage in plan preparation as documented in the Council's Duty to Cooperate Statement (SDBDC005). The plan was submitted for examination alongside the Section 1 plan which is a joint strategic plan for the North Essex Authorities, prepared with Colchester and Tendring Councils. It is evident that the Council has developed a strong working relationship with Colchester and Tendring Councils (the North Essex Authorities) arising from the extensive cross boundary work on the Section 1 Local Plan and also as relates to the progression of the three Section 2 Plans.
15. The DtC was assessed by the Inspector examining the Section 1 plan and was found to have been met. The strategic, cross-boundary matters addressed included assessments of need for housing, Gypsy and Traveller accommodation and employment land; strategic infrastructure, including improvements to the trunk and local road networks and the railway network, education, healthcare and broadband provision; and the environmental and other cross-boundary impacts of the Plan's proposals.
16. Braintree District shares its border with Babergh and South Suffolk District Council, Colchester Borough Council, Chelmsford City Council, Maldon District Council, Uttlesford District Council, St Edmundsbury Council, South Cambridgeshire District Council, Suffolk County Council and Cambridgeshire County Council. There are no cross-boundary issues with neighbouring authorities and other relevant organisations, which have not already been considered at the Section 1 examination. The Council has continued to engage with these bodies since the submission of the Section 1 plan and has updated the Section 2 plan to reflect this, in particular the Environment Agency [EA], Historic England [HE] and Natural England [NE].

17. We are satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

Assessment of Other Aspects of Legal Compliance

18. The Plan has been prepared in accordance with the Council's Local Development Scheme.
19. Consultation on the Plan and the MMs was carried out in compliance with the Council's Statements of Community Involvement (SDBDC0007 and SDBDC0007a).
20. The Council carried out a sustainability appraisal of the BLPs2 and prepared a report of its findings. The report was published along with the BLPs2 and other submission documents under Regulation 19. The appraisal was updated in December 2021 to assess the MMs and is adequate.
21. The Habitats Regulations Appropriate Assessment Screening Report (August 2016) and subsequent updates concluded that alone or in combination with other plans or projects likely significant effects on European sites, could not be discounted. A full Habitat Regulations Assessment [HRA] including Appropriate Assessment was undertaken to accompany the submitted plan which concluded that subject to policy measures incorporated in the BLPs2, together with appropriate mitigation, there would be no significant adverse effects on the integrity of the European national site network, either alone or in combination. The HRA of the MMs reaches the same overall conclusion.
22. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area.
23. The Development Plan, taken as a whole, includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. These are covered under Issue 8 of the report.
24. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

Assessment of Soundness

Main Issues

25. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, we have identified nine main issues upon which the soundness of this Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

Issue 1 – Are the vision, objectives and spatial strategy and distribution of development set out in the Braintree Local Plan Section 2 based on robust evidence and are they justified and effective?

Vision and Objectives

26. As set out above the BLPs2 was submitted for examination in 2017 with the BLPs1. At the point of submission, the Council had proposed two Garden Communities for the District (Colchester/Braintree Borders and West of Braintree) within the BLPs1. However, following the examination of the BLPs1 both Garden Communities were removed on the grounds of deliverability. Consequently, the Council adopted the BLPs1 in February 2021 with both Garden Communities removed from the plan. **MM3** deletes all references to Colchester/Braintree Borders and West of Braintree Garden Communities from the BLPs2. This is necessary for the policy to comply with the BLPs1 and therefore be positively prepared, justified, effective and consistent with national policy.
27. It is necessary to address factual changes that have occurred since the submission of the Plan in 2017. For effectiveness **MM2** replaces all references to 'Highways England' with 'National Highways' due to a name change.
28. Chapter 4 – Vision & Objectives sets out 12 Key Objectives which complement the five North Essex wide strategic objectives established in the BLPs1. These include amongst other things, creating a successful economy, meeting housing need, protecting and enhancing the natural and historic environment, securing good quality design, transport infrastructure and promoting healthy communities. **MM4**, **MM5** and **MM6** make the necessary amendments to the explanatory text of the key objectives to ensure consistency with national policy in relation to the natural environment, housing and transport.

Spatial Strategy and Settlement Hierarchy

29. Chapter 5 - The Spatial Strategy seeks to direct growth to the most accessible and sustainable locations in accordance with the spatial strategy for North Essex set out in the BLPs1 and with the spatial hierarchy set out in a table within the body of the chapter. The settlement hierarchy ranks areas of the District, in order of their sustainability merits in relation to their accessibility and size, function and services provided in each area.

Towns

30. The Plan seeks to direct the majority of growth to the District's market towns (Braintree with Bocking and Great Notley; Witham and Halstead). In the context of the predominantly rural area these are the most sustainable locations for new development, having the highest levels of accessibility combined with the concentration of employment opportunities, services/facilities and housing.

Key Service Villages

31. At the time of the Plan's submission, the second tier of the settlement hierarchy consisted of 5 Key Service Villages plus the Colchester/Braintree Borders and West of Braintree Garden Communities. These are considered to be able to accommodate development subject to the specific constraints and opportunities of each village. For effectiveness, **MM8** deletes both the Colchester/Braintree Borders and West of Braintree Garden Communities from the settlement hierarchy, ensuring that it is consistent with the adopted BLPs1. For the same reason **MM9** and **MM11** make consequential amendments to deleting references to the Colchester/Braintree Borders and West of Braintree Garden Communities in the spatial strategy explanatory text and as an 'area of search' from 'Picture 5.1 The Key Diagram'.

Second Tier Settlements

32. There are 7 Villages that make up the second tier of the settlement hierarchy. They may not serve a wider hinterland but provide the ability for some day to day needs to be met. Small scale development may be considered sustainable within a second tier Village, subject to the specific constraints and opportunities of that village. To ensure that the Plan is effective **MM8** addresses an error of omission adding 'Cressing Tye Green' as a second tier village.

Third Tier Settlements

33. All the remaining villages in the District with a development boundary are identified as being within the third tier of the settlement hierarchy. These

villages are deficient in most of the facilities required to meet day to day needs, and in the main have very poor public transport links. The explanatory text sets out that areas outside of the defined development boundaries should be considered as the countryside. To ensure that the Plan is effective **MM8** addresses an error of omission adding 'High Garrett' as a third tier village.

Development Boundaries

34. Policy LPP 1 Development Boundaries seeks to direct new growth to the most sustainable locations. The Policy is consistent with the NPPF in that primarily, development boundaries mark the existing built form of a town or village and represent the distinction between a built up area and the countryside. To ensure that the Plan is positively prepared, **MM10** ensures that clear direction is provided to the decision maker as to how to respond to development proposals that are located outside development boundaries. The MM is necessary to provide further guidance to assess the impact of proposals in the countryside and the potential impact on valued landscapes and/or sites that have biodiversity or geological value.

