



**Examination of North Essex Joint Strategic (Section 1) Plan**

**Matters, Issues and Questions**

**Historic England, Hearing Statement**

**January 2018**

## **Historic England Hearing Statement**

### **Introduction**

- 1.1 In carrying out its role in protecting and managing the historic environment Historic England gives advice to local planning authorities on certain categories of applications affecting the historic environment. Historic England is the principal Government adviser on the historic environment, advising it on planning and listed building consent applications, appeals and other matters generally affecting the historic environment.
- 1.2 Historic England is consulted on Local Development Plans under the provisions of the duty to co-operate and provides advice to ensure that legislation and national policy in the National Planning Policy Framework are thereby reflected in local planning policy and practice.
- 1.3 The tests of soundness require that Local Development Plans should be positively prepared, justified, effective and consistent with national policy. Historic England's representations in relation to the Publication Draft Local Plan are made in the context of the requirements of the National Planning Policy Framework ("the Framework") in relation to the historic environment as a component of sustainable development.
- 1.4 This statement addresses the Inspector's questions with regards Section 1 of the North Essex Joint Strategic Plan.
- 1.5 This hearing statement should be read alongside Historic England's comments submitted at previous consultation stages of the Local Plan:  
  
Braintree: representations dated 24/07/2017, 25/08/2016  
Colchester: representations dated 11/08/2016, 29/09/2016  
Tendring: representations dated 24/07/2017, 14/11/2016

### **Inspector's Questions**

- 1.6 Historic England has fundamental concerns regarding the lack of proper consideration of the historic environment during the broad site

selection process. We are negotiating revised policy wording to strengthen the protection of the historic environment, with the local authorities in a Statement of Common Ground should the Inspector accept the principle of development in these broad locations. Crucially however, Historic England maintains our objection on the basis that the local authorities have failed to present for consideration sufficient evidence (in accordance with NPPF paragraph 129, 158 and 169) that considers the impact of these extensive site allocations upon the historic environment to determine the level of effect (harm) on the significance of heritage assets.

- 1.7 We set out below our responses to the Inspector's questions in light of our historic environment role.

## **Matters, Issues and Questions for the North Essex Joint Strategic (Part 1) Plan**

### **Matter 1: Objectives (Chapter 1); Monitoring (paragraph 9.3 & Table 1)**

***Main issue: Have the relevant legal requirements been met in the preparation of the Section 1 Plan?***

***Do any amendments need to be made to Chapter 1 of the Section 1 Plan in order to ensure its soundness?***

***Does Table 1 provide an effective monitoring framework for the Section 1 Plan?***

### **Questions:**

**Question 8) Do paragraphs 1.25 to 1.29 appropriately identify the key issues and strategic priorities for the Section 1 Plan?**

- 2.1 Paragraphs 1.25-1.29 outline the key opportunities and challenges that will then inform the Plan's vision and objectives. The supporting text in these paragraphs does outline the various development pressures facing the region. Paragraph 1.26 references the need to ensure growth does not erode heritage but frames this in the context of being a challenge and is negatively worded. There is an opportunity to improve the wording from "... *ensure continued growth does not erode the special environment, heritage and urban assets ...*" to "*ensure that growth continues to conserve and where possible enhance the historic environment*". This wording recognises that development can sometimes enhance or better reveal the significance of the historic environment along with the role that the historic environment has to play in bringing wider social and cultural benefits which is key to establishing a positive strategy for delivering sustainable development as defined by

paragraph 126 of the NPPF. We would recommended that the term historic environment is used rather than simply “*heritage*” as this is a more all-encompassing term and covers all aspects of the historic environment which demonstrates consideration of non-designated heritage assets and intangible cultural heritage.

- 2.2 Notwithstanding the above, paragraph 1.29 does identify the conservation and enhancement of the natural and historic environments and landscapes as a strategic priority, which is welcome.

