

# **BRADWELL WITH PATTISWICK NEIGHBOURHOOD PLAN 2017-2033**

**Report to Braintree District Council of the Independent  
Examination**

**By Independent Examiner, Tony Burton CBE BA MPhil (Town Planning) HonFRIBA FRSA**

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# 1. Executive Summary

1. I was appointed by Braintree District Council with the support of Bradwell with Pattiswick Parish Council to carry out the independent Examination of the Bradwell with Pattiswick Neighbourhood Plan.

2. I undertook the Examination by reviewing the Plan documents and written representations, and by making an unaccompanied visit to the Neighbourhood Area.

3. I consider the Plan to be an adequate expression of the community's views and ambitions for Bradwell with Pattiswick. It is based on an adequate programme of public consultation which has informed a Vision and eight topics for the Neighbourhood Area. These are translated into 24 objectives and 11 planning policies dealing with issues distinct to the locality. They are supported by other aspirations which go beyond the scope of the neighbourhood plan. The Plan is supported by a Consultation Statement, Basic Conditions Statement and screening report. There is relevant supporting evidence provided on most aspects of the Plan and evidence of community support.

4. I have considered the 12 representations made on the submitted Plan and three representations made on the screening reports and addressed them in this report as appropriate.

5. Subject to the recommended modifications set out in this report I conclude that the Bradwell with Pattiswick Neighbourhood Plan meets all the necessary legal requirements, including satisfying the Basic Conditions. I make a small number of additional recommendations.

6. I recommend that the modified Plan should proceed to Referendum and that this should be held within the Neighbourhood Area.

## 2. Introduction

7. This report sets out the findings of my independent Examination of the Bradwell with Pattiswick Neighbourhood Plan. The Plan was submitted to Braintree District Council by Bradwell with Pattiswick Parish Council as the Qualifying Body.

8. I was appointed as the independent examiner of the Bradwell with Pattiswick Neighbourhood Plan by Braintree District Council with the agreement of Bradwell with Pattiswick Parish Council. My selection was facilitated by the Neighbourhood Planning Independent Examiner Referral Service.

9. I am independent of both Bradwell with Pattiswick Parish Council and Braintree District Council. I do not have any interest in any land that may be affected by the Plan. I possess the appropriate qualifications and experience to undertake this role.

10. My role is to examine the Neighbourhood Plan and recommend whether it should proceed to referendum. A recommendation to proceed is predicated on the Plan meeting all legal requirements as submitted or in a modified form, and on the Plan addressing the required modifications recommended in this report.

11. As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the Basic Conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
- contribute to the achievement of sustainable development; and
- be in general conformity with the strategic policies of the development plan in the area; and
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

12. I am also required to make a number of other checks under paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990.

13. In undertaking this Examination I have considered the following documents as the most significant in arriving at my recommendations:

- the submitted Bradwell with Pattiswick Neighbourhood Plan
- the Basic Conditions Statement
- the Consultation Statement
- the Strategic Environmental Assessment and Habitat Regulations Assessment screening reports and responses
- relevant parts of the development plan for the neighbourhood area (Braintree Local Plan Review 2005, Core Strategy 2011)
- representations made on the submitted neighbourhood plan
- relevant material held on Bradwell with Pattiswick Parish Council and Braintree District Council's websites
- National Planning Policy Framework, March 2012
- Planning Practice Guidance
- relevant Ministerial Statements

14. A revised National Planning Policy Framework was published before the Examination. This states that *"the policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019"* (paragraph 214). I have considered the Bradwell with Pattiswick Neighbourhood Plan, which was submitted on 16 October 2018, on this basis.

15. Having considered the documents provided and the representations on the submitted Plan I was satisfied that the Examination could be undertaken by written representations without the need for a public hearing.

16. I carried out an unaccompanied visit to the Neighbourhood Area on a chilly January weekday. I walked around Bradwell and Perry Green as well as visiting Pattiswick and other

parts of the Neighbourhood Area. I reviewed the proposed Local Green Space and the environmental and heritage features identified in the Plan along with other locations, including the village hall. I noted that significant works were underway on Blackwater Bridge. I visited some of the distinct settlement boundary to Pattiswick and noted the quality of many of the buildings, the variety of building styles and the low rise character of development across the neighbourhood area. I was also able to appreciate the vulnerability of parts of Pattiswick to flooding and the impact of heavy traffic on Coggeshall Road.

17. Throughout this report my recommended modifications are bulleted. Where modifications to policies are recommended they are highlighted in **bold** print with new wording in “speech marks”. Modifications are also recommended to some parts of the supporting text. A small number of modifications are not essential for the Plan to meet the Basic Conditions and these are indicated by [square brackets].

18. Producing the Bradwell with Pattiswick Neighbourhood Plan has clearly involved significant effort by a number of volunteers, supported in the later stages by DAC Planning. There is evidence of collaboration with Braintree District Council and this will continue to be important in ensuring delivery of the Plan. I should like to congratulate all those who have worked so hard over a long period of time to prepare the Plan and to thank the officers at Braintree District Council and Bradwell with Pattiswick Parish Council who have supported this Examination process.

