

# **LOCAL PLAN SUB-COMMITTEE AGENDA**

**Thursday, 17 October 2019 at 6:00pm**

**Council Chamber, Braintree District Council, Causeway House, Bocking  
End, Braintree, CM7 9HB**

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**Members of the Local Plan Sub-Committee are requested to attend this meeting to transact the business set out in the Agenda.**

**Membership:-**

Councillor D Bebb (Vice Chairman)	Councillor P Horner
Councillor K Bowers	Councillor D Hume
Councillor G Butland	Councillor Mrs G Spray (Chairman)
Councillor T Cunningham	Councillor T Walsh
Councillor A Everard	Councillor J Wrench

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A WRIGHT  
Chief Executive

## **INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS**

### **Declarations of Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest**

Any member with a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a Disclosable Pecuniary Interest or other Pecuniary Interest or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

### **Question Time**

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<b>PUBLIC SESSION</b>		<b>Page</b>
<b>1</b>	<b>Apologies for Absence</b>	
<b>2</b>	<b>Declarations of Interest</b> To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.	
<b>3</b>	<b>Minutes of the Previous Meeting</b> To approve as a correct record the Minutes of the meeting of the Local Plan Sub-Committee held on 18th July 2019 (copy previously circulated).	
<b>4</b>	<b>Public Question Time</b> (See paragraph above)	
<b>5</b>	<b>The Salings Neighbourhood Plan - Regulation 14 Consultation</b>	<b>4 - 10</b>
<b>6</b>	<b>Essex Coast Recreational Disturbance Strategy (RAMS)</b>	<b>11 - 20</b>
<b>7</b>	<b>Housing Delivery Test Action Plan 2019</b>	<b>21 - 24</b>
<b>8</b>	<b>Local Development Order - Horizon 120</b>	<b>25 - 29</b>
<b>9</b>	<b>Urgent Business - Public Session</b> To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.	
<b>10</b>	<b>Exclusion of the Public and Press</b> To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972. <i>At the time of compiling this Agenda there were none.</i>	

<b>PRIVATE SESSION</b>		<b>Page</b>
<b>11</b>	<b>Urgent Business - Private Session</b> To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.	

<b>The Salings Neighbourhood Plan Regulation 14 Consultation Response</b>		<b>Agenda No: 5</b>
<b>Portfolio</b>	<b>Planning</b>	
<b>Corporate Outcome:</b>	<p><b>A sustainable environment and a great place to live, work and play</b>  <b>A well connected and growing district with high quality homes and infrastructure</b>  <b>A prosperous district that attracts business growth and provides high quality employment opportunities</b>  <b>Residents live well in healthy and resilient communities where residents feel supported</b></p>	
<b>Report presented by:</b>	<b>Alan Massow</b>	
<b>Report prepared by:</b>	<b>Alan Massow – Principal Planning Policy Officer</b>	
<b>Background Papers:</b>		<b>Public Report: Yes</b>
<p>The Salings Neighbourhood Plan Regulation 14  The Neighbourhood Plan Regulations 2012 (As amended)  The National Planning Policy Framework (NPPF) 2019  The National Planning Practice Guidance (NPPG)  The Town and Country Planning Act 1990 (TCPA)  The Planning and Compulsory Purchase Act 2004 (PCPA)</p>		<b>Key Decision: No</b>
<b>Executive Summary:</b>		
<p>The Salings Parish Council is currently producing a Neighbourhood Plan to help guide future development within the Parish. The Plan is currently out to its first round of public consultation which is known as the Regulation 14 public consultation and is run by the Neighbourhood Plan group. The consultation period started on the 1st September and concludes on the 31st October 2019.</p> <p>Officers have considered the draft Plan and this report contains a number of suggested amendments to the Plan which officers believe will help the Plan meet the “Basic Conditions” necessary for a Plan to pass examination, and proceed to a referendum. These suggested changes are set out at section 2 of the report. If the examination and referendum are passed, the Plan can be made as part of the Development Plan for the District, and is used in the determination of planning applications within the Salings Parish.</p>		

<b>Recommended Decision:</b>	
That the comments outlined in section 2 of this report are submitted in response to the Regulation 14 consultation on The Salings Neighbourhood Plan.	
<b>Purpose of Decision:</b>	
To provide comments to The Salings Neighbourhood Plan Regulation 14 consultation	
<b>Corporate Implications</b>	
<b>Financial:</b>	The preparation of the Plan set out within the Local Development Scheme will be a significant cost which will be met through the Local Plan budget. Further funding will be available once a referendum date has been set.
<b>Legal:</b>	To comply with Government legislation and guidance
<b>Safeguarding:</b>	No matters arising out of this report
<b>Equalities/Diversity:</b>	The Council's policies should take account of equalities and diversity.
<b>Customer Impact:</b>	Planning applications will have to be in conformity with the neighbourhood plan once adopted. This could impact on residents.
<b>Environment and Climate Change:</b>	This will form part of the evidence base for the emerging Neighbourhood Plan and will inform policies and allocations.
<b>Consultation/Community Engagement:</b>	Public consultation is taking place during various stages of the emerging Neighbourhood Plan.
<b>Risks:</b>	The Neighbourhood Plan examination may not succeed at examination. The Neighbourhood Plan may be rejected at a referendum. Risk of High Court Challenge.
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<b>Designation:</b>	Principal Planning Policy Officer
<b>Ext. No:</b>	2577
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## **1.0 Background**

- 1.1 The Salings Neighbourhood Area was designated with Great Saling Parish Council and Bardfield Saling Parish Meeting in February 2017, Great Saling Parish Council and Bardfield Saling Parish meeting combined to become The Salings Parish Council in April 2019.
- 1.2 The Salings Neighbourhood Plan has reached regulation 14 public consultation which is the first consultation stage. The consultation period started on the 1<sup>st</sup> September and concludes on the 31<sup>st</sup> October 2019.
- 1.3 Regulation 14 consultation is undertaken by the Parish Council. It is the first stage in which the Local Planning Authority (LPA) can formally comment on policies and proposals within the Plan. It is the responsibility of the Parish to ensure the necessary regulation requirements for the consultation have been carried out. When adopted, the neighbourhood plan will become part of the development plan for the purposes of determination of planning applications within the Parish, meaning that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 1.4 Once the consultation has concluded the Neighbourhood Plan is amended by the Neighbourhood Plan group were it is considered necessary to do so, and then submitted to the LPA who organise further consultation and an examination.
- 1.5 Assuming a successful examination, a referendum is organised by Electoral Services in accordance with the Neighbourhood Planning (Referendum) Regulations 2012. The referendum will pass on a simple majority after which the LPA then has 8 weeks to 'make' the plan.
- 1.6 In order for a plan to progress successfully through examination it is necessary for it to meet what is known as the Basic Conditions. They are;
  - a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan)
  - b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders
  - c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders
  - d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
  - e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)
  - f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
  - g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan)

- 1.7 Please note that Basic Condition B and C only applies to orders not neighbourhood plans.
- 1.8 The comments made at section 2 of this report are intended to help the Neighbourhood plan meet the Basic Conditions.