Other Matters

35. We have carefully considered the effect of the removal of the Colchester/Braintree Borders and West of Braintree Garden Communities on the BLPs2's spatial strategy and housing delivery. In doing so we considered if it was necessary to undertake a full updated Sustainability Appraisal of the BLPs2 to address the loss of the Garden Communities. However, this issue was fully considered in the Sustainability Appraisal to the BLPs1 which established the spatial context for the District and was found to be sound.
36. A Sustainability Appraisal was also carried out of the BLPs2 at MM Stage. That did not revisit the spatial strategy in the absence of the Garden Communities. However, we are content that such an approach would not be necessary in this case. Since the submission of the Plan in 2017 a number of sites not originally allocated have granted permission, and this is reflected in the Plan. This means that the Council, as discussed below, can demonstrate the required supply of housing for the Plan period, consistent with BLPs1. Moreover, a significant proportion (around 80%) of the housing is to be delivered in and around the towns of Braintree, Witham and Halstead, the largest settlements in the District. We also note that the contribution to be made by the Garden Communities was also not envisaged to come forward until towards the end of the Plan period and that in the context of intervening additions to supply it represents a small proportion of overall supply.
37. Having regard to the Sustainability Appraisals to both Section 1 and Section 2 and taken as a whole, there is nothing before us to indicate that the spatial

strategy as proposed is flawed, or that insufficient attention has been given to reasonable alternatives. The strategy as proposed in the BLPs2 reflects guidance in the NPPF and meets the full housing requirement for the District. Given the passage of nearly 5 years since the submission of the BLPs2, it would, in our view, be unnecessary to delay the Plan's progress any further. This would lead to increased and prolonged uncertainty in the local housing market, which would delay the delivery of much needed new homes in the District. We are therefore of the view that the approach taken with regard to the spatial strategy is an appropriate and proportionate one.

Conclusion

38. The Council's approach, of locating growth in and around existing urban areas and limiting development in less accessible settlements is consistent with the overarching aim of the NPPF in delivering sustainable development. Subject to the MMs identified above, the Plan's overall vision, objectives and spatial strategy and distribution of development is based on robust evidence and is justified and effective.

Issue 2 – Are the Strong Economy Policies (LPP 2 to LPP 9) justified by appropriate available evidence, having regard to national guidance, and local context, including the BLPs1?

Employment

39. Policy SP5 of the BLPs1 sets out Braintree's strategic requirement for employment land for office, research & development, industrial, storage and distribution uses, seeking to ensure that there is sufficient supply to meet the anticipated level of growth. The policy sets out a range for the District of between 20.9 Hectares (ha) (baseline) and 43.3 Hectares (higher growth scenario).
40. Policy LPP 2 Location of Employment Land seeks to bring effect to those requirements by identifying strategic employment land to underpin the District's economic growth during the Plan period. The Plan seeks to direct employment uses to appropriate and sustainable locations. For effectiveness **MM12** is necessary to accurately reflect the latest employment land supply position, amending the text of the policy and supporting table, to reduce the overall allocation from 52.1 to 42.1 hectares. This takes into account the reduction in deliverable employment land at Springwood Drive, Braintree following the grant of planning permission for an alternative use. Notwithstanding this, the range and quantum of employment sites available to meet market demands in the District is consistent with the higher growth scenario requirements of Policy SP5 of the BLPs1.

41. MM12 also amends the policy to respond to the changes to the Use Classes Order [UCO] specifying that the policy applies to principally Class B2, B8 and E(g) uses. Furthermore, to ensure that the policy is precise and therefore effective, it is necessary to delete references to the now removed Garden Communities and rename 'Eastlink 120' to 'Horizon 120' adding that a Local Development Order has been approved for the site.
42. Policy LPP 3 Employment Policy Areas is a criteria-based policy that identifies 20 locations with an approximate combined land area of 283.1ha that are appropriate for business/industrial use. For effectiveness, **MM13** is a necessary amendment to the policy which responds to the changes to the UCO deleting the reference to the former 'B1 Use Class' and replacing it with 'E(g) Use Class'. We have altered the advertised modification to make the necessary consequential changes within the policy and to addresses conflict within the policy in relation to changes of use that are not supported within Class E in the interests of clarity and to ensure the plan is positively prepared.
43. Policy LPP 6 Business Parks identifies 5 employment areas within the District, which are not suitable for general industrial (B2 use) or distribution (B8 use) due to their location, relationship to surrounding uses or access to the strategic road network. For effectiveness, **MM14** is necessary to respond to the changes to the UCO deleting the reference to the former B1 Use Class and replacing it with clear direction in relation to the types of business park uses that would be appropriate (E(g) Use Class office use, research and development, and industrial processes, other than industrial processes falling within the B2 Use Class).
44. Policy LPP 7 Design and Layout of Employment Policy Areas and Business Uses is a criteria-based policy that sets out design guidance for the development of employment areas. However, the policy is unnecessary as it replicates design guidance and principles adequately set out elsewhere in the Plan (Policy LPP 55). **MM15** deletes the policy and supporting text in the interests of effectiveness and clarity.

Rural Enterprise

45. Policy LPP 8 Rural Enterprise is a criteria-based policy that provides design guidance for small scale commercial development that is located outside development boundaries. However, criteria 'A' and 'B' along with the final paragraph of the policy are unnecessary as they reiterate the sustainability requirements of the NPPF along with repeating design guidance that is adequately addressed in Policy LPP 55. **MM16** deletes criteria 'A' and 'B' and the final paragraph from the policy in the interests of effectiveness ensuring clear direction to the decision maker.

Tourism

46. Policy LPP 9 Tourist Development within the Countryside provides criteria-based guidance that seeks to maximise the benefits of tourism to rural economies. This is achieved by ensuring that development is well located in terms of facilities and services, along with protecting the locally important features and characteristics that make tourist areas attractive to visitors. To ensure the Plan is positively prepared **MM17** is necessary to ensure that the guidance contained within the policy would apply to extensions to existing tourist accommodation and facilities. The MM also provides further clarity in relation to 'large scale' proposals to ensure that they are sustainably located. Finally, the MM deletes criterion 'e' of the policy which relates to the best and most versatile agricultural land. That change is necessary for effectiveness as it reiterates guidance that is adequately addressed elsewhere in the Plan.

Conclusion

47. In conclusion, subject to the MMs identified above the Strong Economy Policies (LPP 2 to LPP 9) of the BLPs2 are justified by the available evidence and consistent with the BLPs1 and the NPPF.

Issue 3 – Are the Shops and Services Policies (LPP 10 to LPP 16) justified by appropriate available evidence, having regard to national policy and guidance, and local context, and effective?

48. The Shops and Services Policies (Policies LPP 10 to LPP 16) of the BLPs2 establish the town centre hierarchy and provide greater detail and direction in relation to town centre development, primary and secondary shopping areas, district centre and out of centre retail development. The policies seek to ensure that an appropriate balance can be achieved within town centres to prevent an over concentration of uses that may have an adverse impact on amenity. The overall aim of the policies is to support economic growth to secure sustainable, inclusive and mixed communities.
49. Policy LPP 10 Retailing and Regeneration establishes the retail hierarchy of the District, the required floor space for convenience and comparison goods, and food and drink provision such as pub and restaurant uses. This was informed by the Braintree District Retail Study (2015). To take into account changes in the retail market both nationally and locally the Council undertook the Braintree Retail Study 2018 Update. The report, which is robust, and based on the most up to date evidence concludes that the requirement for retail (convenience and comparison), food and beverage floorspace has significantly reduced across all three areas since the submission of the Plan in 2017. So that the policy is justified **MM18** is necessary to reduce the requirements for retail (convenience and comparison), food and beverage floorspace within the policy to be

consistent with the latest evidence. The MM will ensure the deliverability of the retail element of the BLPs2.