### **3. Compliance with matters other than the Basic Conditions**

19. I am required to check compliance of the Plan with a number of matters.

#### Qualifying body

20. I am satisfied that the Plan has been prepared by a suitable Qualifying Body – Bradwell with Pattiswick Parish Council – which being a parish council is the only organisation that can prepare a neighbourhood plan for the area.

#### Neighbourhood Area

21. I am satisfied that the Plan relates to the development and use of land for a designated neighbourhood area and that this does not overlap with any other designated neighbourhood area. The Bradwell with Pattiswick Neighbourhood Area was agreed by Braintree District Council on 14<sup>th</sup> September 2016 although this date is not included in the Plan. A map depicting the area is included in the Plan. It covers the whole of Bradwell with Pattiswick parish.

- [Replace “*Confirmation was later provided*” with “Approval was given on 14<sup>th</sup> September 2016” in paragraph 1.3]

#### Land use issues

22. I am satisfied that the Plan relates to relevant land use planning issues. Where considerations relating to non-land use planning matters are included in policies these have been addressed through my recommendations.

#### Plan period

23. The period of the neighbourhood plan is stated as being from 2017 – 2033 on the cover of the Plan.

Excluded development

24. I am satisfied that the neighbourhood plan makes no provisions for excluded development (such as national infrastructure, minerals extraction or waste).



## 4. Consultation

25. I have reviewed the Consultation Statement and relevant information provided on the Bradwell with Pattiswick Neighbourhood Plan, including the summary analysis of representations received during pre-submission consultation. The Consultation Statement is concise and provides a summary of the process undertaken in preparing the Plan.

26. There have been a number of meetings and events since 2015 and questionnaires have been distributed by hand to every dwelling at different stages as the Plan has progressed. Further questionnaires targeted at under 18s and businesses have been circulated. The response has been reasonable except for the local businesses. The Consultation Statement summarises the issues raised and how the Plan has been amended to address the feedback.

27. The pre-submission consultation included the innovation of an Easter egg hunt to attract interest and copies of the plan were sent to every household and business with a reply-paid envelope. It was also put online. There is evidence that statutory consultees were invited to make representations. Over 60 representations were received from local residents and businesses and there is evidence of a high level of local support. A small number of representations from statutory consultees, including Natural England, Environment Agency and Historic England, were made. Both Essex County Council and Braintree District Council responded. There is evidence that all the representations have been considered and over 50 amendments were made to the Plan as a result.

28. 12 representations have been made on the submitted Plan along with representations from Natural England and Essex Birdwatching Society on the SEA screening report and Natural England on the HRA screening report. On request I also received copies of representations from Historic England and Environment Agency on the SEA and HRA screening reports.

29. I am satisfied with the evidence of the public consultation undertaken in preparing the Plan and commend all those who have worked so hard to engage and involve people in the future of the area. The Plan has been subject to adequate public consultation at different stages in its development. The process has allowed community input to shape the Plan as it has developed and as proposals have been firmed up. The local planning authority has been engaged throughout the process.

## 5. General comments on the Plan's presentation

### Vision and themes

30. I have reviewed the Vision and eight topic areas which structure the 24 objectives and 11 policies in the Plan. The Vision takes a positive approach to change and development and reflects the feedback received through consultation. It is supportive of change which meets local needs and respects the area's character which has built up over hundreds of years.

31. The policies are distinguished from the rest of the Plan by the use of tinted boxes and this is effective in separating them from the other text.

### Other issues

32. The Plan is supported by a range of evidence which is referenced or included under the sub-heading "Relevant Evidence Base Documents" in different parts of the Plan. While some of this evidence base has been provided for the Examination it is not readily available to the public. The other documents used in the Examination – Basic Conditions statement, Consultation statement and the two screening reports (and views of statutory consultees) and the Village Design Statement should also be publicly available. The documents in the evidence base should be clearly titled and dated and their authorship made clear. This is not the case, for example for the evidence on Bradwell's history or Undesignated Heritage Assets.

- [Reference and provide a link in the Plan to a single consolidated evidence base online, including the documents submitted with the Plan for Examination]
- [All documents in the evidence base should include a title, author and date]

33. The Plan includes a number of maps supporting its policies, notably Figure 6 showing "important environmental features" and Figure 7 showing "heritage features". These are at a small scale and poorly reproduced. They relate to policies where the precise boundary of individual features is important and more detailed maps are needed. This is addressed in relation to the specific policies below.

- Include better reproduced maps for Figures 2, 3, 4, 6 & 7
- Provide scales for all maps

34. The Plan's layout and headings are adequate. There are some inconsistencies in the sub-headings in the Contents and those used in the Plan (i.e. 1.3, 1.4, 2.4). The Contents also has pagination errors (i.e. Policy 2 is on page 23, Policy 9 is on page 43, Policy 10 is on page 47). The Plan is made hard to navigate and reference due to an absence of paragraph numbers.

- Correct the Contents accurately to match titles and page numbers in the Plan
- [Add paragraph numbers throughout the Plan]

## 6. Compliance with the Basic Conditions

### National planning policy, development plan policy and sustainable development

35. The Plan is required to “*have regard*” to national planning policies and advice. The Plan must also “*contribute to the achievement of sustainable development*” and be “*in general conformity with the strategic policies of the development plan*”. These requirements are addressed in the Basic Conditions statement. The approach taken in the Basic Conditions statement results in some repetition but addresses the issues adequately.