## **2.0 The Salings Neighbourhood Plan Regulation 14**

- 2.1 The document contains 11 policies which cover a range of planning issues within the Parish including landscape protection, provision of housing, heritage and the rural economy among others. It also includes a number of maps showing the Neighbourhood Area, Local Landscape Character, Local Landscape Protection Zone, Key Views, Local Green Space proposals, Special Character Area, and development boundary and conservation area.
- 2.2 The Plan also contains community actions which are not policy, but how the local community aims to meet the objectives contained in the Neighbourhood Plan.

### **General Comments**

- 2.3 As a general comment the Plan period is between 2019 and 2033. Whilst this is clear, it is only a 14 year period. A 15 year period may be more appropriate and it is suggested that the Plan duration could extend to 2034.
- 2.4 Map 8 – It would be more a more accurate description is the key said “Proposed New Garden Community Area of Search”.
- 2.5 Formatting - it would be beneficial if policies were contained within boxes to better help distinguish them from supporting text.

### **Policy Comments**

- 2.6 Policy SAL1 – Conserving our historic heritage” is a negatively worded policy, which would be unlikely pass examination without revision. Recent examiner reports have often substituted words such as “must” with “should”.
- 2.7 It is suggested therefore that the following changes should be made to ensure compliance with the Basic Conditions.

- 2<sup>nd</sup> line – Change “*must*” to “*should*”.

- Paragraph 127 Remove will “*not be permitted*” from the second section and the suggested wording below considered;

*“Development proposals should demonstrate that they would not have a detrimental impact on the separation of settlements within the parish or the significance of views identified within the Plan.”*

- Paragraph 128 reads more as a statement rather than a policy. It is suggested that this should be reworded “*Development proposals within the Special Character Area identified on the proposals map, should demonstrate that they would not harm the significance of that character area.*”

- Paragraph 129 – This could conflict with permitted development rights which allows non permeable surfaces up to a certain size on front boundaries.

2.8 Policy SAL2 – Conserving Our landscape and its Key Ecological Features.

- Paragraph 133 bullet 1 – This is likely contrary to national policy which allows for development in rural areas including new builds

- Paragraph 135 – The second sentence is contrary to paragraph 83 of the NPPF which allows for economic development in rural areas.

- Paragraph 136 – Remove “*will not be permitted*” from second line “*will be permitted where they would not result in significant...*”

- Paragraph 138 – Suggest rewording “*Proposals for external lighting should demonstrate that they would not result in unnecessary light pollution or harm to the amenity of neighbouring properties or highway safety.*”

- Paragraph 139/140 – It is unclear how this would be achieved. Perhaps add wording that “*Development proposals within areas of medium sensitivity should seek to enhance local landscape features and characteristics.*”

2.9 Policy SAL3 – Protecting Key Views and Ensuring Visual Connectivity with the surrounding countryside - Map 3: Key Views – Key View 9 should be removed as it is outside the neighbourhood area. Whilst most views should not impact on the development of strategic proposals within the emerging Local Plan, view 8 may be difficult to maintain in the longer term.

2.10 Policy SAL4 – Protecting Local Green Spaces.

–Paragraph 99 and 100 of the NPPF deal with the circumstances when a Local Green Space Designation would be appropriate. It would be necessary for the neighbourhood plan evidence base to demonstrate that the spaces listed in this policy meet the criteria set out in paragraph 100. Many of the areas identified have protective designations as they are either registered historic parks and gardens, or protected in the adopted and emerging Local Plan. Appendix 3 Listing of Local Green Spaces provides some reasoning but does not address all the points in paragraph 100 of the NPPF in all cases, for example how the designation can be maintained for the life of the plan. The National Planning Practice Guidance on Local Green Space at paragraph 007 advises that Local Green Space designation needs to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and that Local Green Space designation should not be used in a way that undermines this aim of plan making. Officers would therefore recommend that these proposed designations and the evidence which support them are reconsidered to ensure that all of them meet the requirements.

2.11 Policy SAL5 – Local Landscape Protection Zone.

In order to comply with the Basic Conditions, Neighbourhood Plans should be in general conformity with the strategic policies contained within the development plan for the district. The West of Braintree Garden community is an emerging but advanced proposal within the Local Plan for the District. Policy SP10 of the Publication Draft Local Plan includes provision of separation between the Garden Community and existing settlement, meaning the principle of this policy *may* be generally acceptable. The Neighbourhood Planning Group and Parish Council should therefore be encouraged to engage



with proposals for the West of Braintree Garden Community as more detail emerges particularly through any subsequent Development Plan Document to ensure that the policies contained within the neighbourhood plan have sufficient longevity.