50. Policy LPP 11 Primary Shopping Areas is a criteria-based policy that provides clear guidance in relation to acceptable uses in Braintree, Witham and Halstead town centres. The policy sets out the approach the decision maker should take to development proposals within the primary and secondary retail frontages of each town centre. **MM19** is necessary for effectiveness and to respond to the changes to the UCO. It deletes the reference to the former 'Class A1' replacing it with 'Class E' within criterion (a). It also deletes references to 'Classes A2, A5, D1 and D2' replacing them with 'Local Community Uses (Use Class F.2)' within criterion (b) along with consequential changes. Furthermore, to ensure consistency with the more flexible approach set out in national policy in relation to town centre uses, the MM identifies additional uses that would be permitted within secondary frontages.
51. Policy LPP 12 District Centre is a criteria-based policy that provides clear guidance in relation to acceptable uses within Great Notley, the only district centre in Braintree. For effectiveness **MM20** is necessary to respond to the changes to the UCO. It deletes the reference to the former 'Use Class A1' replacing it with 'Use Class E' within criterion (a) along with deleting references to 'Use Classes A2, A5, D1 and D2' replacing them with 'Use Classes F1, F.2 pubs/drinking establishments, hot food takeaways, cinemas concert halls, music venues and similar' within criterion (b) along with further guidance in relation to ensuring such uses do not result in material harm to the amenity of the surrounding area or the overall viability of the centre.
52. Policy LPP 13 Freeport Outlet Centre relates to a specialist designer outlet centre visitor destination and sets out that it should be retained for the purposes of a discount shopping outlet centre. For effectiveness modifications are necessary to accurately reflect both the name and uses that are appropriate on the site. **MM1** deletes all references throughout the Plan to 'Braintree Freeport' and 'Freeport' replacing them with 'Braintree Village'. **MM21** deletes the term 'Factory' replacing it with 'Designer' along with clarifying that there are also associated uses within the site.
53. Policy LPP 14 Leisure and Entertainment is a policy that seeks to retain these uses as identified on the Policies Map. To ensure the policy is effective **MM22** is necessary to respond to the changes to the UCO by deleting the reference to 'Use Class D2' and replacing it with 'Use Class F2' along with providing further guidance in terms of appropriate leisure and entertainment uses that are no longer specifically identified within the UCO.
54. Policy LPP 15 Retail Warehouse Development is a criteria-based policy that provides clear guidance in relation to retail development located outside of town

centres. For the policy to be effective **MM23** it is necessary to delete the reference to 'Bulky retail' to avoid any ambiguity in the application of the policy. For clarity, the MM also deletes criterion (c) as it is not necessary for the policy to repeat the requirement for development proposals to be supported by a Transport Impact Assessment and Travel Plan, as these matters are adequately addressed elsewhere in the Plan.

55. Policy LPP 16 Retail Site Allocations identifies a range of suitable sites across the District to meet the scale and type of town centre developments needed in the District consistent with the requirements of the NPPF. However, since the submission of the plan in 2017 the allocation at the Former EMD Site, Kings Road, Halstead has been built out and the Garden Communities have been removed from the BLPs1 on the grounds of deliverability. Furthermore, the allocation at land north of Freeport is no longer being taken forward by the land owner. Consequently, these requirements are now out of date and the specific allocations in the Plan are no longer required given the revised convenience and comparison floorspace requirements for the District set out above. **MM24** deletes them in the interests of effectiveness.

Conclusion

56. In conclusion, subject to the MMs identified above, the Plan's Shops and Services Policies (LPP 10 to LPP 16) are justified by appropriate available evidence, having regard to national policy and guidance, and local context, and as a consequence are likely to be effective.

Issue 4 – Are the housing allocation policies (LPP 17 to LPP 32) contained within the Homes section of the BLPs2 consistent with the BLPs1, and national policy, and are they justified and deliverable and has the Plan been positively prepared in these respects?

Housing Requirement

57. BLPs1 Policy SP4 Meeting Housing Needs requires the provision of at least 14,320 new homes in the District over the plan period 2013 – 2033. This Plan is therefore required to identify sites and set out a policy approach to deliver this requirement within the plan period 2013 – 2033. However, since this Plan was submitted in 2017 a significant proportion of the allocated sites within the Plan have been developed or are under construction or have obtained permission. Furthermore, a number of unallocated sites have been granted permission and some of these have been developed.
58. The Council's Housing Topic Paper (April 2021) updates the latest housing position in the District using data collected in the Annual Monitoring Reports

(AMR). It confirms that 4,161 new homes have been delivered in the plan period up to March 2021 with another 2,232 under construction. Overall, the updated evidence demonstrates that the Council have delivered and identified sites which could provide approximately 15,772 new homes within the plan period. This approach provides sufficient flexibility beyond the housing requirement derived from the BLPs¹, to respond to the variations in the housing market. As a consequence, **MM104 and MM105** are necessary in the interests of effectiveness to update Appendix 1 – Full Housing Trajectory and Appendix 3 – Residential Housing Allocations of the Plan to ensure that these accurately reflect the latest housing position in the District (March 2021).

59. Consequently, based on all of the available evidence it has been demonstrated that this Plan makes the necessary provision to deliver at least 14,320 new homes over the plan period, with at least 5 years housing land supply at the point of adoption. Overall, we consider this to be both a pragmatic and robust approach that will ensure that Braintree will be able to deliver much needed homes in a time of significant need.

Site Allocations

60. The Homes chapter of this Plan contains 16 site allocation policies (LPP 17 to LPP 32) which relate to the identification and provision of land for new housing, setting out the necessary requirements for supporting infrastructure and facilities. The overall aim of the policies is to deliver sustainable, inclusive and mixed communities.

Strategic Growth Locations

61. Policy LPP 17: Housing Provision and Delivery sets out the Council's approach to housing distribution in the District and identifies 6 Strategic Growth Locations for its housing delivery. To ensure that the policy is effective **MM25** is necessary to factually update the table 'Strategic Growth Locations' within the policy that identifies settlements and key development areas for the plan period. The modification deletes references to the now removed Colchester Braintree Borders and West of Braintree Garden Communities and their allocations along with factually updating the number of homes to be provided at the 'Strategic Growth Locations'.

Braintree

62. The largest urban extension in the Plan is set out in Policy LPP 18 Strategic Growth Location - Land East of Great Notley, south of Braintree. It allocates the site for residential development and provides criteria-based guidance in relation to the requirement to provide supporting infrastructure/community facilities. For the policy to be effective and positively prepared, **MM26** is necessary to clarify

that the allocation is for 'up to' 1750 new homes and that affordable housing should be provided in accordance with the Council's 'policy' requirements. For the same reasons, the modification also updates the criteria in the policy to secure contributions towards infrastructure, including the strategic road network (A120 and A131 corridor), and new healthcare facilities. The modification also increases flexibility, enabling 'contributions towards' the provision of a Gypsy and Traveller site, as an alternative to on-site provision.

63. For effectiveness, it is necessary to respond to the changes to the UCO deleting references to the former Class D1 replacing them with 'education and childcare use'. The amendments also ensure that suitable land is provided within the allocation for education and childcare use, and that public open space is provided in accordance with the Open Space Study and playing pitches for formal recreation are in conformity with the playing pitch strategy. Finally, it is necessary to provide further direction to the decision maker within the policy with regard to vehicular access to the site clarifying that 'local access' should be from Notley Road, and that Bakers Lane should only be used if it is an essential requirement of the development. These changes are also secured by **MM26**.
64. Policy LPP 19 Strategic Growth Location - Land East of Broad Road, Braintree allocates the site for residential development and provides criteria-based guidance in relation to the requirement to provide supporting infrastructure/community facilities. For the policy to be effective and positively prepared, **MM27** is necessary to clarify that the allocation is for 'up to' 1000 new homes and that affordable housing should be provided in accordance with the Council's 'policy' requirements. The modification also increases flexibility enabling 'contributions towards' the provision of a Gypsy and Traveller site, as an alternative to on-site provision.
65. To respond to the changes to the UCO It is necessary for effectiveness to delete references to the former Class D1 replacing them with 'education and childcare use'. The amendments also ensure that suitable land is provided within the allocation for education and childcare use, and that public open space is provided in accordance with the Open Space Study and playing pitches for formal recreation are in conformity with the playing pitch strategy. Finally, it is necessary to provide further direction to the decision maker within the policy with regard to requiring that the main vehicular access to the site is from a new roundabout on the A131, with additional clarification in relation to Broad Road in that it should be for 'local' vehicle access. These changes are also secured by **MM27**.
66. Policy LPP 20 Strategic Growth Location - Former Towerlands Park Site allocates the site for residential development and provides criteria-based guidance in relation to the requirement to provide supporting infrastructure/community facilities. For the policy to be effective and positively prepared, **MM28** is necessary to clarify that the allocation is for 'up to 575' new

homes and that affordable housing should be provided in accordance with the Council's 'policy' requirements. The modification also updates the criterion in the policy to secure contributions towards new healthcare infrastructure /facilities ensuring that it is effective.