36. The Basic Conditions statement addresses how each objective and policy meets the Basic Conditions. It identifies relevant sections of the NPPF and relevant development plan policies and also references National Planning Guidance. There is an assessment against the NPPF’s approach to sustainable development. There is also reference to the HRA and SEA screening. There is a short statement for each policy confirming an assessment that the Basic Conditions are met. Braintree District Council did not make any representations on the conformity of the submitted Plan with its development plan. In response to my request for feedback it stated that the “*Council does not believe that any of the policies contained within the Bradwell with Pattiswick Neighbourhood Plan are in conflict with the Local Plan (2005), Core Strategy (2011), or the emerging Publication Draft Local Plan (2017).*” I was also provided with a list of policies that Braintree District Council considers to be strategic for the purposes of neighbourhood planning.

37. There are some areas where the drafting of the Plan’s policies needs to be amended in order to meet the National Planning Policy Framework’s requirement for plans to provide a clear framework within which decisions on planning applications can be made. The policies should give a clear indication of how a decision-maker should react to a development proposal and avoid duplication (paragraphs 16d and 16f). It is also important for the Plan to address the need expressed in Planning Practice Guidance for policies in neighbourhood plans to be drafted with sufficient clarity for a decision-maker to apply them consistently and with confidence when determining planning applications. Policies should be concise, precise and supported by appropriate evidence. The Plan’s policies do not

always meet these requirements and a number of recommended changes are made as a result.

38. Generally, the Plan has regard to national planning policies and guidance but there are exceptions set out in my comments below. These cover both conflicts with national planning policy and the need for some policies to be more clearly expressed and/or evidenced.

39. I am satisfied that the Plan meets this Basic Condition other than where identified in my detailed comments and recommendations on the Plan policies.

#### Screenings - Strategic Environmental Assessment and Habitat Regulations Assessment

40. The Plan must be informed by a Strategic Environmental Assessment if it is likely to have significant environmental effects and by an Appropriate Assessment under the Habitats Regulations if it is likely to lead to negative significant effects on protected European sites. Separate screening assessments have been prepared by Place Services (Essex County Council).

41. The SEA screening assessment concludes that the *“Neighbourhood Development Plan does not allocate land for development purposes, nor do the findings of this SEA Screening Report determine that any of the Plan’s content would have any detrimental effect on any facet of the environment included within Annex II of SEA Directive. The Plan has a strong focus on the protection and enhancement of these facets of the environment should any proposals be forthcoming within the Plan area over the Plan period. The content of the Bradwell with Pattiswick Neighbourhood Plan has therefore been **screened out** for its requirement of Strategic Environmental Assessment in line with the requirements of Directive 2001/42/EC.”*

42. The HRA screening assessment concludes that *“subject to Natural England’s review, this HRA Screening Report indicates that the Bradwell with Pattiswick Parish draft Neighbourhood Plan is not predicted to have any Likely Significant Effect on any Habitats site, in combination with other plans and projects. The content of the Bradwell with*

*Pattiswick Neighbourhood Plan has therefore been **screened out** for any further assessment and Braintree DC can demonstrate its compliance with the UK Habitats Regulations 2017.” European sites and consequently the plan does not require Habitat Regulation Assessment.”*

43. Natural England, Environment Agency and Historic England all agree with these conclusions.

44. *The Conservation of Habitats and Species and Planning(Various Amendments) (England and Wales) Regulations 2018* were published during the Examination and I have considered the Plan against the new Basic Condition that it must not breach the requirements of the *Conservation of Habitats and Species Regulations 2017* for land use plans. The HRA Screening Report accompanying the Plan addresses the requirement not to take mitigation measures into account during the screening process. I am satisfied the Plan meets the requirements of the new Basic Condition.

#### Other European obligations

45. The Plan must be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations. The Basic Conditions Statement references EU obligations in its assessment of each objective and policy and finds no conflicts. I am satisfied that the Plan has appropriate regard to the rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and no contrary evidence has been presented. There has been adequate opportunity for those with an interest in the Plan to make their views known and representations have been handled in an appropriate and transparent manner. The Plan meets this Basic Condition.

## 7. Detailed comments on the Plan policies

46. This section of the report reviews and makes recommendations on each of the Plan's policies to ensure that it meets the Basic Conditions. I provide comments on all policies in order to give clarity on whether the Plan meets the Basic Conditions. The final Policy numbers and some of the supporting text will need to be amended to take account of the recommended changes.

### Environment

47. **Policy 1** – This establishes policy requirements for protecting and enhancing the natural environment and enhancing green infrastructure. It identifies 16 natural environment features to be protected and enhanced.

48. The Policy is supported by evidence from the Local Plan review and a Landscape Character Assessment published for Braintree District in 2006. Figure 6 identifies each of the natural environment features listed in the Policy. A majority but not all are identified by unique labels. The Mill Pond, two areas of common land and two areas of "priority habitats" are described but not labelled. Some areas of woodland are identified as "Woodland" and others are identified as "Local Wildlife Sites". There is limited evidence provided as to the characteristics of each of the features identified which warrants their protection. The map is poorly reproduced and at a scale which does not allow the boundaries of the features to be clearly identified. Some areas are classified twice (e.g. part of Bra 158 is also a "Priority Habitat"). The map also identifies other features, including "Disused Pits" and "Grade 3 Agricultural Land" that are not addressed in the Plan's policies. Figure 6's title refers to "Important Environmental Features" and Policy 1 to "natural environment features".