- 2.12 When looking at the extent of the Local Landscape Protection Zone it is far larger than the stated aim of providing separation between the Salings and the area of search for West of Braintree. It may be more effective if the areas within LPLCA6 and 9 were removed or reduced in extent. It is also a concern that the protection zone when coupled with the high sensitivity landscape areas could be viewed as preventing potentially sustainable development opportunities.
- 2.13 Policy SAL6 – Spatial Policy For Housing Development  
– This policy identifies a need for approximately 10 dwellings in the Neighbourhood area between 2019 and 2033. It does not identify a particular site other than the development boundary for Great Saling, existing planning permissions, or that the development would be on a rural exception site. It is therefore unlikely that the Neighbourhood Plan would benefit from the lower three year supply threshold for adopted Neighbourhood Plans with allocations.
- 2.14 Policy SAL7 – Nomination Rights for Affordable Housing  
– This policy is too restrictive and undeliverable as it is contrary to the Council's housing service allocation policy. If a rural exception site were to come forward then a first let basis condition could be used to ensure local people in most need on the housing register get priority. It is also attempting to apply a policy restriction on a strategic policy in the emerging Local Plan. The policy should therefore be deleted.
- 2.15 SAL8 – Design Policy for Infill Development  
– Whilst the majority of homes in Great Saling and Bardfield Saling are detached properties, there are examples of semi-detached properties within the village. Therefore this policy could undermine sustainable development proposals which is contrary to the Basic Conditions, and would not be the most efficient use of building land within the development boundary.
- 2.16 Policy SAL9 – Design Policy for Strategic Housing Sites  
– Whilst most of the principles set out in this policy are generally reasonable and would be expected as good practice in planning and design terms. This policy could be considered to undermine the strategic policies contained within the emerging Local Plan. It is therefore suggest that the policy be re-worded to remove any overly restrictive elements which could impact the delivery of the garden community.
- 2.17 Policy SAL10 – Local Business Development  
– There is no definition or evidence to indicate what “fit” would mean in the context of this policy. As worded this policy is contrary to paragraph 83 and 84 of the NPPF which allows for the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist is encourage by the NPPF

but it is not a requirement to use exclusively brownfield sites. It is therefore suggested that bullet point 1 is deleted, in order for the Plan to meet the Basic Conditions.

- 2.18 Policy SAL11 – Tourism and Leisure Development  
– Whilst the retention of local community and recreation facilities will generally be supported subject to other policy considerations, it is difficult for the Neighbourhood Plan to support the continued use of Andrewsfield as it is only partly within the neighbourhood area, as it straddles the border with Uttlesford District Council. Uttlesford District have also included the site within their emerging Local Plan for development under policy SP8 West of Braintree-Uttlesford, the Plan is currently being examined. A degree of protection for the site is already in place as it has been designated as a Community Asset. It is therefore suggest therefore that paragraph 190 is deleted.

### **3.0 Next Steps**

- 3.1 The consultation concludes on the 31<sup>st</sup> October 2019. The Neighbourhood Plan Group and Parish Council will make changes to the plan before submitting it to the LPA under Regulation 15 of the Neighbourhood Plan Regulations. It will then be up to the Council to undertake a further consultation on the document, before arranging an examination, and if successful, a neighbourhood referendum.

### **Recommendation**

**That the comments outlined in section 2 of this report are submitted in response to the Regulation 14 consultation.**

### **Appendix 1**

#### **Great Saling Draft Regulation 14 Document**

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)		Agenda No: 6
<b>Portfolio</b>	<b>Planning and Housing</b>	
<b>Corporate Outcome:</b>	<b>A sustainable environment and a great place to live, work and play</b> <b>A well connected and growing district with high quality homes and infrastructure</b>	
<b>Report presented by:</b>	<b>Gary Sung</b>	
<b>Report prepared by:</b>	<b>Gary Sung, Senior Planning Policy Officer</b>	
<b>Background Papers:</b> <ul style="list-style-type: none"> <li>Essex Coast Recreational Disturbance Avoidance &amp; Mitigation Strategy</li> <li>Essex RAMS Supplementary Planning Document</li> <li>EB083 HRA Report for North Essex Authorities Shared Strategic Section 1 Local Plan</li> <li>Conservation of Habitats and Species Regulations 2010</li> </ul>		<b>Public Report: Yes</b>  <b>Key Decision: No</b>
<b>Executive Summary:</b>  <p>The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) sets out the necessary measures to avoid and mitigate the effects from increased recreational disturbance on, principally, internationally protected species of birds. It also outlines the evidence behind the catchment zone, the overall cost of mitigation projects and the calculations behind the chargeable fee.</p> <p>A strategic solution to RAMS is supported by a new policy in Section 1 of the submission Local Plan and a resource to help LPAs meet the requirements of the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations).</p> <p>The RAMS SPD requires public consultation to be undertaken before it can be adopted. There are 11 partner authorities and all 11 will need to agree the SPD for consultation therefore the joint consultation, organised by Place Services, will take place in January 2020. Once the consultation has concluded, the response and proposed modifications will be brought back to this committee.</p> <p>The implication of this will be to mitigate the ecological impact of growth on protected coastlines in Essex, developers in Braintree District will be charged a tariff of £122.30 per net new dwelling.</p>		

<b>Recommended Decision:</b>	
<ol style="list-style-type: none"> <li>1. That the Essex Coast Recreational Disturbance Avoidance &amp; Mitigation Strategy (Essex RAMS) Document (Technical Report and Mitigation Report) attached at Appendix 2 is adopted as evidence.</li> <li>2. That the Essex Coast Recreational Disturbance Avoidance &amp; Mitigation Strategy (RAMS) draft Supplementary Planning Document attached at Appendix 3 is approved for consultation.</li> <li>3. That the Head of Planning and Economic Development, in agreement with the Portfolio Holder for Planning, is authorised to make minor amendments to the above RAMS draft SPD as deemed appropriate before publication for public consultation.</li> </ol>	
<b>Purpose of Decision:</b>	
To adopt the RAMS technical report as evidence and approve the RAMS draft SPD development plan document for public consultation in the process towards adoption in 2020.	
<b>Corporate Implications</b>	
<b>Financial:</b>	There are no direct financial implications aside from staff time. There is a risk that the Council may be liable for mitigation payments should RAMS obligations not be collected where this was appropriate.
<b>Legal:</b>	The Local Planning Authority is the competent authority under the Habitats Regulations and is legally responsible for ensuring in-combination adverse effects on protected habitats and species are adequately mitigated.
<b>Safeguarding:</b>	No matters arising out of this report.
<b>Equalities/Diversity:</b>	Attached as Appendix 4 to this report The RAMS draft SPD has a neutral impact on people with protected characteristics.
<b>Customer Impact:</b>	The RAMS draft SPD will charge a tariff on additional residential dwellings of £122.30 per new dwelling. Users of the Essex coast could encounter the mitigation measures.
<b>Environment and Climate Change:</b>	RAMS is designed to mitigate the adverse effects of additional recreation impact on protected habitats and species on the Essex coast.
<b>Consultation/Community Engagement:</b>	There will be a 6 week consultation on the RAMS draft SPD taking place across all 11 authorities involved in January 2020.
<b>Risks:</b>	The Local Planning Authority could be liable for the RAMS mitigation costs arising from development under the Habitats Regulations.
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<b>Designation:</b>	Senior Planning Policy Officer
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## **1 Introduction**

