

Minutes

Local Plan Sub-Committee

15th November 2018

Present:

Councillors	Present	Councillors	Present
D Bebb	Yes	Mrs J Money	Apologies
Mrs L Bowers-Flint (Chairman)	Yes	Lady Newton	Apologies
G Butland	Yes	Mrs G Spray	Yes
T Cunningham	Yes	Miss M Thorogood	Yes
D Hume	Apologies		

Councillor Bowers, Councillor Hensman and Councillor Schwier were also in attendance.

14 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:

Councillor Mrs L Bowers-Flint declared a non-pecuniary interest in Items on the Agenda relating to Garden Communities, as a non-remunerated, non-voting Member and Deputy to Councillor G Butland, of North Essex Garden Communities Ltd.

Councillor G Butland declared a non-pecuniary interest in Items on the Agenda relating to Garden Communities, as a non-remunerated Member of North Essex Garden Communities Ltd.

In accordance with the Code of Conduct, Councillors remained in the meeting and took part in the discussion when the Items were considered.

15 **MINUTES**

DECISION: That the Minutes of the meeting of the Local Plan Sub-Committee held on 1st August 2018 be approved as a correct record and signed by the Chairman.

16 **QUESTION TIME**

INFORMATION: There were two statements made regarding Garden Communities and Braintree District Publication Draft Local Plan 2017.

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

UTTLESFORD DISTRICT COUNCIL LOCAL PLAN REGULATION 19 CONSULTATION - ADDENDUM OF FOCUSED CHANGES

INFORMATION: Members of the Local Plan Sub-Committee were reminded that Uttlesford District Council had published its Regulation 19 pre-submission Local Plan for the period up to 2033 for consultation in Summer 2018 and that Braintree District Council had submitted a response.

Before submitting the Draft Plan to the Planning Inspectorate for examination, Uttlesford District Council had put forward some focused changes to the Plan and these were subject to consultation. The changes related to the revised timetable for the examination of the Braintree District Publication Draft Local Plan and the consequential impact on the proposed Garden Community at West of Braintree; the need to differentiate between strategic and non-strategic policies in the Plan; and to policies pertaining to sites protected under the Habitats Regulation Assessment. The addendum contained ten focused changes which were set out in the Agenda report, together with Braintree District Council's proposed response. The consultation period would conclude on 27th November 2018.

Several of the changes related to the elevated risk to the delivery of the proposed West of Braintree Garden Community. This was a cross-boundary development which relied on the allocation of land within the Braintree District being approved as part of Section 1 of the Braintree District Publication Draft Local Plan. The delay to the examination of the Braintree Draft Local Plan meant that the Planning Inspector examining the Uttlesford Draft Local Plan was unlikely to know the confirmed approach being taken to this site by the Inspector examining the Braintree Draft Plan. In the circumstances, Uttlesford District Council had put forward changes setting out what would happen if the West of Braintree Garden Community or any of the other proposed Garden Communities were not to proceed.

Uttlesford District Council proposed to submit the Draft Local Plan to the Planning Inspectorate in January 2019 with a view to a public examination being held in 2019. It was anticipated that the Plan would be adopted in Autumn 2019.

DECISION: That Braintree District Council's response to Uttlesford District Council's consultation on its addendum of focused changes to the Uttlesford Draft Local Plan be approved as set out in the Agenda report and repeated below:-

Focused Change 2 (Policy SP3 – The Scale and Distribution of Housing Development)

Response: - Focused change 2 in SP3 is strongly supported by Braintree District Council. The Authority appreciates that there is an elevated risk level around the delivery of the Garden Community at West of Braintree and particularly around the timing of the decision making on the North Essex Authorities strategic Section 1 Plan, which also creates a level of uncertainty for the Uttlesford District Council examination. Braintree District Council can confirm that it has recently written to the Planning Inspector confirming that it wishes to proceed with the Section 1 examination and it is currently gathering a further evidence base and seeking

comments on a method scoping statement for a revised Sustainability Appraisal. It is anticipated that this work will be completed early in 2019. Whilst the Council cannot pre-judge the outcome of the further evidence base and Sustainability Appraisal, the evidence gathered so far continues to show a Garden Community at West of Braintree as a viable and deliverable option for long-term growth.