67. It is necessary for effectiveness to delete references in the policy to the former D1 Use Class replacing them with 'education and childcare use' to respond to the changes to the UCO. The modification also ensures that suitable land is provided within the allocation for education and childcare use, and that public open space is provided in accordance with the Open Space Study and playing pitches for formal recreation are in conformity with the playing pitch strategy. To ensure that the development of the site does not impact on the safe and free flow of traffic, it is necessary for effectiveness to modify the policy to require that all access points to the site need to be agreed with the Highways Authority. These changes are also secured by **MM28**.
68. Policy LPP 21 Strategic Growth Location - North West Braintree allocates the site for residential led development and provides criteria-based guidance in relation to the requirement to provide supporting infrastructure/community facilities. For the policy to be effective and positively prepared, **MM29** is necessary to clarify that the allocation is for 'up to 825' new homes and that employment development area is reduced from 10ha to 1ha, ensuring that the policy is broadly consistent with the planning permission for the site. The modification also updates the policy to provide greater clarity in relation to the requirement to secure contributions towards new healthcare infrastructure (NHS)/community facilities.
69. For effectiveness the modification sets out that a new primary school with co-located early years and childcare nursery on-site should be provided within the development of the allocation, along with the consequential deletion of the guidance in relation to the co-located provision of early years and childcare facilities. The modification also clarifies that public open space within the development should be provided in accordance with the Open Space Study and playing pitches for formal recreation are in conformity with the playing pitch strategy. These changes are also secured by **MM29**.

Feering

70. Policy LPP 22 Strategic Growth Location - Land at Feering allocates the site for residential led development and provides criteria-based guidance in relation to the requirement to provide supporting infrastructure/community facilities. For the policy to be effective and positively prepared, **MM30** is necessary to clarify that the allocation is for 'to around 835' new homes ensuring consistency with the planning permission for the site and that affordable housing should be provided in accordance with the Council's 'policy' requirements.

71. To ensure that the policy is effective the modification provides further direction in relation to the provision of a new on-site primary school with co-located early years and childcare nursery and increases flexibility in terms of the on-site location of the required stand-alone early years and childcare nursery within the allocation. The modification also makes clear that public open space within the development should be provided in accordance with the Open Space Study and playing pitches for formal recreation are in conformity with the playing pitch strategy.
72. It is necessary to provide greater clarity in relation to the provision of a community centre including providing flexibility to enable it to be delivered off-site by way of contributions. The modification also sets out clear direction to the decision maker with regard to the requirement for the development to contribute to enable the provision of new healthcare infrastructure (NHS)/community facilities and also increases flexibility enabling 'contributions towards' the provision of a Gypsy and Traveller site, as an alternative to on-site provision.
73. To ensure that the development of the site does not impact on the safe and free flow of traffic, it is necessary for effectiveness to modify the policy to require the provision of a new connection between Inworth Road and London Road along with increasing flexibility in relation to developer contributions to cover both highway and transport infrastructure. The MM also amends the wording of the policy to provide clear direction that is consistent with national policy with regard to ensuring development proposals afford the necessary protection to heritage assets, in particular conservation areas, listed buildings and scheduled monuments. Finally, to ensure that the strategic importance of the site and the delivery of the identified infrastructure to support the new homes is not undermined it is necessary to add the words 'and coherent' to the final paragraph/criterion of the policy. The above changes are also secured by **MM30**.

Witham

74. Policy LPP 23 Strategic Growth Location - Wood End Farm, Witham allocates the site for residential development and provides criteria-based guidance in relation to the requirement to provide supporting infrastructure/community facilities. For the policy to be effective and positively prepared, **MM31** is necessary to clarify that the allocation is for up to '400' new homes and that affordable housing should be provided in accordance with the Council's 'policy' requirements.
75. It is necessary for effectiveness to delete references in the policy to the former D1 Use Class replacing them with 'education and childcare use' to respond to the changes to the UCO. The modification also makes clear that public open space within the development should be provided in accordance with the Open

Space Study and playing pitches for formal recreation are in conformity with the playing pitch strategy. The modification also updates the policy to provide greater clarity in relation to the requirement to secure contributions towards new healthcare infrastructure (NHS)/community facilities. The above changes are also secured by **MM31**.

Comprehensive Redevelopment Areas

Halstead

76. Policy LPP 24 Comprehensive Redevelopment Area - Land East of Halstead High Street is a criteria-based policy promoting a mixed-use scheme (residential, retail and community uses). The policy area contains a rare grouping of World War 2 air raid shelters that were built to provide protection for factory workers; 8 of the shelters are located within the Halstead Conservation Area. For the policy to be effective and positively prepared, and to be consistent with national policy, **MM32** is required to ensure that the necessary protection is afforded to these identified heritage assets as a group in the context of any future development proposal.
77. Policy LPP 26 Comprehensive Redevelopment Area - Factory Lane West/Kings Road is a criteria-based policy promoting the mixed-use development (employment, small scale retail and residential) of the area, which was historically used for employment purposes, but has become under used in recent years. **MM34** is necessary in the interests of effectiveness to amend the policy to the respond to the changes to the UCO by deleting the references to the former use Class B1 and replacing it 'use E'. Moreover, in the interests of precision it is necessary to delete the requirement for the 'retention of the boiler house' as it is located outside the Comprehensive Redevelopment Area.

Coggeshall

78. Policy LPP 27 Comprehensive Redevelopment Area - Former Dutch Nursery, West Street, Coggeshall was a criteria-based policy that promotes the mixed-use development of the site. However, the site has already been largely built out and the allocation is therefore no longer necessary. **MM35** deletes the policy and supporting text in the interests of effectiveness.

Witham

79. Policy LPP 28 Comprehensive Redevelopment Area - Kings Chase, Witham is a criteria-based policy which promotes the mixed-use development (retail and residential) of the area. **MM36** amends the policy in the interests of effectiveness to respond to the changes to the UCO by deleting the reference to the former 'Class A' uses and corrects the typographical error in the final bullet point of the policy replacing 'Maldon Road Park' with 'Witham Town Park'.

80. Policy LPP 29 Comprehensive Redevelopment Area - Newlands Precinct, Witham is a criteria-based policy that promotes the mixed-use redevelopment (retail, employment, leisure, community facilities and residential) of the 1960s shopping centre. **MM37** is necessary to amend the second paragraph of the policy to ensure that the text is consistent with national policy in relation to drainage impacts, given that the site is located within a Critical Drainage Area. To ensure that any proposed redevelopment of the site responds positively to its location within the Conservation Area and thus is consistent with national policy, the modification also amends the text in the third paragraph of the policy, to provide clarity in regard to the requirement to produce a masterplan, design code and parameters plan.

81. Policy LPP 30 Comprehensive Redevelopment Area - Rickstones Neighbourhood Centre, Witham promotes the mixed-use redevelopment of the area that provides local shops and services in north Witham. To ensure that the redevelopment of the neighbourhood centre is deliverable **MM38** deletes the word 'where' and replaces it with 'which could include'. This provides flexibility in terms of the mix/combination of uses that could be included within any future development proposal, meaning that the policy is effective.