- 1.1 The Essex coast is a major destination for recreational use for coastal communities and for residents of the county including landlocked districts like Braintree.
- 1.2 It is predicted that plans for population and housing growth from across Essex will increase recreational demand on the Essex Coast as an area for dog walking, hiking, running and water borne leisure activities. The distribution of housing planned through Braintree's Section 1 and 2 Local Plan will focus development on the A120 and A12 corridors towards the south of the district which subsequently has the potential to result in the loss and damage of designated habitats or disturbance to protected bird species in the Blackwater Estuary and the Dengie.
- 1.3 This was confirmed by the Habitats Regulation Assessment and Appropriate Assessment (HRA) for Section 1 Local Plan first published in December 2016 and reviewed in June 2019 (as submitted to the Local Plan examination) which concluded that recreational disturbance as an issue for all of the Essex coastal SPAs, SACs and Ramsar sites. In consultation with Natural England, the HRA recommended the production of a cross-authority Strategic Mitigation Strategy to mitigate the recreational pressures. Other HRAs for Local Plans at neighbouring authorities in Essex came to a similar conclusion hence, in November 2017, upon the invitation of Essex County Council and Natural England an Essex Coastal RAMS steering group was duly established.
- 1.4 Braintree District Council is now working in partnership with 10 other Essex Local Planning Authorities (LPAs), Essex County Council and Natural England to deliver the Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Specialist ecologists and planners at Essex Place Services were commissioned by the partnership to produce the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (the 'RAMS') and Essex RAMS Supplementary Planning Document (SPD). In addition the partnership has produced a FAQs explaining how to apply RAMS and is undertaking work to problem solve practical implementation measures faced by participating LPAs.

## **2 Policy and Legal Framework**

- 2.1 The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations) places a legal duty on the relevant local planning authority as the competent authority to ensure that planning application decisions mitigate impacts on protected habitats sites and species. If they provide no mitigation then development must not be permitted.
- 2.2 Screening assessments and/or appropriate assessments undertaken to accompany planning applications will need to draw on the conclusions of the HRA and should resolve that, because of the cumulative impact of additional recreational use, there is a likely significant effect on protected habitat sites and species. Mitigation measures are therefore necessary to avoid these likely significant effects in-combination with other plans and projects and recommend that each net new dwelling should pay the tariff pursuant to the

strategic solution or a suitable alternative (this is set out in more detail later in the report).

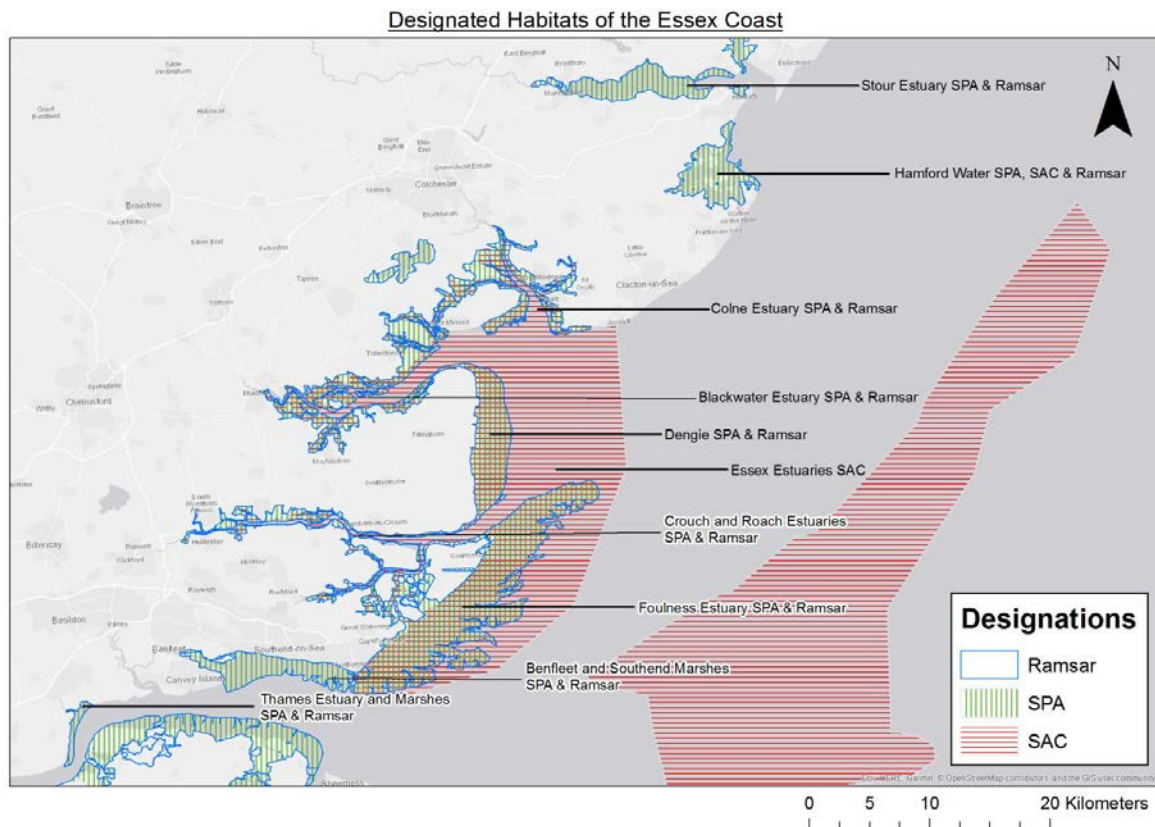
- 2.3 The Essex Coastal RAMS is focussed solely on mitigating in-combination recreational impacts, for example it does not replace existing requirements for Appropriate Assessments and mechanisms to identify need for, and provide, Suitable Alternative Natural Green Space (SANGs) on planning applications where this is also appropriate.
- 2.4 Natural England provided guidance and key lessons learned from other RAMS schemes across the county including from the Solant, Suffolk Coastal and north Kent RAMS. Alternative options to the Strategic RAMS solution considered by the steering group in 2017 included:
- No joint project – this option would require all applicants, even minor, to submit project level Appropriate Assessments and include bespoke mitigation strategies with each one.
  - Sub-regional projects – this option could give rise to areas of dispute where there is overlap or result in duplication of charges for areas covered by multiple Zols.
- 2.5 At section 1 Local Plan examination, the NEA's suggested modifications to the Plan to address the Habitats Regulations requirements and Natural England's consultation response. No issues were raised about this approach in the Inspector's post-hearing letter and the new RAMS policy is published as suggested amendments to the Local Plan as policy 1b. This policy states that the RAMS will be completed by the time the Local Plan is adopted.