49. I have been provided with a number of different styles of larger scale maps for the majority of the features and recommend these are included in an Annex to the Plan, with amendments. I make detailed recommendations on the location maps below.



50. The Policy is unduly prescriptive in its approach to stating what development proposals “*must*” do and “*must*” demonstrate. It is also negatively worded in the approach to development proposals which will “*only be permitted*” if certain criteria are met. National planning policy requires neighbourhood plans to be positive in approach and for planning policies to avoid being inflexible.

51. I note the representations from Essex Bridleways Association that the Policy should include recognition of horse riding as well as public rights of way, cycle and footpath networks. Recognition of bridleways would also be consistent with the Plan’s Transport objectives, draft Local Plan Policy LP44 and Local Plan Policy CS10 which adopts a broad approach to “*recreational pursuits*”.

52. The approach to protecting identified natural environment features should relate to development proposals needing to protect and enhance them rather than the Plan “seeking to”. It should also be consistent with the first part of the Policy in recognising enhancement “*where possible*”.

53. For consistency the notation used by different policies should be the same across the plan.

54. Policy 1 does not meet the Basic Conditions.

- **Amend Policy 1 to:**

- **Replace “*must*” with “*should*” in the first and third sentences**
- **Add “, bridleway” after “*cycle*” in the second bullet**
- **[Replace “Green Infrastructure” with “green infrastructure” in the sixth bullet]**
- **Replace “*The Plan seeks to protect and enhance*” with “Development proposals should protect and where possible enhance” in the third section**
- **Delete “*above*” after “*Figure 6*” in the third section**
- **Provide labels for all the features identified in the third section which correspond to Figure 6 and their separate location maps**

- Delete “*will only be permitted where*” with “**should demonstrate that**” in the fourth section
- [Insert a), b), c) and d) at the beginning of each section of the Policy]
- Amend Figure 6 to:
  - Replace “*Environmental*” with “Natural Environment” in the title
  - Improve the quality of reproduction and provide a scale
  - Include labels for all the features identified in Policy 1
  - Remove all features not included in Policy 1 or Policy 2, except the Parish Boundary
- Include location maps with titles, keys and scale bars for each of the 16 natural environment features identified in Policy 1 in an Annex and reference this in the supporting text:
  - Bra 146, Bra 157, Bra 158, Bra 186 – as supplied from Essex Wildlife Trust Biological Records Centre
  - Common Land south of Holy Trinity Church and Common Land east of Bradwell Village – need to be presented as a map and to be clearly distinguished from each other
  - Mill Pond – there needs to be an extract from the map provided which labels the location of the pond
  - Bushy Warren, Artigore, Cock Pheasant Spinney and Bankfield need to be in a format consistent with that provided as an OS map extract for Captains Wood, Century Piece and Orange Wood
  - Rectory Meadow and The Street priority habitats – an amended map is needed to that supplied which shows each of these features in a single colour and clearly distinguishes them from each other

55. **Policy 2** – This requires development to protect and enhance landscape character and access.

56. The neighbourhood area contains two landscape character areas and these are identified in Figure 6. There is supporting evidence in the Landscape Character Assessment for Braintree District. The approach is supported in national planning policy.

57. As drafted the Policy would only apply to planning applications that straddle the border of the two character areas. This is clearly not the intention. The Policy is unduly prescriptive in its approach to stating what development proposals “*must*” demonstrate. The third section of the Policy overlaps and conflicts with Policy 1 which is both unnecessary and confusing.

58. Policy 2 does not meet the Basic Conditions.

- **Amend Policy 2 to:**
  - **Replace “*River Valley and the Silver*” with “*River Valley or the Silver*”**
  - **Replace “*must*” with “*should*” after “*Figure 6*”**
  - **Delete section iii**

### **Community facilities and public open spaces**

59. **Policy 3** – This establishes a requirement for developer contributions for specific projects improving community facilities and requires development causing the loss of community facilities or open space to demonstrate how the benefits outweigh the loss.

60. The Policy is supported by feedback from public consultation of a need for more leisure facilities. There is no evidence presented of this need or definition of what comprises community facility or public open space.

61. The first part of the Policy relates developer contributions specifically to the Community Infrastructure Levy. Braintree District Council has not yet implemented the Community Infrastructure Levy Regulations and so the Policy is undeliverable as drafted. The Policy identifies three specific projects for support through developer contributions. This overlaps with the provisions in Policy 11 and the Action Plan and my recommendation is for developer contributions to be addressed through Policy 11 to provide the necessary clarity to applicants. Decisions as to whether future primary school provision is required are matters for the local education authority and cannot be decided by the neighbourhood plan.

62. The second part of the Policy is negatively worded in the approach to development proposals resulting in the loss of community facilities or public open space which will *“not be supported”*.