Focused Change 4 (Policy SP5 - Garden Community Principles)

Response: - There are three changes to this final paragraph within the policy on Garden Community principles. All three changes are noted and supported by Braintree District Council. There are no further comments in relation to the first change. Braintree District Council notes the purpose of the second change in recognition of the elevated risks with the West of Braintree Garden Community and particularly supports the recognition within that change that the development here will be part of a wider Garden Community. Braintree District Council also strongly supports the third change which will help to ensure that Garden Community principles are delivered on any site which is privately developed as well as those which may be developed through a locally led development corporation model.

Focused Change 5 (Policy SP5 - Garden Community Principles)

Response: - This change is noted. It provides the Plan with the necessary flexibility to deal with any delays or alterations to the Garden Communities including West of Braintree. The change does not mean that Uttlesford District Council is not committed to the Garden Communities, but provides a fallback position to adopt if necessary. As such Braintree District Council supports the change. A minor point of language, the word 'restricts' should be changed to 'restrict'.

Focused Change 6 (Policy SP8 – West of Braintree Garden Community)

Response: - This change is strongly supported as it will help to ensure that the Garden Communities will be delivered in a comprehensive and holistic way, which can ensure that the necessary infrastructure and community facilities are delivered at the same time as the housing development. As set out in the policy, a Development Plan Document will be produced for the Garden Community, which will provide a detailed basis for any future planning applications.

Focused Change 7 (Policy EN8 – Protecting and Enhancing the Natural Environment)

Response: - The change is supported as it ensures that the Plan protects environmentally sensitive sites and meets soundness requirements.

Focused Change 8 (Policy EN15 – Air Quality)

Response: - The change is supported as it ensures that the Plan protects environmentally sensitive sites and meets soundness requirements.

Focused Change 9 (Policy M2 – Implementation and Monitoring of Strategic Projects)

Response: - This change is noted and it provides the Plan with the necessary flexibility to deal with any delays or alterations to the Garden Communities including West of Braintree. The change does not mean that Uttlesford District Council is not committed to the Garden Communities, but provides a fallback position to adopt if necessary. As such Braintree District Council supports the change. However, the wording of the change needs some clarity and therefore we suggest the following text: *“If it becomes apparent that one or more of the Garden Communities is significantly delayed, or is not deliverable, and should that restrict the Council’s ability to meet the homes and jobs required, then the Council will undertake an early review of the Local Plan to consider how these requirements can be met”*.

Focused changes 1, 3 and 10 are noted and supported by Braintree District Council.

18 **NATIONAL PLANNING POLICY AND GUIDANCE - CONSULTATION ON UPDATES**

INFORMATION: Consideration was given to a report on the Council’s proposed response to consultation regarding changes to National Planning Policy and Guidance. It was reported that the Ministry of Housing, Communities and Local Government had sought views on changes to the standard method for assessing local housing need, including housing land supply; on deliverability; and on development requiring a Habitats Regulation Assessment to be undertaken. The consultation document included a number of questions regarding the changes. These questions and the Council’s proposed responses were set out in the report. The consultation period would conclude on 7th December 2018.

The Government had previously consulted on proposed changes to the National Planning Policy Framework (NPPF) and a revised NPPF had been issued in July 2018. This revision had also included some alterations to National Planning Practice Guidance. The new NPPF had introduced a standard methodology for the calculation of housing need, which Authorities were required to use. However, the standard methodology, when combined with the Office of National Statistics 2016 statistics meant that housing need calculations for some Local Authorities had resulted in significant reductions in housing need requirements. This had undermined the Government’s commitment to boosting housing supply across the country and a number of Local Authorities had postponed the production of their Local Plans in order to consider the difference in housing supply figures.

DECISION: That the following comments be submitted to the Ministry of Housing, Communities and Local Government in response to their consultation:-

Question 1: – Do you agree that planning practice guidance should be amended to specify that 2014 based projections will provide the demographic baseline for the standard method for a time limited period?

Response: - No. Paragraph 31 of National Planning Policy Framework 2 requires that all policies should be underpinned by relevant and up-to-date evidence. In order to be found “sound” Plans have to be justified in that they are an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence.

Simply ignoring the most up-to-date evidence is not productive.