### **3 Background**

- 3.1 The Essex coastline stretches for just over 350 miles, extending from the Thames Estuary in the south, northwards to the port of Harwich and the Stour estuary. The coastline is extremely diverse and features a variety of habitats and environments and it is internationally important for wildlife. Most of the Essex Coast is designated under the UK Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations') as part of the European Natura 2000 network and the term Habitats Sites is now referenced in the National Planning Policy Framework (2018).
- 3.2 There are 10 Habitat sites in Essex, which are listed below.
- Essex Estuaries SAC
  - Stour and Orwell Estuaries SPA and Ramsar
  - Hamford Water SPA and Ramsar
  - Colne Estuary SPA and Ramsar
  - Blackwater Estuary SPA and Ramsar
  - Dengie SPA and Ramsar
  - Crouch and Roach Estuaries SPA and Ramsar
  - Foulness Estuary SPA and Ramsar
  - Benfleet and Southend Marshes SPA and Ramsar
  - Thames Estuary and Marshes SPA and Ramsar

### 3.3 Types of designation referred:

- **Ramsar sites** are areas of wetland which are designated of international importance under the Ramsar Convention (1971).
- **Special Protection Areas (SPAs)** are sites which support rare, vulnerable and migratory birds.
- **Special Areas for Conservation (SACs)** are sites which support high-quality habitats and species.



- 3.4 Although Braintree District has no coastline, the catchment or Zone of Influence (Zoi) for the Blackwater Estuary and the Dengie extends to 22 and 20.8km respectively. This reflects research which showed that people are travelling from across Essex for a range of recreational activities at the coast. The Zoi map below shows the extent various protected coastlines reaches in the Essex County. A focussed map showing the ZOI and how it affects Braintree district is attached as **Appendix 1** to this report.



#### 4 Essex RAMS Technical Report

- 4.1 The Essex RAMS, attached as **Appendix 2** to this report, is the evidence which supports the policy measures to be adopted and is composed of Technical Report (evidence base) and a Mitigation Report. The SPD is the adoptable development plan document which must undergo public consultation.
- 4.2 The Essex RAMS identifies:
- The purpose of the Strategy;
  - The likely impacts from recreational disturbance;
  - The evidence establishing the Zones of Influence;
  - A package of effective mitigation measures including education and communication, fencing and rangers;
  - When and where the mitigation measures are required;
  - How mitigation relates to development (or development locations);
  - How the mitigation measures will be funded;
  - How the strategy will be implemented;
  - How the success of mitigation measures will be monitored; and
  - How best to incorporate monitoring data and other information and best practice into future reviews of the strategy and Local Plans.
- 4.3 The evidence for Zones of Influence in the Essex RAMS was captured by visitor surveys undertaken initially during winter months to monitor recreational activity when there are high numbers of feeding birds. Disturbance to wintering birds can result in insufficient feeding time and impact on bird population numbers. A second round of surveys were undertaken in the Spring when breeding birds use the habitats sites for nesting. Appendices 2 to 5 of the Essex RAMS contains details of the visitor surveys.



- 4.4 Mitigation measures identified in the RAMS will be funded by developer contributions. Table 8.2 of the Essex RAMS tabulates the mitigation package and its costs for a 20 year period. It broadly follows the Essex RAMS toolkit which developed actions into three areas, education, communication and habitats based interventions. For the first few years, these are concentrated on funding a delivery officer to project manage and a team of rangers with the objectives of education and raising awareness. In following years, the funding could be used for capital projects such as signage and invested in a perpetuity fund but it does not cover any additional infrastructure which could assist in meeting this aim, such as Country Parks, which are often referred to as Suitable Alternative Natural Greenspaces (SANGs).
- 4.5 A commitment to the long term maintenance and management of these provisions has been included in the overall cost. The overall cost up to 2038 has been estimated to cost up to £9,000,000, while the estimated number of dwellings to be constructed within the Zols in the RAMS tariff is 72,907, equating to a per dwelling charge of £122.30. Mitigation measures, the visitor surveys determining the Zol and the estimated number of dwellings will be subject to regular reviews.
- 4.6 Implementation costs identified in the RAMS will also be funded from the tariff e.g. activities to monitor the effectiveness of the mitigation and avoidance measures.

## **5 Essex RAMS Supplementary Planning Document**

- 5.1 The Essex RAMS Supplementary Planning Document (SPD), attached as **Appendix 3** to this report, covers some of the same ground as the Essex RAMS report. Its purpose is to distil the Strategy into a practical document for use by local planning authorities, developers and stakeholders. It provides the following information:
- A summary of the RAMS;
  - The scope of the RAMS;
  - The legal basis for the RAMS;
  - The level of developer contributions (or tariff) being sought for strategic mitigation; and
  - How and when applicants should make contributions.
- 5.2 A technical guide for developers regarding the collection of RAMS on qualifying dwellings is set through the SPD. All residential developments where there is a net increase of dwellings is included, including subdivisions and change of use via prior approval. This includes dwellings which require reserved matters approval. S.106 cannot normally be augmented after outline permission has been granted however because Appropriate Assessments (AA) depend on whether the potential effects of the proposal were fully considered when the outline was granted, it is possible to revise the AA when further information is forthcoming. This is legally sound because the requirement for mitigation measures fall under reg 63 of the Habitats Regulations and not the CIL Regulations, thus the discovery of likely

significant effects must lead to reconsideration if they arise during the planning process.