Hatfield Peverel

82. Policy LPP 31 Comprehensive Redevelopment Area - Land between A12 and GEML (Great Eastern Main Line), Hatfield Peverel is a criteria-based policy that promotes the residential development of the allocation centring on the former Arla industrial site. However, the allocation has already secured planning permission with parts of the allocation being in the process of being built out. In the interests of effectiveness and clarity **MM39** amends the criteria within the policy to accurately reflect the current planning permissions, provides further direction in relation to the main vehicular access being taken from Station Road, and ensures that affordable housing should be provided in accordance with the Council's policy requirements.

Specialist Housing and Residential Allocation

83. Policy LPP 25 Specialist Housing - Mount Hill, Halstead allocates the site for specialist housing to meet the identified needs for people with physical impairments and learning disabilities and provides criteria-based guidance in

relation as to how the decision maker should approach any development proposal. Part of the guidance relates to ensuring that any development proposal does not have an adverse impact on the nearby listed building. To ensure that the policy is effective and positively prepared, **MM33** corrects the wording of the criterion to take into account that there is more than one listed building and that the setting of those listed buildings should be fully addressed, ensuring consistency with national policy.

84. Policy LPP 32 Residential Allocation Area - Gimsons, Witham allocates the site for residential development and provides criteria-based guidance in relation to the requirement to provide supporting infrastructure/community facilities. For the policy to be effective **MM40** is necessary to clarify that the allocation is for 'up to 78' new homes along with deleting the reference to 'the visual integrity and character and setting of Gimsons' and the requirement 'for the enhancement of the parkland setting of Gimsons'. The modification therefore ensures that the policy is broadly consistent with the planning permission for the site.

Conclusion

85. In conclusion, subject to the MMs identified above, the site allocations and supporting policies (LPP 17 to LPP32) contained within the Homes section of this Plan, are positive, justified and consistent with the BLPs1, and national policy. The evidence demonstrates that the housing allocations are deliverable and are likely to be effective in making a significant contribution to meeting the identified housing requirement of at least 14,320 new homes for the plan period 2013 – 2033.

Issue 5 – Are the Policies (LPP 33 to LPP 43) in the BLPs2 which are aimed at the provision of homes in the District justified, effective and consistent with national policy?

86. The "Homes" section of chapter 6 of the Plan also contains, in addition to the housing allocations, 11 policies which aim to ensure that the homes that are provided are of a size, type and mix which meet the needs of all those in society.
87. LPP 33 relates to affordable housing. The Affordable Housing Viability Assessment [BDC029] provides adequate evidence that the 30% requirement in Braintree, Witham, Halstead and Sible Hedingham can be supported and that a 40% requirement can be supported elsewhere in the District. Indeed, this level of affordable housing has been successfully achieved on sites of a range of sizes across the District. We are therefore satisfied that the threshold set is a reasonable one. **MM41** alters the policy to refer to a requirement rather than a target and to dwellings rather than residential units. It also amends the policy to accurately reflect the provisions of the NPPF in relation to Affordable Housing

on major development sites and removes references to standalone new settlements, reflecting the adopted Section 1 Plan. For clarity we have also amended the advertised modification to remove the reference to floorspace, which is unnecessary. These changes are required so that the policy is positively prepared and consistent with national policy.

88. **MM41** also removes a requirement in the policy for 10% of all homes on individual sites to be affordable home ownership products. The requirement is inconsistent with national policy which requires at least 25%. These changes are all necessary in the interests of clarity and to ensure the policy is effective.
89. LPP 34 relates to affordable housing in the countryside. In order to ensure homes built on such sites are provided in perpetuity and not lost from the affordable housing stock through "Right to Buy", the policy contains a 3,000 threshold to restrict such development to "Designated Rural Areas". However, as drafted the policy is unclear. **MM42** explicitly sets out this requirement and is necessary for clarity and for the policy to be effective.
90. LPP 35 relates to specialist housing to meet the needs of the elderly, disabled or vulnerable adults. **MM43** makes clear that the criteria set out in relation to the expansion of existing specialist housing in the countryside are to be applied in addition to the general criteria. The modification also allows for appropriate mitigation to be made in cases where health services are not available at or close to the site. We note the comments of the Clinical Commissioning Group in relation to the need to be made aware at an early stage of such developments. Whilst the comment is noted, we do not consider that this requirement alters the effectiveness of the policy or makes it unsound. We are therefore satisfied that the MM as proposed is necessary in the interests of clarity, to ensure the policy is effective and consider any further modification to be a matter for the Council.
91. Policy LPP 36 relates to Gypsy and Traveller and Travelling Showpersons accommodation. The Braintree Gypsy and Traveller Accommodation Assessment (GTAA) [BDC007] identifies a need for 2 pitches for those travellers who meet the planning definition in the PPTS and 4 additional pitches for Travellers who may meet the definition. In addition, the SHMA identifies a need for a further 20 pitches for those who do not meet that definition. There is also an identified need for 5 plots for Travelling Showpersons who meet the planning definition and 1 additional plot for those who do not meet the definition. We understand that further work is currently being undertaken across the County in relation to the need for transit sites, although this has been delayed because of the pandemic and its impact, as a study of usual travel patterns has not been possible. However, we are satisfied that the assessment has been carried out using a robust methodology and that the assessment is as far as is possible, up to date.

92. **MM44** and **MM45** elevates the requirement to policy and corrects a double counting error in the calculation. It also removes reference to provision within garden communities. The requirement includes provision for those who do not meet the definition in the PPTS and so goes beyond that required. Immediate need is also very limited. We are therefore satisfied that although specific numeric allocations have not been made in the plan, the provision identified at the Strategic Growth Locations at Great Notley, Broad Road and Feering would be effective and consistent with national guidance.
93. In line with the PPTS the policy contains criteria to assess applications for new sites that may come forward. However, the requirement in relation to protecting local amenity is inconsistent with criteria applied to applications for the settled community. **MM45** also remedies this. These amendments are necessary to ensure that the plan is positively prepared and effective.
94. LPP 37 relates to housing type and density. The policy includes a requirement for a proportion of both market homes and affordable homes to meet Part M of the Building Regulations in relation to accessible and adaptable housing accessibility. At the hearings we were provided with evidence of the need for accessible and adaptable, and wheelchair user dwellings, particularly within the affordable housing stock. We are therefore satisfied that the requirement in the policy is a reasonable one, but as drafted the policy lacks precision. **MM46** amends the policy to make clear in what circumstances these requirements will be sought. The amendment also makes changes to improve the effectiveness of the policy, including in relation to self and custom build homes. These amendments are necessary to ensure that the plan is positively prepared and effective.
95. LPP 38 relates to residential alterations and outbuildings. The policy seeks to restrict the extension or replacement of dwellings, outside development boundaries, to that which is appropriate to the countryside setting and in doing so, prevent the incremental erosion of rural character through inappropriate small-scale development. However, the policy omits to set out the circumstances where residential annexes will be appropriate and is overly restrictive in relation to how the impacts of development on the street scene or character of the countryside will be judged. **MM47** addresses these matters and is necessary for clarity and to ensure that the policy is positively prepared.
96. LPP 39 relates to replacement dwellings in the countryside, seeking to ensure that such new development respects rural character. As drafted, the supporting text does not convey the need for exceptional circumstances to justify restricting permitted development rights. **MM48** addresses these matters and more clearly sets out the circumstances where restrictions may be appropriate. The policy also omits to refer to the setting of heritage assets and **MM49** remedies this. These changes are necessary for clarity and to ensure that the policy is positively prepared.