63. Policy 3 does not meet the Basic Conditions

- **Amend Policy 3 to:**
  - **Delete the first paragraph**
  - **Delete *“will not be supported unless the development proposal provides demonstrable”* with *“should demonstrate”***
- Delete *“and enhancing”* in the title of Policy 3
- At the end of the supporting text insert *“For the purposes of Policy 3 public open space is as defined in the Braintree District Council Open Space Study 2016-2033 and community facilities are as defined in the National Planning Policy Framework (2018) paragraph 92 a).”*
- Delete the two paragraphs beginning *“The emerging BDLP”* and *“Essex County Council”* preceding Policy 3

64. **Policy 4** – This designates and establishes a policy approach to an area of Local Green Space.

65. The power to designate Local Green Space is an important role of a neighbourhood plan. The National Planning Policy Framework establishes criteria to be met by a proposal and that the policy for managing development in a Local Green Space is consistent with that for Green Belt. A Local Green Space needs to be supported by evidence it meets the criteria and a map which clearly defines its boundary.

66. Policy 4 states that the proposed Local Green Space for the playing fields, allotments and village orchard is *“identified on the proposals map as LGS1”*. There is no proposals map in the Plan or the information submitted for Examination. In response to my request for clarification I was informed that Figure 4 comprises the *“proposals map”*. This is titled as

*“Bradwell village settlement boundary”* and additionally shows four other areas in different shades of colour. No key or explanation is provided nor is there a reference to *“LGS1”*. Figure 4 does not provide the necessary clarity. I have been provided with a larger scale map of the proposed Local Green Space and recommend it is included in the Plan without the additional colour shading.

67. The Policy is accompanied by an evidence note describing how each element of the proposed Local Green Space meets the National Planning Policy Framework criteria. This is summarised in the supporting text. I visited the proposed Local Green Space and the evidence presented matches my own experience.

68. Bradwell Village Playing Fields, Allotments and Village Orchard are demonstrably special to the local community and warrant designation as Local Green Space.

69. The title of Policy 4 *“Protecting Village Facilities”* is similar to that of Policy 3 (as amended) *“Protecting Community Facilities and Public Open Space”*. Policy 4 relates more precisely to a Local Green Space designation.

70. The second part of Policy 4 establishes a policy approach which is not consistent with Green Belt policy and so does not meet the Basic Conditions.

- **Amend Policy 4 to:**
  - **Delete *“(identified on the proposals map as LGS1)”* and insert *“(identified in Figure [?])”***
  - **Add *“where inappropriate development should not be approved except in very special circumstances”* after *“Local Green Space”***
  - **Delete the second paragraph**
- Change the title of Policy 4 to *“Local Green Space”*
- Provide a map of the Local Green Space at a scale which permits the detailed boundaries to be identified – this map should simply provide the red line boundary
- Amend Figure 4 to remove additional shaded areas

## Heritage

71. **Policy 5** – This addresses heritage assets and identifies some specific non-designated heritage assets for protection.

72. The Policy is supported by Figure 7 which identifies listed buildings, two non-designated heritage assets and six crop marks. The quality of reproduction of the map is poor and it is insufficient to identify the precise location of the features or the boundary of the cropmarks. I have been provided with aerial images from Google of the crop marks and, subject to copyright considerations, recommend these are included in an Annex.

73. The supporting text is not consistent with Figure 7 in that it identifies the cropmarks as non-designated heritage assets and lists only one other asset, Blackwater Bridge. The supporting text is also incorrect in recording 25 Grade II listed “*dwelling*s” in the neighbourhood area as a number of the listed buildings are not dwellings.

74. The Policy refers to a Proposals map which is not contained in the Plan or provided in the documents submitted for Examination.

75. The cropmarks are described in an evidence note which includes a photograph and broad indication of their location and importance but does not define their boundary. The evidence suggests there is considerable uncertainty about the origins of a number of the sites and some are less than clear on the ground. No evidence about the significance of Blackwater Bridge was provided although I was informed on request that it is located on the site of the Roman bridge (or ford) and provided with a link to the Essex Historic Environment Record dating it to 1898. I visited the bridge which is undergoing significant works and noted its importance. I was provided with links to information about each of the cropmarks in the Essex Historic Environment Record. I was also informed of an error in the Plan as submitted in relation to the location of the cropmark at Whiteshill Farm.

76. The supporting text cites draft Local Plan Policy LPP60 and there is a considerable overlap between this and Policy 5. There is also overlap with existing Local Plan Policies RLP

99 and RLP 100. The policy approach to listed structures is also well established in national planning policy and subject to additional legal safeguards. Policy 5 does not add to the existing or emergent planning policy for listed structures in the area and makes policy more confusing for applicants. There are also inconsistencies with national planning policy which distinguishes between substantial and less than substantial harm to designated heritage assets and also the importance of non-designated heritage assets (NPPF paragraphs 195-196, 2018). This is in breach of the Basic Conditions.

77. There is no definition or evidence provided as to what constitutes *“important”* archaeological remains and draft Local Plan Policy LPP63 and existing Local Plan Policies RLP 104 and 105 provide an adequate policy context. Policy 5 does not add to the existing or emergent planning policy for archaeological remains in the area and makes policy more confusing for applicants. This is in breach of the Basic Conditions.