5.3 Table 3.2 of the SPD (as below) summarises the types of residential use classes that will be covered by the Essex Coast RAMS.

Planning Use Class*	Class Description
C2 Residential institutions	Residential care homes, boarding schools, residential colleges and training centres.
C2A Secure Residential Institution	Military barracks.
C3 (a) Dwelling houses (a)	- covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
C3 Dwelling houses (b)	- up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
C3 Dwelling houses (c)	- allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.
C4 Houses in multiple occupation	- Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom
Sui Generis ***	- Residential caravan sites (excludes holiday caravans and campsites) -Gypsies, travellers and travelling show people plots

Notes:

\* This table is based on Natural England advice (244199 August 2018, which was advisory, not definitive.

\*\* Care homes will be considered on a case-by-case basis according to the type of residential care envisaged.

\*\*\* Sui Generis developments will be considered on a case-by-case basis according to the type of development proposed.

A guide on student accommodation and RAMS is included as Appendix 2.

5.4 Developers will also be offered the alternative to paying the tariff to secure RAMS mitigation by undertaking Habitats Regulations compliant bespoke

mitigation packages. This alternative is detailed in chapter 6 of the SPD however, for the vast majority of developers it will be easier, quicker and cheaper to make a financial contribution towards the RAMS and they will be encouraged by Development Management to use the tariff route. An example of bespoke mitigation measures available in lieu of the tariff is given below:

- High-quality, informal, semi-natural areas;
- Circular dog walking routes of 2.7 km within the site and/or with links to surrounding public rights of way (PRoW);
- Dedicated 'dogs-off-lead' areas;
- Signage/information leaflets to householders to promote these areas for recreation;
- Dog waste bins; and/or
- A commitment to the long term maintenance and management of these provisions.

- 5.5. It is proposed that payments can be undertaken by either S.106 agreement, unilateral undertaking (UU) or through an upfront payment. It would be the responsibility of each local authority to implement and administer the collection of RAMS tariffs.

## **6 FAQs and Implementation**

- 6.1 As published in the SPD, an FAQ was published to provide further information about implementing the RAMS project. This is 'living' document that is hosted on the Bird aware website at the following website <https://essexcoast.birdaware.org/article/31848/FAQs>. A copy of the FAQs as at 30/09/2019 is attached to this report as Appendix 4.
- 6.2 Braintree is discussing with other LPAs in the RAMS steering group in regards to implementation and administration to refine practical issues. Discussions included establishment of a Project Board to set the overall direction of the RAMS and deriving from that, a steering group, an informal member/officer group, an accountable body and a delivery officer. Chelmsford City Council have asked to be the accountable body, supporting the hr, financial and IT needs of the delivery officer and rangers. Going forward, a small revenue cost will be required to fairly split the burdens of the accountable body between all partner LPAs. Officer time may also be required to sustain participation in the project board and the steering group on an informal basis. Participation in sub-groups of the steering group on a bespoke basis to deliver specific migration projects may be required.
- 6.3 The project board is currently the prerogative of the Essex Planning Officer Association (EPOA) chief officer's group which encompasses the heads of planning at each authority.
- 6.4 Prior to the RAMS adoption, interim measures are in place at every LPA to ensure that planning applications for residential dwellings so that legally compliant decisions can be made without delay. For Braintree, a HRA screening assessment has been carried out for every net new dwelling proposed. Dwellings totalling 99 or more have been deemed to have a likely

significant effect and require mitigation measures. Developers have been offered a tariff based payment to be included in the S.106.

## **7 Public Consultation for the RAMS draft SPD**

- 7.1 Each partner local authority needs to take the draft SPD to their relevant Committee for approval to consult. As such, some changes may be needed to the document before it is published for consultation and the exact consultation dates are yet to be agreed.
- 7.2 The RAMS partnership included public consultation when commissioning the project so this will be undertaken by Place Services. Notifications and deposit points will need to comply with Braintree Council's adopted SCI and this will be organised by officers. Upon conclusion, responses will be collated by Place Services and recommendations will be made by the RAMS steering group for the 11 participating councils, plus Natural England, to approve so that the SPD can be adopted.
- 7.3 The steering group estimates that the earliest date that a 6 week public consultation can be held is January 15<sup>th</sup>. Following any changes arising from the consultation, Braintree Council is able to formally adopt the SPD unilaterally although eventually all partner LPAs will need to do so.

## **Recommendation**

- 1. That the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (Essex RAMS) Document (Technical Report and Mitigation Report) attached at Appendix 2 is adopted as evidence.**
- 2. That the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (RAMS) draft Supplementary Planning Document attached at Appendix 3 is approved for consultation.**
- 3. That the Head of Planning and Economic Development, in agreement with the Portfolio Holder for Planning, is authorised to make minor amendments to the above RAMS draft SPD as deemed necessary before publication for public consultation.**

<b>Braintree District Council Housing Delivery Test Action Plan 2019</b>		<b>Agenda No: 7</b>
<b>Portfolio</b>	<b>Planning</b>	
<b>Corporate Outcome:</b>	<b>A well connected and growing district with high quality homes and infrastructure</b>	
<b>Report presented by:</b>	<b>Emma Goodings – Head of Planning and Economic Development</b>	
<b>Report prepared by:</b>	<b>Emma Goodings – Head of Planning and Economic Development</b>	
<b>Background Papers:</b> Housing Delivery Test 2018 measurement <a href="https://www.gov.uk/government/publications/housing-delivery-test-2018-measurement">https://www.gov.uk/government/publications/housing-delivery-test-2018-measurement</a> National Planning Policy Guidance		<b>Public Report: Yes</b>
		<b>Key Decision: No</b>
<b>Executive Summary:</b>		
<p>The Housing Delivery Test (HDT) is a new annual measure of a local planning authority's performance in the completion of new homes, against a specified target. Results are published by the government each year usually in November, although the 2018 results were not published until February 2019.</p> <p>If a local authority's performance falls below specified percentages of housing delivery measured against targets then the Council must undertake further actions which can include the need to apply a greater buffer, the need to apply the presumption in favour of sustainable development or the production of an Action Plan.</p> <p>In the case of Braintree, housing delivery was 93% against target in the three years ending 2018. As it fell below 95% of target, an Action Plan was required to be produced to specify how the authority would ensure housing delivery reached the target in the future. An Action Plan for Braintree District has therefore been produced and its contents are set out in this report.</p>		
<b>Recommended Decision:</b>		
<b>Approval of the Braintree District 2019 Housing Delivery Test Action Plan</b>		

**Purpose of Decision:**

To provide an Action Plan for housing delivery in line with government requirements.