97. LPP 40 relates to rural workers dwellings in the countryside. The policy sets out clearly the circumstances where such dwellings will be supported but has a small number of drafting omissions which undermine the effectiveness of the policy. **MM50** addresses these. Policy LPP41 relates to Infill Development in Hamlets. **MM51** removes the reference in the policy to “isolated new dwellings” which is unnecessary. These changes are necessary for clarity and effectiveness.
98. LPP 42 relates to the residential conversion of buildings in the countryside. The policy contains a number of criteria against which such proposals will be judged. These include a requirement that the location of the site is accessible and sustainable. This requirement is unreasonable given the nature of the development and fails to reflect national policy in the Framework. The policy also does not reflect national policy in that it does not make clear that the conversion of rural buildings is supported where rural buildings are found to be redundant. **MM52** and **MM53** address these matters and also alters the supporting text to provide justification for the criteria within the policy. These changes are necessary for the policy to be justified and consistent with national policy.
99. LPP 43 relates to garden extensions and seeks to ensure such development respects landscape character. However, the policy has a small number of omissions and drafting errors which undermine its effectiveness. It also seeks to restrict permitted development rights which fails to reflect national policy. **MM54** addresses these matters and amends the policy to include the need for appropriate boundary treatments and structural landscaping and to refer to agriculture rather than farming. These changes are necessary for clarity and to ensure that the policy is positively prepared.

Conclusion

100. In conclusion, subject to the MMs above, the BLPs2 is justified, effective and consistent with national policy in relation to the provision of homes.

Issue 6 – Does the BLPs2 make adequate provision for transport and infrastructure and are policies LPP 44 to LPP 49 justified, effective and consistent with national policy?

101. The Transport and Infrastructure section of chapter 6 contains 6 policies which aim to ensure that new development is served by appropriate infrastructure.
102. Policy LPP 44 relates to sustainable transport. The policy sets out a comprehensive list of requirements to ensure that development set out in the Plan contributes to the creation of sustainable communities. However, the policy has a small number of omissions which undermine its effectiveness. **MM55** identifies horse-riding as a recreational opportunity within the policy. It also

identifies highways works under S278 of the Highways Act as a means of achieving the objectives of the policy. These changes are necessary for effectiveness.

103. **MM55** also makes clear that facilities for charging ultra-low emission vehicles are to be provided at all new residential properties. This requirement is consistent with national policy within paragraph 32 of the NPPF and we are satisfied that it is flexibly worded to allow for shared charging points in appropriate circumstances. This change is therefore necessary for the policy to be consistent with national policy.
104. **MM55** also seeks to include a reference to the Public Rights of Way [PROW] network. Whilst this change would be necessary for effectiveness it fails to recognise footpaths and cycleways which are not part of the PROW network. We have therefore altered the modification to reflect this. These changes are necessary for effectiveness.
105. Policy LPP 45 relates to parking provision. The policy has a small number of drafting errors which are rectified by **MM56** which provides clarity. Policy LPP46 relates to Protected Lanes. Although the aims of the policy are clear the policy sits more comfortably within the natural environment section of the plan. **MM57** achieves this and also includes reference to hedgerow trees within the policy which was omitted in error. These changes are necessary for clarity and effectiveness.
106. Policy LPP 47 relates to transport related policy areas which are areas which provide roadside facilities for motorists. The policy refers to use classes which have now become outdated by changes to the UCO. **MM58** amends the policy to reflect changes to the UCO and is necessary for the policy to be effective and consistent with national policy.
107. LPP48 relates to new road infrastructure. **MM59** amends the policy to remove the A131 Sudbury Western bypass which is no longer being taken forward by Suffolk County Council. It also alters the description of the Inworth Road/A12 link to reflect the wording in site specific Policy LPP22. These changes are necessary for clarity and effectiveness. We note the comments of Essex County Council in relation to the need for additional supporting text to refer to the Chelmsford North East Bypass scheme, and to provide a description of the strategic importance of the A131/A130 corridor, providing inter urban connectivity between north and south Essex. Whilst these comments are noted, we do not consider that the omission of this information alters the effectiveness of the policy or makes it unsound. We are therefore satisfied that the MM as proposed is necessary to ensure the policy is effective and consider any further modification to be a matter for the Council.

108. Policy LPP49 relates to the provision of broadband. **MM60** alters the wording of the policy to ensure that developments are capable of being connected to the fastest available broadband access rather than requiring specific connection, which is outside the control of the developer. This amendment is necessary for clarity and effectiveness.

Conclusion

109. In conclusion, subject to the modifications above, the BLPs2 makes adequate provision for transport and infrastructure, Policies LPP 44 to LPP 49 are justified, effective and consistent with national policy and sets out a soundly based strategy in relation to the provision of transport and infrastructure.

Issue 7 – Does the BLPs2 set out a soundly based strategy to manage the built environment and are policies LPP 50 to LPP 74 in the Plan justified, effective and consistent with national policy?

110. Chapter 7 of the plan relates to Creating Better Places. It contains 16 policies which focus on the built environment and seek to deliver high quality sustainable communities.

111. Policy LPP 50 relates to the built and historic environment. The policy requires the “highest possible standards” of design. This is difficult to quantify and inconsistent with the NPPF which instead seeks high quality and inclusive design for all development. It also provides a list of heritage assets in respect to the protection of the historic environment, from which Scheduled Monuments are omitted in error. The reference to designated heritage assets is unnecessary. **MM61** amends the policy to rectify these matters and is necessary for clarity, consistency with national policy and for the policy to be effective.

112. Policy LPP 51 aims to secure an inclusive environment that meets the diverse needs of all users. However, as with the policy for creating better places, it refers to achieving the highest standards of design. **MM62** rectifies this inconsistency with the NPPF and is necessary for the policy to be effective.

113. Policy LPP 52 relates to health and wellbeing impact assessments. The policy recognises that there is a strong link between spatial planning and health and wellbeing and seeks to ensure that new development does not exacerbate health inequalities. The policy therefore seeks to identify the health impacts of development and specifies thresholds for types of development where a Health Impact Assessment will be required. However, it does not refer to how any impacts might be resolved. **MM64** makes clear any adverse health impacts identified must be resolved or mitigated. It also directs applicants, in the first instance, to guidance within the Essex Design Guide Supplementary Guidance

on Health Impact Assessments (HIAs) and removes a reference to other guidance which is no longer necessary. These changes are necessary for the policy to be effective. As drafted the MM fails to refer to the need to take into account the advice of Public Health England (PHE) and so we have altered MM64 accordingly so that it is effective.

114. Policy LPP 52 also seeks to restrict the operation of hot food takeaways with 400m of a school. However, this element of the policy would not be effective. The policy makes no distinction between healthy and unhealthy food and is dependent upon whether local schools allow pupils to leave the premises at lunchtime, which is liable to change, and outside the control of nearby businesses. **MM64** removes the now outdated reference to A5 and amends the text of the policy by removing the 400m restrictions. **MM64** replaces this with text in the supporting paragraph which directs applicants to consider the impacts of development where they are located within 400m of a place where children gather including schools, community and playgrounds.
115. All these changes are necessary for effectiveness and to make the policy consistent with national policy. However, we have noted that the proposed MM omits to include Class C2 development, as originally proposed. We have amended this accordingly and reordered the policy for effectiveness.
116. Policy LPP 53 relates to the provision for open space, sport and recreation. The policy seeks to protect existing open space and sports and recreation facilities where appropriate and to make provision for these within new development. However, it is not clear from the policy on what evidential basis such decisions will be made. Furthermore, it does not include qualitative considerations or allow for proposed development of such sites where the facility is not surplus, but is otherwise compliant with this policy as a whole in line with paragraph 74 of the NPPF. **MM65** remedies these matters and also makes clear that in cases where development provides the opportunity to exchange the use of one site for another, the replacement provision should be equivalent or better in terms of quality and quantity and be in a suitable location. It also substantially restructures the policy, while retaining all its original objectives, to aid with clarity. These changes are necessary for the policy to be consistent with national policy and to be effective.
117. Policy LPP 54 relates to the provision of equestrian facilities. The policy duplicates criteria found within policy LPP40. It is also overly restrictive in relation to provisions for means of access to such facilities. **MM66** addresses these matters by removing unnecessary text, correcting a typographical omission and explaining the criteria against which vehicular movements generated by such developments will be assessed. These changes are necessary for clarity and for the policy to be effective.