78. As with Policy 1 the approach to heritage assets should relate to development proposals rather than the Plan and should be positively worded.

- **Replace Policy 5 with “Development proposals should protect and where appropriate enhance non-designated heritage assets, including those identified in Figure 7. Any proposal which could impact on a non-designated heritage asset should demonstrate how the significance of the asset has been acknowledged and addressed.”**
- Amend Figure 7 to:
  - Improve the quality of reproduction and provide a scale
  - Delete the separate category of *“Cropmarks”* and identify the seven Non-designated Heritage Assets – Blackwater Bridge and six crop marks - with corresponding labelling in the supporting text
- Provide a large scale location map with scale and key for the Bradwell Bridge non-designated heritage asset and aerial images for each of the cropmarks in an Annex and reference the Annex in the supporting text

- Provide a reference to the Essex Historic Environment Record as supplying evidence in support of the significance of each of the non-designated heritage assets and include it in the Evidence Base
- Replace “North-East” with “South” in the supporting text describing the location of the Cropmark at Whiteshill Farm
- Replace “dwellings” with “buildings” in the third paragraph of the supporting text

### **Drainage and flood management**

79. **Policy 6** – This seeks to reduce the risk of flooding through policy criteria and an assessment against a “Local Flood Plan” and the involvement of the “Local Lead Flood Authority”.

80. The supporting text identifies three areas at particular risk from flooding but there is no evidence provided in support of their risk status or any information on the Flood Zone categories in the neighbourhood area.

81. The drafting of Policy 6 acknowledges an overlap with national planning policy in 6 a) ii. and 6 a) iii.. 6 a) v. and 6 a) vi. also overlap with national planning policy (National Planning Policy Framework paragraphs 163 c) and e), 165, 2018). The similarity of the wording means that Policy 6 lacks the necessary clarity. I note the representations from Environment Agency seeking “*more detail*” on managing flood risk but this would exacerbate the overlap and potential for confusion with national planning policy.

82. The requirement for sustainable drainage systems to be accompanied by a management plan goes beyond national planning policy which addresses the need in respect only of major development (National Planning Policy Framework, paragraph 165, 2018). In the absence of any particular local evidence of the risk of flooding it places an undue burden on applicants.

83. The second section of Policy 6 refers to a “*Local Flood Plan*” which is “*currently in production*”. This does not provide the clarity needed of a planning policy and the draft document was not available during consultation on the Plan. The Policy also overstates the



role of the “*Local Lead Flood Authority*” which may be a consultee but is not the determinant of whether the impact of a development proposal is acceptable.

84. Policy 6 does not meet the Basic Conditions.

- **Amend Policy 6 to read “Development proposals should where appropriate avoid and reduce the risk of flooding (including fluvial and surface) on site and elsewhere in the catchment, and manage water and waste water discharges.”**

### **Housing**

85. **Policy 7** – This sets out policy criteria to be met by new residential development, accepts some types of residential development outside settlement boundaries and establishes a link to the Plan’s policy on design.

86. The Policy is supported by evidence of the particular characteristics of the housing stock, residential population and housing needs of the neighbourhood area. The Plan does not allocate any sites for development or make proposals to amend the settlement boundary. I note the concerns of the Trustees of the Bradwell Estate that the Plan does not allocate any sites and that Bradwell could meet more of the future housing requirement. I also note the two site allocations proposed by the Trustees of the Bradwell Estate with a proposal that one of them is taken up. These are presented late in the neighbourhood plan process and they are not accompanied by any wider assessment of potential sites for future residential development. One of the sites also conflicts with the neighbourhood plan’s proposals to designate an area of Local Green Space.

87. I am satisfied that the Plan’s approach based on influencing the type of housing and supporting small scale residential development is appropriate. The Plan recognises the role of the Local Plan in meeting objectively assessed housing needs and is supportive of development. There is no requirement for neighbourhood plans to identify sites for development.

88. The first part of Policy 7 encourages a housing mix to reflect the needs of first time buyers and the elderly through the provision of two and three- bedroomed properties. It is unclear how this type of property meets the needs identified. The evidence base also indicates three bedroomed houses and larger are already predominant in the neighbourhood area. The Policy lacks clarity and the evidence base necessary to support the approach. The Policy objective for a housing mix that meets local needs is addressed in draft Local Plan Policy LPP 37 and existing Local Plan Policy RLP8. The supporting text provides guidance on what local housing needs should be met.

89. Some of Policy 7 could be written more definitely by addressing the impact future development “will” have rather than “*would*” have.

90. The second part of Policy 7 permits small scale residential development and conversions and extensions outside settlement boundaries in exceptional circumstances providing it meets defined criteria. The policy lacks a definition of “*moderate extension*”. It applies an “*exceptional circumstances*” test which conflicts with the application of countryside policies to development outside settlement boundaries in Local Plan Policy RLP2. The Local Plan also permits affordable housing on exception sites and makes provision for small scale residential development in hamlets in Policy RLP16.

91. It is unnecessary for the Policy to seek compliance with other parts of the same Policy or to reference its application only to development for which permitted development rights do not exist. All development plan policies apply to all development proposals and no planning policy can apply to a development granted permitted development rights. The final Part of Policy 7 overlaps with Policy 10 and is unnecessary.