**Question 9) Do the Vision for North Essex and the Strategic Objectives provide an appropriate framework for the policies of the Section 1 Plan?**

Vision:

- 2.3 The Plan’s strategic policies will derive from the Vision and so there needs to be sufficient aspirations in the Vision for the maintenance and enhancement of the historic environment as a strand in the pursuit of sustainable development as defined by paragraph 14 of the NPPF. This will help ensure that the associated strategic policies incorporate a positive and clear strategy to deliver the conservation and enjoyment of the historic environment (as linked to paragraphs 126 and 157 of the NPPF).
- 2.4 The Vision should be locally specific. It should reference the types of heritage assets which make up the stock of designated and non-designated assets within each of the garden community areas. It would be helpful to describe the types and nature of settlements which characterise those areas. The Vision should recognise the irreplaceable nature of the historic environment and heritage assets. It should convey the importance of the historic environment and how it helps create a sense of local distinctiveness and contributes towards the creation of high quality places that people want to live and work in.
- 2.5 The Vision refers to the need to conserve and enhance heritage assets explicitly, and whilst the general thrust of this part of the Vision is welcome, the wording should be amended to read “*countryside and the historic environment will be preserved and enhanced*”. As mentioned in the Q8, the term “*historic environment*” should be used. We also query the inclusion of “*countryside*” in this sentence and how meaningful it will be. Given the scale and location of the garden community developments it is not clear how the countryside can be preserved.

Strategic Objectives:

- 2.6 Paragraph 1.31 sets out the Strategic Objectives of the Section 1 Plan. As outlined in our previous responses<sup>1</sup> there is no strategic objective which

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<sup>1</sup> Braintree: representations dated 24/07/2017, 25/08/2016, Colchester: representations dated 11/08/2016, 29/09/2016, Tendring: representations dated 24/07/2017, 14/11/2016

requires development to have regard for the historic environment. Historic England request that the Strategic Objectives are amended to require development to conserve and enhance the historic environment to reflect the three strands of sustainable development outlined in paragraph 7 of the NPPF.

**Question 10) Should they include reference to:**

**(b) the protection of the distinctive character of North Essex, heritage assets and the character of existing settlements?**

2.7 Yes. The Strategic Objectives make no reference to the distinctive character of North Essex or to the need to sustain and enhance the significance of heritage assets. It is important to recognise and reinforce the historic significance of places at the strategic level as this will inform all subsequent aspects of planning within the Section 1 Plan area and will help deliver an effective strategy for the conservation and enhancement of the historic environment in accordance with paragraph 156 of the NPPF.

**Question 11) Does Table 1 set out an effective means of monitoring the implementation of the Section 1 Plan's policies?**

2.8 No. As there is no Strategic Objective which seeks the conservation enhancement of the historic environment there is no compulsion for the Plan's impact upon the historic environment to be measured or monitored. If an additional Strategic Objective can be agreed, Historic England would expect to see a monitoring indicator to measure the performance of the Section 1 Plan against this objective.

**Matter 2: Presumption in favour of sustainable development (policy SP1); Place-shaping principles (policy SP6)**

***Main issue: Are policies SP1 and SP6 positively prepared, justified, effective and consistent with national policy?***

**Questions:**

**Question 1) Is the wording of policy SP1 fully consistent with the wording of National Planning Policy Framework [NPPF] paragraph 14 and with the NPPF's section on Decision-taking?**

2.9 It is in that it seeks to replicate the wording of NPPF paragraph 14 but in terms of being more meaningful it would be helpful if the policy or supporting

text acknowledged what paragraph 7 of the NPPF means by sustainable development. This will provide added clarity to decision makers and prospective applicants therefore improving the relationship between plan-making and decision-taking whilst reinforcing the guidance with NPPF paragraph 187 which encourages a proactive approach that improves the economic, social and environmental conditions of an area.

**Question 3) Is it necessary for the Section 1 Plan to include policy SP1?**

2.10 Not necessarily, if it is included at all we recommend that it be amended in line with comments made above in order to more accurately portray the NPPF's meaning. The presumption in favour of sustainable development is however entirely covered by the NPPF so does not need to be replicated as a standalone policy.

**Matter 6: The proposed new garden communities – general matters (policies SP7, SP8, SP9 & SP10; paragraphs 9.1-9.2)**

***Main issue: Are the policies for the development and delivery of three new garden communities in North Essex justified, effective and consistent with national policy?***

**Questions:**

***The three proposed garden communities***

**Question 4) Are the locations for the proposed garden communities and any associated green buffers adequately and accurately identified on the Policies Maps? Should they be more, or less, clearly defined?**

2.11 No. The maps, extent of boundaries, and location of development needs to be more accurately identified on the maps. Without having precise boundaries and location of development shown it is difficult to properly assess the impacts upon the historic environment.