118. Policy LPP 55 provides an extensive list of criteria against which the layout and design of new development will be assessed. However, the policy does not reflect the statutory duty in relation to heritage assets and does not reflect national policy in relation to the highways impacts of development within paragraph 32 of the NPPF. It also fails to make explicit the requirement for biodiversity net gain or the need for structural planting in relation to landscape proposals or to consider the impacts of foul water treatment and disposal on new development. Finally, the policy erroneously requires compliance with the Essex Design Guide, which is not adopted policy. **MM67** amends the policy to remedy these issues. We have considered whether the policy should specify 10% Biodiversity Net Gain (BNG). Although this has been enacted in the Environment Act, it has not been carried forward into Town and Country Planning Legislation. Accordingly, we have altered the MM to make clear that the Council will seek appropriate provision for BNG in line with national policy, which allows for a higher figure to be sought should this change over the plan period. Together, these changes which include some corrections to typographical errors, are necessary for the policy to be effective and consistent with national policy.
119. Policy LPP 57 relates to demolition in conservation areas. The policy is inconsistent with the requirements of the Planning and Listed Buildings Act in that it incorrectly recites the statutory duty to preserve or enhance the conservation area. The policy states that for demolition to be acceptable the structure to be demolished should have a negative impact on the street-scene. This is also inconsistent with the statutory duty and should be expanded to also include instances where the building has a neutral impact, as in these instances demolition could preserve or enhance. Furthermore, the policy does not make clear that all of the criteria need to be satisfied. **MM68** amends the policy accordingly and is necessary for the policy to be effective and consistent with national policy.
120. Policy LPP 60 relates to heritage assets and their settings but the policy is inconsistent with national policy set out in the NPPF in relation to how harm to the significance of heritage assets is to be assessed and considered. **MM69** addresses this inconsistency and is necessary for the policy to be effective and consistent with the national policy. Noting the comments of Historic England, we have amended the MM to ensure it takes proper account of Scheduled Monuments.
121. Policy LPP 61 relates to the demolition of listed buildings or structures. The policy sets out the exceptional circumstances where the demolition of these heritage assets will be supported. The policy is overly restrictive in relation to potential forms of alternative ownership. **MM70** amends the policy to allow for other forms of ownership and reorders the policy to benefit legibility. The modification as advertised does not recognise that partial demolition of a listed building may in some cases represent less than substantial harm. Therefore, as

drafted, the requirement for substantial public benefits would be inconsistent with national policy. We have therefore amended the modification and the policy to rectify this. These changes are necessary to ensure the policy is clear and effective.

122. Policy LPP 62 relates to enabling development. We concur with the view of Historic England that the policy to be an unnecessary duplication of national policy. **MM71** therefore deletes the policy. Policy LPP63 relates to archaeological evaluation, excavation and recording, The policy refers to the Historic Parks and Gardens in error, rather than Registered Parks and Gardens. **MM72** amends the policy accordingly. These changes are necessary in the interests of clarity and effectiveness and to ensure consistency with national policy.
123. Policy LPP 64 relates to educational establishments. It includes a criterion which would allow educational establishments to be reused for community uses. This may inhibit the full value of the land being realised and consequently may prevent the second criteria – to provide satisfactory alternative facilities - from being realised. The policy also identifies land at Lodge Farm, Witham for educational use, which has been included in error. **MM73** remedies these matters by removing the reference to community use and deleting the erroneous site. These changes are necessary for the policy to be effective.
124. Policy LPP 65 relates to local community services and facilities. The policy refers to community facilities as specified in the NPPF but this is not a closed list. **MM74** therefore removes this reference from the policy in the interests of effectiveness.

Conclusion

125. In conclusion, subject to the MMs above, the BLPs2 sets out a soundly based strategy to manage the built environment and policies LPP 50 to LPP 74 in the Plan are justified, effective and consistent with national policy.

Issue 8 – Does the BLPs2 set out a soundly based strategy to protect the natural environment and to address, mitigate and adapt to climate change and are policies LPP67-81 justified, effective and consistent with national policy?

126. Chapter 8 contains 15 policies which focus on the natural environment. These seek to protect the character and diversity of landscapes of local and national importance, their distinctiveness, wildlife, biodiversity and geodiversity.

127. Policy LPP 67 relates to the natural environment and green infrastructure. As drafted the supporting text does not make explicit that the provision of green infrastructure will be subject to a number of policies in the Plan, including those which relate to climate change, in addition to LPP67. **MM75** sets these out and is necessary in the interests of a positively prepared plan and for consistency with national policy.
128. As advised by Natural England (NE), some developments may be required to provide open space and green infrastructure to mitigate the impacts of increased recreational pressures on protected sites. This is set out in the Recreational Avoidance and Mitigation Strategy Supplementary Planning Document [SPD] which has been adopted since the Plan was submitted. **MM76** amends the policy to include the requirement that such spaces will be required, and that they should be designed to maximise their effectiveness in this role. We have made some typographical changes to assist with effectiveness, as proposed by Natural England.
129. Furthermore, LPP 67 is insufficiently clear about when the policy will apply, including proposals which adversely affect designated nature conservation sites. **MM76** amends the policy to rectify these matters and is necessary for clarity and effectiveness. We have altered the modification to assist with legibility.
130. Policy LPP 68 relates to protected species, priority spaces and priority habitat. The policy as drafted does not adequately reflect the requirements of the Habitats Regulations. **MM77** sets out the mitigation hierarchy and substantially redrafts and reorders the policy in order to accurately reflect requirements in relation to internationally and nationally designated sites. Whilst we note that in relation to nationally designated sites the policy does not repeat at length the requirements of national policy, we are satisfied that the policy is nonetheless consistent with it. We have altered the MM to aid legibility. These changes are necessary for consistency with national policy and to ensure the policy is effective.
131. Policy LPP 69 relates to tree protection. The policy clearly sets out how the Council will assess proposals which may impact on established healthy trees. However as worded the policy requires strict adherence with British Standards which are intended as recommendations and to give guidance. The policy also does not allow for subsequent versions of the guidance to be taken into account. **MM78** amends the policy to address these matters and is necessary for the policy to be effective and consistent with national policy.
132. Policy LPP 70 relates to the protection, enhancement, management and monitoring of biodiversity. The policy requires development to be in compliance with and to contribute positively towards the aims and objectives of the Anglian River Basin Management Plan [ARBMP]. The ARBMP covers a wide range of issues, the majority of which are outside the planning regime or are subject to other policies within this Plan. The requirement is therefore unnecessary, and we note that the requirement to have regard to the ARBMP is contained within the supporting text. **MM79** removes this reference and is necessary for the policy to be effective and consistent with national policy.