- **Amend Policy 7 to:**
  - **Delete from “*housing mix*” to the end of section a) ii.**
  - **Replace “*would*” with “*will*” in sections a) iv., v. and vi.**
  - **Replace section b) with “Development proposals for small scale residential development and extensions and conversions for residential use outside**

**the Bradwell village settlement boundary shall be supported as an exception to planning policies where they:**

- **can demonstrate a significant contribution towards maintaining the future viability and sustainability of the adjacent settlement**
- **are adjacent to an existing settlement or hamlet [footnote]; and**
- **do not provide a linear extension to Bradwell village along Coggeshall Road, Church Road, Rectory Meadow or Hollies Road.”**

○ **Delete section c)**

- Add to the supporting text “All residential development, extensions and conversions considered under Policy 7 shall also need to be compatible with development plan policies, including those relating to the quality of design and protection of the countryside”.

### **Local economy**

92. **Policy 8** – This supports well designed employment generating development subject to defined criteria and the provision of fast and reliable broadband connections.

93. The Policy is supported by evidence of the particular characteristics of the local economy and the conclusion of local consultation that there are sufficient employment opportunities in the neighbourhood area. The Plan does not allocate any sites for employment related development.

94. The first section of the Policy provides 10 criteria for employment generating development. Parts of this section lack the necessary clarity or overlap with other policies. The test of development proposals being “*To enhance the local economy in an appropriate and sustainable manner*” is addressed by the criteria and does not also need to be included in the opening sentence of the Policy. The “*site specific circumstances*” relevant to supporting existing businesses are unclear and would be material to any planning decision. The use of “*tradesman*” is unclear and gender specific.

95. It is unnecessary for the Policy to seek compliance with another Policy as all development plan policies apply to all development proposals. As a result the second part of Policy 8 which overlaps with Policy 10 is unnecessary.

96. The third part of Policy 8 is prescriptive in its approach to stating what “*must*” be provided to serve new development with broadband. The decision whether or not to provide broadband is not a land use planning consideration. It is appropriate for the Plan to support development being designed to support broadband connections.

97. For consistency the different sections to policies should use the same notation.

- **Amend Policy 8 to:**

- **Delete “*To enhance the local economy in an appropriate and sustainable manner*”**
- **Replace “*tradesman*” with “*trades*” in subsection i.**
- **Delete “*subject to site specific circumstances and the requirements of other policies within this Plan*” in subsection ii.**
- **Delete the second section B)**
- **In the third section replace “*must*” with “*should be designed to*”**
- **Replace the A), B), C) notation for each section with a), b) [as amended]**

## **Transport**

98. **Policy 9** – This provides criteria for new development relating to parking standards, public rights of way and road safety and an intention to work with others on transport issues.

99. Section a) addresses issues which are largely already addressed in planning policy. New development in the neighbourhood area is already required to recognise Essex County Council parking standards (Local Plan Policy RLP 56, draft Local Plan Policy LPP45) and the Local Plan review will protect rights of way (draft Local Plan Policy LPP44) and avoid any significant impact on highway safety (draft Local Plan Policy LPP55). Nevertheless, this part

of the Policy meets the Basic Conditions except for the prescriptive requirement that development “*must*” satisfy the criteria.

100. I note representations from Coggeshall Parish Council and Essex Bridleways Association to recognise cycle routes and bridleways in the Policy. This would be consistent with the Plan’s Transport objectives, draft Local Plan Policy LP44 and Local Plan Policy CS10 which adopts a broad approach to “*recreational pursuits*”.

101. Sections b) to d) of the Policy are not land use planning considerations. The ambition to work with Essex County Council, local bus operators, neighbouring parish councils and others to improve transport infrastructure and enhance local bus services is best considered as part of the Neighbourhood Plan Action Plan. The Policy lacks clarity on the transport projects which would be supported that would require express planning consent.

102. Policy 9 does not meet the Basic Conditions.

- **Amend Policy 9 to:**
  - **Replace “*must*” with “*should*” in the first section**
  - **Add “, including footpaths, cycle routes and bridleways” after “*way*” in section a) ii.**
  - **Delete sections b) to d) with a consequential deletion of “*a*)” before the policy wording**

## **Design**

103. **Policy 10** – This establishes design requirements for new development and a need for a sensitive response to the natural environment.

104. The Policy is supported by the Bradwell with Pattiswick Parish Village Design Statement. This is a helpful, largely descriptive, document and provides relevant information for prospective applicants. No details have been provided on the process of its preparation and the extent of public consultation even following a direct request. Its

planning status should reflect this, providing a helpful description of the character of the neighbourhood area. The Village Design Statement should be made available online at the parish council website as well as via a link in the text of the Plan. The supplied copy of the Village Design Statement is undated as described as “v4” in the footer which means that it is unclear whether it is the final version and whether it is up to date. I am informed that the copy provided is a final copy although consultation feedback was being invited on the Home Page of the parish council website.