**Question 15) Do the policies for the proposed garden communities provide adequate protection for heritage assets?**

2.12 No. Policy SP7 which outlines the principles that each garden community will conform to, contains no criterion which considers how development will

conserve or enhance the historic environment. The historic environment is referred to in point (x) of the principles in SP7 but only in the sense that development will “celebrate” historic environments which is not the test outlined within the NPPF. As a strategic document the Section 1 Plan policies should deliver the conservation and enhancement of the historic environment in line with paragraph 156 of the NPPF.

- 2.13 Policy SP8 point 20 requires development of the Tendring/Colchester Borders Garden Community to protect and/or enhance heritage assets within and surrounding the site. Policy SP9 point 21 requires development of the development of the Colchester/Braintree Borders Garden Community to protect and/or enhance heritage assets within and surrounding the site. Policy SP10 point 20 requires development of the development of the West of Braintree Garden Community to protect and/or enhance heritage assets within and surrounding the site and references the Great Saling Hall specifically. Whilst these provisions are welcome we would again recommend that the term “historic environment” is used rather than *“heritage assets”*. There is also no reference in any of these policies to setting. Paragraph 132 of the NPPF states that significance of a heritage asset can be harmed or lost through development within its setting. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 refers to the need for development to have special regard to the desirability of preserving the setting of a listed building. Whilst section 66 refers directly to situations where a grant of planning permission or permission in principle is being considered, it is relevant in understanding the status of setting and how it contributes to the significance of heritage assets. It is also recommended that the supporting text and introductory paragraphs within the policies themselves better emphasise the historic character of these locations.
- 2.14 As outlined in our previous responses the policies should be strengthened and amended to include reference to heritage assets and the need to have regard to their setting when preparing more detailed planning frameworks for the site.
- 2.15 As raised previously, the garden community policies contain no indication as to how the extent of the garden communities will be determined. It states that the garden communities will deliver a certain number of homes signaling that the new settlements will be housing led rather than considering the landscape and heritage assets and delivering development that has regard to these assets and which would not allow development in certain constrained areas. As such the development plan documents for each settlement should be required, through inclusion of an additional criterion in each of the policies to undertake a Heritage Impact Assessment in accordance with our advice note 3 Site Allocations in Local Plans in order to assess impact of the proposed allocation upon the historic environment, to inform the appropriate extent of the development and establish any mitigation measures necessary. This might include appropriate safeguarding buffers around heritage assets such as registered parks and gardens, scheduled monuments, conservation areas and listed buildings and identify how the historic environment and heritage assets can form part of the development of successful schemes.

- 2.16 It is the view of Historic England that the development of these Garden Communities is unsupported by sufficient evidence in respect of the potential impact on the historic environment and not justified. Paragraphs 158, 169, 170, and 182 of the NPPF make it clear that evidence should be up-to-date and proportionate. Given the scale of these proposed developments, it would seem reasonable to request further evidence in respect of the impacts upon the historic environment. It is also possible to conclude that it is likely that these new communities would result in harm to a number of designated heritage assets. Without further information and detail regarding the site boundaries and location of development, it cannot be said how substantial this harm would be. In terms of the Local Plan, paragraph 152 of the NPPF makes clear that significant adverse impacts on the environment should be avoided in the first instance. Only where this is not possible should mitigation be considered.
- 2.17 The Local Plan needs to demonstrate that the proposed garden communities are appropriate in light of the NPPF's tests of soundness set out on paragraph 182, namely that the proposal is positively prepared, justified, effective and consistent with national policy. In terms of the latter, this includes the need to conserve heritage assets in a manner appropriate to their significance and to provide clear and convincing justification for any harm or loss weighed against the public benefits of development. One of the core planning principles as defined by paragraph 17 of the NPPF is for plan-making and decision-taking to conserve heritage assets in a manner appropriate to their significance.
- 2.18 Notwithstanding, our fundamental objection to the allocation of these sites without sufficient evidence with which to understand the impacts upon the historic environment, we have the following suggestions which will improve the soundness of the Section 1 Plan:
- That a Strategic Objective is added which seeks to conserve and enhance the historic environment;
  - The wording of the policies within the Section 1 Plan is amended in line with our comments;
  - That criteria are added to the specific garden community policies (SP8, 9, 10) requiring the development plan documents to undertake a Heritage Impact Assessment.
  - That policies and supporting text make reference to both the heritage assets and their settings.