**Corporate Implications**

<b>Financial:</b>	None arising from this report
<b>Legal:</b>	To comply with Government legislation and guidance
<b>Safeguarding:</b>	No matters arising out of this report
<b>Equalities/Diversity:</b>	The Council's policies should take account of equalities and diversity.
<b>Customer Impact:</b>	None arising directly from this report
<b>Environment and Climate Change:</b>	None arising directly from this report
<b>Consultation/Community Engagement:</b>	Informal consultation has taken place with the development industry
<b>Risks:</b>	That housing delivery fails to meet the requirements set out in future Housing Delivery Tests which will result in other penalties being applied to the authority.
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## **1.0 Background**

- 1.1 The Housing Delivery Test (HDT) is a new mechanism which was introduced in 2018 as a tool to monitor local planning authority's supply of new homes.
- 1.2 The results of the HDT are published each year by the government and are based on the results of housing delivery in the preceding three years. Results are meant to be published in November each year, however the results of the 2018 HDT were not published until February 2019.
- 1.3 The housing target against which a local authority is monitored is that which is set out in a Local Plan (if that Local Plan is less than five years old), or nationally produced household projections (Up to 2017/18) or the governments new standard housing methodology.
- 1.4 Depending on the results of the HDT, a local authority may be required to undertake additional work in the form of an Action Plan, may need to apply a greater buffer in the housing land supply or in the worst case must apply the presumption in favour of sustainable development.

## **2.0 Braintree District 2018 HDT Results**

- 2.1 The results of the HDT for 2018 for Braintree District show that the local authority had a target to deliver 1,416 homes in the three years between 2015/16 and 2017/18. These were targets were taken from the Core Strategy in the first year, in the second year they were taken partly from the Core Strategy (the 5 year date from adoption expired during this year) and partly from household projections and in the final year from household projections. The authority supplied 1,311 homes in that time period, 93% of the total required.
- 2.2 If the supply of homes is more than 85% of the total but less than 95% of the total required, as in the case of Braintree District, then the Council must produce an Action Plan setting out how it will increase housing supply to meet the HDT in the future.
- 2.3 It is worth noting that the authority was just 35 homes away from reaching the 95% target over a three year period.

## **3 Action Plan**

- 3.1 The 2019 Action Plan is attached to this report and is before this committee for approval today. The Action Plan contains details on the level and types of housing delivery in the Braintree District and considers the factors which may or may not be affecting housing delivery in the District. It also compares our % housing delivery against other authorities in Greater Essex.
- 3.2 The final part of the Action Plan is a table of actions that the local authority will be putting into place this year to increase the amount of homes being built in the District. The table includes the title and broad details of the project, as well as the team who will be leading this work and the timescale within which work will be completed.

- 3.3 The actions include a range of measures being undertaken by the Economic Development, Strategic Investment, Planning Policy and Development Management teams. These include making the best use of Council owned sites, working with partners to increase construction skills and increasing efficiencies in the development management process, all of which are designed to tackle factors which may slow down the delivery of new homes in the District, in order to try and meet the HDT in the future.

#### **4 Next Steps**

- 4.1 The authority will implement the actions set out in the Action Plan. The results of the 2019 HDT are set to be released in November 2019.

#### **Recommendation**

#### **Approval of the Braintree District 2019 Housing Delivery Test Action Plan**



<b>Information on the Local Development Order – Horizon 120</b>		<b>Agenda No: 8</b>
<b>Portfolio:</b> Planning and Housing <b>Corporate Outcome:</b> Securing appropriate infrastructure and housing growth <b>Report Presented by:</b> Alan Massow <b>Report Prepared by:</b> Alan Massow – Principal Planning Policy Officer		
<b>Background Papers:</b> National Planning Policy Framework National Planning Policy Guidance Core Strategy (2011) Local Development Order (Link below) Statement of Reason (Link below) Design Code (Link below) <a href="https://braintree.objective.co.uk/portal/stratinv/horizon_120_ldo">https://braintree.objective.co.uk/portal/stratinv/horizon_120_ldo</a>		<b>Public Report:</b> Yes <b>Key Decision:</b> No
<b>Executive Summary:</b>  <p>A Local Development Order (LDO) is an enabling development tool which permits certain types of developments in specific areas, subject to meeting certain criteria or conditions. There are no current LDOs in place in Braintree District.</p> <p>Horizon 120 (known in the Local Plan as Land to the west of A131 at Great Notley) was allocated within the adopted 2011 Core Strategy as a strategic employment allocation for the District, with 18.5ha of employment land and 7ha of structural landscaping.</p> <p>Since acquiring the site last year, the Council has been considering the way forward for the site and has now produced a draft LDO for the site which is intended to speed up the planning process and provide certainty for businesses who may be looking to locate on to the site.</p> <p>The draft LDO, Design Code and Statement of Reasons is currently out for a 6 week public consultation period. This report is to provide members of the Local Plan Sub-committee with some information on this specific LDO and the LDO process in general. Following public consultation and any necessary revisions the LDO will need to be approved at full Council.</p>		
<b>Recommendation</b>  <b>To note the Local Development Order for Horizon 120 and current consultation.</b>		

<b>Purpose of Decision:</b>	
To inform Members of the Local Plan Sub-Committee of the Local Development Order which is currently subject to a public consultation period.	
<b>Corporate Implications</b>	
<b>Financial:</b>	None directly arising from this report.
<b>Legal:</b>	The documents must be produced in line with the relevant legislation.
<b>Equalities/Diversity</b>	An EIQ will accompany the final version of the LDO when considered by Planning Committee and Council.
<b>Safeguarding</b>	None arising from this report
<b>Customer Impact:</b>	If approved the Order would allow planning to be granted for certain uses on the Horizon 120 site which would have an impact on customers.
<b>Environment and Climate Change:</b>	The implications for development on this site are considered within the document and its supporting evidence
<b>Consultation/Community Engagement:</b>	The document is currently subject to a 6 week public consultation period. The final Local Development Order is subject to a full Council decision.
<b>Risks:</b>	
<b>Officer Contact:</b>	Alan Massow
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## 1. Background

- 1.1 Local Planning Authorities have been able to produce a Local Development Order (LDO) since the introduction of the 1990 Town and Country Planning Act.
- 1.2 An LDO is a mechanism under which permitted development rights are granted for certain types of development within defined locations, subject to that development meeting certain conditions and criteria. There are no LDOs currently in place within Braintree District.
- 1.3 The aim of a LDO is to simplify the planning process and provide certainty for potential investors, developers and businesses. This aims to reduce the costs and potential delays sometimes associated with the planning application process.
- 1.4 LDOs are an enabling and permissive planning tool. They create a permitted development framework for particular activities within certain locations. The

classes of permitted development within a LDO are precise and apply to particular land uses and forms of development.