133. Policy LPP 71 relates to landscape character and features. The policy recognises that high quality design can make a positive contribution to the protection and enhancement of landscape value. However, the policy contains insufficient direction as to when landscape assessments will be required. **MM80** rectifies this matter for effectiveness and consistency with national policy.
134. Policy LPP 72 relates to green buffers. The policy seeks to prevent the coalescence of the main towns and villages in the District with neighbouring villages. It is supported by a thorough assessment which we are satisfied provides an appropriate basis on which to determine the boundaries of these areas. However, the supporting text is unclear in relation to how the policy will be applied. **MM81** makes clear that proposals with a harmful impact on the physical separation of settlements will not be supported. Furthermore, the text of the policy does not include proposed Green Buffers between Braintree and Rayne and Deanery Hill, and between Earls Colne and White Colne which have been shown on the proposals map. **MM82** rectifies this error. These changes are necessary in the interests of clarity and effectiveness.
135. Policy LPP 73 relates to protecting and enhancing natural resources, minimising pollution and safeguarding from hazards. The policy contains a comprehensive list of criteria which aims to ensure development does not cause unacceptable impacts as a result of pollution. However, as drafted the policy fails to recognise the potential for mitigation measures to ameliorate the impacts of development. It also omits to recognise groundwater, drinking water, and residential occupiers as receptors for pollution. Furthermore, the policy does not recognise the potential for noise and odour to impact upon environmental quality or impacts on soil quality of compaction. **MM83** amends the policy accordingly and is necessary for clarity and effectiveness.
136. Policy LPP 74 and the supporting text sets out a proactive strategy to mitigate and adapt to climate change. However, as drafted, the policy lacks clarity as to how applicants can demonstrate that climate change has been taken into account within the development. **MM85** expands the policy and **MM84** sets out in the supporting text how measures should be addressed in a sustainability statement to accompany development proposals. **MM85** also recognises the need to consider the setting of heritage assets in considering applications for renewable technologies. These changes are necessary for the policy to be effective and in the interests of a positively prepared Plan.
137. Policy LPP 77 relates to renewable energy within new developments. The policy requires a specific proportion of energy needs for new development to be met through renewable energy technology. This would be difficult to assess and would not always be possible to implement. Furthermore, the policy overlaps with the aims of Policy LPP 75 which relates to energy efficiency. Whilst the aims of the policy LPP 75 are clear, the policy lacks sufficient detail as to how this might be achieved, and so does not effectively plan for new development in ways which reduce greenhouse gas emissions as set out in the NPPF.
138. To rectify this, and to be consistent with the Council's objective of ensuring the use of natural resources is minimised, and that developments encourage the use of renewable energy and energy efficiency measures, **MM86** combines the

requirements of both policies into a single policy. This sets a standard for energy performance within new development and also includes a higher environmental standard for water usage within new development which reflects the need to maintain sustainable levels of water demand within the catchment. To reflect the wider scope of the policy the MM also alters the title of the policy and deletes LPP 77. Post consultation, we have altered the MM to correct typographical errors. All these changes are necessary to ensure that the Plan is positively prepared and for the policy to be effective and consistent with national policy.

139. Policy LPP 76 relates to renewable energy schemes. The policy sets out the criteria against which such schemes will be considered. However, the text does not make clear that, where the benefits of such developments outweigh any harm identified, the proposal will be supported. **MM87** alters the text to reflect this, but as advertised refers to minor harm, which does not reflect the fact that large scale benefits in terms of energy generation may outweigh more significant levels of identified harm. We have therefore altered the advertised MM to reflect this. Subject to this change, the MM, which ensures that the Plan is effective and, is justified.
140. Furthermore, In relation to wind energy, national policy in the Written Ministerial Statement of June 2015 sets out that when determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if the development site is in an area identified as suitable for wind energy development in a local or neighbourhood plan. The Plan does not identify suitable areas for large scale energy generation. **MM88** removes reference to wind turbines from the policy and provides supporting text making it clear the Council's intention to produce an DPD to provide more guidance on how large scale renewable energy generation from wind power could be achieved in the District. In order to identify specific areas suitable for such uses the document would need to take the form of a development plan document that has been formally adopted. We have therefore altered the advertised MM to reflect this. Subject to this change, the MM, ensures that the Plan is positively prepared, is justified and consistent with national policy.
141. Policy LPP 78 relates to flood risk and surface water drainage. The policy does not reflect the latest national guidance in the PPG and as written lacks clarity. **MM89** substantially redrafts the policy to improve its readability, whilst maintaining all its original objectives. These changes are necessary for clarity and for the policy to be effective and consistent with national policy.
142. Policy LPP 79 relates to the surface water management plan. It requires compliance with the Braintree and Witham Surface Water Management Plan (BWSWMP). However, this is not adopted policy and many of its requirements do not relate to land use planning. Furthermore, in relation to how SUDs measures are to be implemented in Critical Drainage Areas, the policy is imprecise. **MM90** rectifies these matters by strengthening the policies requirements in relation to the introduction of SUDs measures and making clear the status of the BWSWMP as guidance. These changes are necessary for the policy to be justified and consistent with national policy.

143. Policy LPP 80 relates to sustainable urban drainage systems (SUDs). The policy provides a comprehensive basis for ensuring and assessing the implementation of SUDs systems within new development. However, the policy and supporting text are insufficiently clear as to the status of the relevant design guides and non-statutory technical standards which may inform the design and implementation of such systems. The policy also contains some unnecessary text and drafting errors which impacts upon its clarity. **MM91 and MM92** rectify these matters and both are necessary for the policy to be effective and positively prepared. We have further altered the advertised modifications to ensure consistency and clarity.
144. Policy LPP 81 relates to the external lighting. The policy seeks to minimise the impacts of insensitive lighting and reduce the impacts of artificial light pollution on the character of, in particular, rural areas. However, the policy is unclear as to the types of development where the policy will apply and how hours of use might be limited for some illumination schemes. **MM93** amends the policy to make clear that the policy will relate to both standalone lighting proposals and for lighting within new development proposals. It also makes clear that controls to hours of illumination are a criterion that should be met. We have altered the advertised MM to aid the legibility of the policy. Subject to this change, the MM, is necessary to ensure that the Plan is effective, is justified and effective.

Conclusion

145. In conclusion, subject to the MMs above, the BLPs2 sets out a soundly based strategy to protect the natural environment and to address, mitigate and adapt to climate change and are policies LPP67-81 are justified, effective and consistent with national policy.

Issue 9 – Are the arrangements for monitoring and delivery effective?

146. Chapter 9 of the Plan deals with delivery and implementation. Policy LPP 82 deals with Infrastructure Delivery and Impact Mitigation. The policy seeks to ensure that sufficient appropriate infrastructure capacity is either available to support the development or that such capacity will be delivered by the proposal. The supporting text to the policy does not make clear that the infrastructure requirements are not a closed list and **MM94** addresses this matter so that the policy is positively prepared. **MM95** also makes typographical changes to the policy to aid effectiveness.
147. The chapter also sets out indicators for relevant policies along with targets by which these will be assessed, including where relevant how the policies will be implemented. The AMR will be the main mechanism for assessing the Plan's performance and effect. The Plan provides an acceptable framework for monitoring and delivery, although some of the targets contain figures or references which are out of date. **MM96, MM97, MM98, MM99, MM100,**

MM101, MM102 and MM103 update these instances and are necessary for clarity and thus effectiveness.

148. For the above reasons, the arrangements for monitoring and delivery are effective.

Overall Conclusion and Recommendation

149. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that we recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

150. The Council has requested that we recommend MMs to make the Plan sound and capable of adoption. We conclude that the duty to cooperate has been met and that with the recommended MMs set out in the Appendix the Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

Jameson Bridgwater and Anne Jordan

INSPECTORS

This report is accompanied by an Appendix containing the Main Modifications.