105. Subsection x. for open plan front gardens and native boundary hedges at 3 feet high or less is not supported by specific evidence and is overly prescriptive. Its use of imperial measures also conflicts with the rest of the Plan which has maps in metric. Subsection xi. for rear gardens to be large enough for home food production is also prescriptive and may not be suitable for other reasons. There is a lack of evidence of either the demand for or the suitability of this approach. I also note concerns in representations from Braintree District Council with subsections x. and xi.. Both these subsections are also not relevant to a majority of planning applications which will occur in the neighbourhood area as these will be householder development or for non-residential uses.

106. The drafting of the Policy should reflect that it is addressing impacts that “will” happen. It should also recognise that high quality design is integral rather than something which proposals “include”. The Policy includes a number of unnecessary references to other development plan policies as these are considered in all planning applications.

107. The second section relating to the natural environment includes criteria which will not be relevant to some development and should be applied only where appropriate. The Policy should refer to the need to “maintain” rather than “*preserve*” existing trees and hedges as these are living landscape features which need to be managed. The examples included within the Policy are more appropriate to the supporting text.

108. Policy 10 does not meet the Basic Conditions.

- Amend Policy 10 to:
  - Begin *“All new development proposals should be of a high quality design which contributes positively to the character and appearance of the surrounding area and they should:”*
  - Insert *“as described in the Bradwell with Pattiswick Village Design Statement”* after *“character and appearance of the area”* in [current] subsection ii.
  - Replace *“would”* with *“will”* in [current] subsection iii.
  - Replace *“would”* with *“will”* in [current subsection iv.]
  - Delete *“in accordance with BPNP Policy 9”* in [current] subsection ix.
  - Delete [current] subsections x. and xi.
  - Insert *“where appropriate”* after *“should”* in first line of section b)
  - Delete *“in accordance with BPNP Policy 1”* in subsection i.
  - Replace *“Preserving”* with *“Retaining”* in subsection ii
  - Delete *“For example, built-in bat boxes and swift hollow bricks.”* in subsection v. and including these examples in the supporting text
- Change the subsection notation from i. to xi. to i. to viii. as a consequence of these modifications
- Create a dated version of the Village Design Statement which states that it is the final version, and make this available online in the evidence base for the Plan and on the parish council website as well as via a direct link in the text of the Plan

### **Developer contributions**

109. **Policy 11** – This sets out a range of requirements for identifying the requirements for developer contributions and their role in supporting the Neighbourhood Plan Action Plan.

110. The Policy is supported by a Neighbourhood Plan Action Plan with 19 actions and projects. This deals appropriately with issues that cannot be addressed through planning policy. Policy 3 as submitted also includes details of priorities for developer contributions where I have recommended they are more appropriately addressed in Policy 11. The investment priorities for Policy 3 and Policy 9 are included in a separate Table 2 although they also appear in the Neighbourhood Plan Action Plan. There are inconsistencies between

Table 2 and Table 3 with some projects identified as suitable for developer contributions in Table 2 not so identified in Table 3 – e.g. footpath maintenance, restrictions of HGV movements, Doghouse Lane warning signs, A120 speed limits.

111. The Policy makes reference to Community Infrastructure Levy provisions not yet implemented by Braintree District Council. This is recognised in the supporting text with the intention that the Policy can relate to s106 obligations and any future Community Infrastructure Levy receipts. At my request, Braintree District Council has confirmed *“No timetable has been set. Braintree District Council will consider implementation of the Community Infrastructure Levy if it considers it the best approach to gather developer contributions from development.”* This is as described in the Local Development Scheme 2019-21 (January, 2019).

112. The Policy introduces a test that development proposals not providing sufficient mitigation can proceed if their benefits outweigh their harm. This does not add to the balance of consideration required in all planning decisions and lacks the necessary clarity.

113, The Policy requirement for viability assessment to be open book is not fully consistent with Planning Practice Guidance revised in July 18 to state that *“Any viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances.”* The “viability test” in the Policy is also not consistent with national planning policy which recognises that the onus is on applicants to demonstrate the need for a viability assessment at the application stage (NPPF, paragraph 57). The NPPF guidance in paragraph 173 cited in the supporting text was replaced in July 2018.

114. I have been notified of some preferred changes to Table 3. These do not impact on the Basic Conditions.

115. Policy 11 does not meet the Basic Conditions.

- **Amend Policy 11 to:**



- Delete ***“Subject to the financial viability of development and the application of CIL Regulations, where appropriate”*** and add ***“and provide a proportionate contribution to the relevant projects identified in Table 3”*** after ***“Parish”*** in section a)
  - Delete sections b), c), e) and f)
  - Delete ***“for residential developments, and relevant planning applications for non-residential development,”*** and insert ***“where appropriate”*** after ***“should”*** in section d)
- Delete the second paragraph of supporting text beginning *“The amount of contributions”* on page 48
  - Delete all references to CIL in the supporting text other than the second paragraph of page 51 beginning *“Note that BDC”*
  - Delete the *“BPNP Policy”* column in Table 2
  - Delete projects in Table 2 not identified as suitable for developer contributions in Table 3
  - [Make the preferred changes to Table 3]

## **8. Recommendation and Referendum Area**

116. I am satisfied the Bradwell with Pattiswick Neighbourhood Plan meets the Basic Conditions and other requirements subject to the modifications recommended in this report and that it can proceed to a referendum. I have received no information to suggest other than that I recommend the referendum area matches that of the Neighbourhood Area.