- 1.5 LDOs provide a further layer of permitted development rights in addition to those which are established nationally by the government through the General Permitted Development Order 1995 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 1.6 When an LDO is in place, planning permission can also be obtained by following the normal planning application process.

## **2 Horizon 120**

- 2.1 The Braintree District Council Core Strategy (2011) identified a site for employment uses adjacent to Great Notley known as Land to the west of the A131 at Great Notley. The allocation is supported by Core Strategy Policy CS4 – Provision of Employment, which sets out the type and scale of development. Map inset 1b of the Core Strategy shows the extent of the site.
- 2.2 Policy CS4 allocated the site for 18.5 ha of employment provision for B1, B2, B8 uses, C1 hotel use, and 7ha for a landscaping/wildlife corridor. The policy also limited the amount of B8 to 40% of the total floor area of the size with a maximum unit size of 7500 sq m.
- 2.3 In line with the requirements of the Core Strategy, a Master Plan was developed for the site and was adopted subject to modifications including the provision of an allotment site in 2012. However this has not been implemented.
- 2.4 Braintree District Council has acquired the site and a Local Development Order has now been drafted for the site under the name Horizon 120 including a supporting design code and statement of reason.
- 2.5 A public consultation on the proposed Horizon 120 Local Development Order, Design Code and Statement of Reason has already begun and is open for comments until the 24<sup>th</sup> October 2019.

## **3 Contents of the LDO**

- 3.1 The LDO sets out the different types and quanta of development which will be permitted on site. For the purposes of the LDO the site is split up into 4 zones, each zone has its list of appropriate development. Each zone has a set of standard development to allow for the investigation, demolition and engineering operations related to permitted development. It also provides conditions which development would need to comply with, including design code compliance, surface water drainage, and ecology among others. Full conditions are set out in section 7.0 of the LDO.

## Zone A

- a) A1 Shop;
- b) A3 Restaurant and Café;
- c) C1 Hotel;
- d) B1(a) Office;
- e) B1(b) Research and Development;
- f) D1(a) Medical or Health Services;
- g) D1(b) Crèche or Day Nursery; and
- h) D2(e) Gymnasium.

- 3.2 It should be noted that the size limits apply to different uses. For the A1 uses the total limit is 300 sq m gross floorspace, and would not be able to be a standalone A1, A3, D1(a), D1(b) or D2 (e) unit. The size limit is generally below any impact assessment threshold set out either on Local or National policy for either the town centre or district centre at Great Notley.

## Zone B

- a) B1(a) Office;
- b) B1(b) Research and Development;
- c) B1(c) Industrial Process; and
- d) A mixed use comprising either B1(a), B1(b) or B1(c), and B8 Storage and Distribution, where at least 50% of the floorspace is either B1(a), B1(b) or B1(c). Any showroom or ancillary uses are excluded from this 50% calculation.

## Zone C

- a) B1(a) Office;
- b) B1(b) Research and Development;
- c) B1(c) Industrial Process;
- d) B2 General Industrial;
- e) B8 Storage or Distribution; and
- f) A mixed use comprising any of the preceding uses at a-e under Class 3 of Schedule A.

## Zone D

- a) Landscaping; and
- b) Ponds.

- 3.3 Whilst it is not necessary for a time period to be set, this LDO is proposed for adoption for a period of 10 years.

## 4 Design Code

- 4.1 The LDO is accompanied by a design code. The purpose of the code is to achieve a high quality design which accords with national and local policy and

guidance. The guide will speed up the delivery of the development by providing clear guidance for those looking to develop on the site from the outset. The code aims to deliver an attractive, biodiverse and active public realm and highway. It also seeks to reduce the impact on surrounding landscape and views, and to integrate green infrastructure with things like cycle parking and cycle provision.

- 4.2 Section 6.9 of the design code includes a section on lighting. Outlining the key principles including dark sky principles, within the Horizon Walk (Plan 4 LDO Page 23) and Horizon Park (Zone D), section 6.9.1 also seeks “Dark Sky” principles across the business park to protect wildlife. It also seeks to minimise lighting and to that which is required for safe access to and use of the site for normal operations.

## **5 Statement of Reason**

- 5.1 Where a local planning authority proposes to make a LDO they must prepare a statement of the reasons to make the order. This has to contain a description of the development which the order would permit, and a plan or statement to which the order would relate.

## **6 Next Steps**

- 6.1 Following on from the public consultation, responses received will need to be considered and any necessary changes to the LDO, Design Code and Statement of Reasons will need to be made. A detailed report will then need to be prepared considering the appropriateness of the LDO in relation to the national and local policy context, before recommending whether the LDO and associated documents should be approved.
- 6.2 The LDO has to be adopted by resolution of the local planning authority. (1990 Act Schedule 4A(3)). Once adopted copies of the Local Development Order, Statement of Reasons and any Environmental Statement (if for example the LDO is screen in as EIA development) to the Secretary of State no later than 28 days after adoption. A copy of the LDO and Statement of Reasons must also be placed on the register of applications within 14 days of the date of adoption. If approved the LDO will be adopted for 10 years.
- 6.3 It should be noted that a local planning authority may revoke a LDO at any time. A statement must be published on the Council website, notice by local advertisement, and notification to every person who the LPA consultation before making the order.

## **Recommendation**

**To note the Local Development Order for Horizon 120 and current consultation**