#### **Matter 7: The spatial strategy for North Essex (policy SP2)**

***Main issues: Does the spatial strategy set out in policy SP2 represent the most appropriate strategy, when considered against the reasonable alternatives?***

***Does policy SP2 adequately and appropriately define the role of each tier in the settlement hierarchy?***

**Questions:**



**Question 5) Should paragraph 2 of the policy refer to the need to avoid the coalescence of settlements?**

2.19 Yes. Paragraph 2 states that future growth will be planned to ensure settlements maintain their distinctive character and role. An important aspect of achieving this will be to avoid coalescence despite it not being explicitly referred to. The visual separation and spaces between settlements contributes to and influences their character and appearance. Rural settlements particularly derive their form and character from the landscape around them and this context should inform the site selection rather than reliance on proximity to heritage assets or existing accessibility. Therefore a need to avoid coalescence should be referred to policy SP2. Where developments respond to their unique landscape context, settlements and settlement extensions are better able to maintain their historic character and settlement patterns; these are less tangible elements of the historic environment that contribute significantly to locally distinctive and attractive places. It would be advantageous to give clear guidance to any future developers and decision makers about the characteristics and significance of landscape, settlement edges and spaces between settlements. This kind of understanding informs and produces distinctive place making. The specific garden community policies, SP10 for example, refer to the need for development to address the relationship to existing communities close to its boundaries to maintain a separation between them. This area specific aspiration would be strengthened if referred to as part of the overarching spatial strategy in policy SP2.

**Question 6) Does the reference to “Garden City principles” in the last paragraph of the policy identify the principles that are intended with sufficient clarity? What is the relationship between these principles and the North Essex Garden Communities Charter (June 2016)?**

2.20 No. Whilst the North Essex Garden Communities Charter (June 2016) sets out that the proposed developments will follow Town and Country Planning Association (TCPA) Garden City Principles, there is no specific consideration for the historic environment within these principles. The Section 1 Plan itself does not cross reference to the Charter or to the TCPA Garden City Principles directly however further into the Plan, Policy SP7 does list a set of principles (i- xiii) which is cross referenced to the North Essex Garden Communities Charter (June 2016).

**Matter 8: The proposed new garden communities – specific matters (policies SP8, SP9 & SP10)**

## ***The West of Braintree proposed garden community (policy SP10)***

### **Question 32) Should the West of Braintree proposed garden community be extended to include adjacent land in the Uttlesford District Council area?**

2.21 Concerns regarding the potential detrimental impacts of a Garden Town development upon the setting of nearby listed buildings and the Registered Park and Garden of Saling Grove have been highlighted to both Uttlesford District Council and Braintree District Council in our previous representations<sup>2</sup>. The Rayne Conservation Area and Great Saling Conservation Area within Braintree may also be adversely affected. There are a number of listed buildings, a scheduled monument (Porters Hall moated site) and the Stebbing Conservation Area which could be affected within Uttlesford. The draft policy makes no mention of any of these heritage assets or their settings, and contains no provisions to secure their conservation or enhancement. A comprehensive and collaborative approach to the historic environment between the two Councils is encouraged.

### **Question 33) If so, what arrangements have been made for joint working between Braintree and Uttlesford District Councils to deliver the proposed garden community?**

2.22 It is not clear what the arrangements are or how the two settlements would be linked and there is no indication as to how the extent of the garden communities will be determined.

## **Conclusions**

3.1 To conclude, Historic England fundamentally questions whether the garden community allocations are adequately justified or consistent with national policy in terms of the NPPF. Very little in the way of specific information regarding each garden communities has been provided so it is not possible to discern the full impacts (harm) upon the historic environment, and the Section 1 Plan policies provide no basis for this work to be undertaken. Before the principle, future form and capacity of the garden communities can be established, great weight must be applied to the conservation of the affected heritage assets in accordance with NPPF paragraph 132. The lack of sufficient evidence suggests that great weight has not been applied and

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<sup>2</sup> Representation made to Uttlesford District Council dated 04/09/2017

therefore the Section 1 Plan has not been justified (based on proportionate evidence) or accords with national policy.

- 3.2 Historic England maintains our fundamental objection to allocation of the sites without sufficient evidence but notwithstanding our concerns, we are prepared to negotiate wording for policy in case Inspector finds the allocation sound in order to strengthen the protection afforded to the historic environment.