Past under delivery would be accounted for in the standard methodology’s affordability ratio, as undersupply of new homes would have an inflationary impact on house prices, meaning that areas where the demand is not being met would have a higher housing requirement. This is also why backlog does not have to be applied when using the standard methodology as opposed to other ways of calculating a requirement.

Question 2 – Do you agree with the proposed approach to not allowing 2016 based household projections to be used as a reason to justify lower housing need?

Response: - No. This would require further work and justification, as plans and decisions must be based on up-to-date, robust and credible evidence.

Simply reverting to use of the 2014 projections fails to acknowledge a number of important factors in the changes seen from the 2016 based projections, including migration assumptions and mortality assumptions. To avoid discrediting the revisions, given the importance of this work, the consideration of the projections should be subjected to objective review and analysis, free from vested interests, such as by involving the UK Statistics Authority, the Royal Statistical Society and BSPSS.

Question 3 – Do you agree with the proposed approach to applying the cap to spatial development strategies?

Response: - No. This would not take into account local circumstances, which occur at the Local Authority level.

Question 4 – Do you agree with the proposed clarification to footnote 37 and the glossary definition of local housing need?

Response: - The proposed changes to footnote 37 do not provide any certainty as it is not known what the standard method is currently, or what it would be in future.

The change in glossary definition is supported.

Question 5 - Do you agree with the proposed clarification to the glossary definition of deliverable?

Response: - Braintree District Council continues to have concerns at the arbitrary removal of allocated sites in a development plan from the definition of deliverable.

Such sites have undergone rigorous assessment, including independent examination, to determine their suitability for development. These sites are locally determined to be suitable for development and give people certainty as to which areas are going to be developed. By not considering these sites as developable you undermine the development plan for the area. Braintree District Council has allocated sites in its development plan which are coming forward significantly earlier than expected, such as Forest Road in Witham which is currently building out but was not expected to start until 2021.

Outline planning permissions, particularly for large sites, give a clear indication that a site will be coming forward for development. Securing an outline application for a large development site is not a quick process and the time and expenditure involved would clearly indicate an intention to develop before that permission expired.

Minor development sites are perceived as being more likely to lapse than a major application and should not be considered to be a more reliable source of supply.

It is critically important that there should be a realistic assessment of deliverable supply. Whilst this should not be unduly optimistic, neither should it be unduly pessimistic.

The high threshold for considering sites such as those with outline permission has been described in a recent appeal decision as a considerable increase in the evidential burden upon the Local Planning Authority. This is even now being applied retrospectively to evidence already examined at appeal inquiries some time ago, to exclude sites with outline permission. Moreover, it is being applied to justify the granting of outline permission to land promoters who have excluded similar sites from their supply assessment, such as sites on which the same land promoter had gained outline permission on the basis of them being needed to contribute to the 5 year supply. This is understandably seen by the public, and by Councillors, as illogical and less than transparent.

Question 6 – Do you agree with the proposed amendment to paragraph 177 of the National Planning Policy Framework?

Response: - Whilst the proposed change would enable housing proposals to progress, those Neighbourhood Plans which are seeking to address their own local housing need would still be unable to progress until The Neighbourhood Planning (General) Regulations 2012 were updated. This is particularly important when considering the Government's commitment in the budget to make it easier for neighbourhoods to allocate, or give permission to land for housing.

19 BRADWELL WITH PATTISWICK PARISH NEIGHBOURHOOD PLAN 2017-2033 - REGULATION 16 CONSULTATION RESPONSE

INFORMATION: Consideration was given to a report on the Bradwell with Pattiswick Parish Neighbourhood Plan 2017-2033. The Plan had been submitted to Braintree District Council as part of the consultation process in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012. The

consultation period would conclude on 17th December 2018. The Council's proposed response to the Plan was set out in section 3 of the report.

Neighbourhood Plans had to be in general conformity with the strategic policies of the Local Development Plan and should support strategic development needs and local development proposals set out in a Local Plan. The Bradwell with Pattiswick Neighbourhood Plan was set out in five sections. These included an introduction and the consultation process; a portrait of the Parish; the future vision and objectives for the Parish; proposed policies relating to the environment, community facilities and public open space, heritage, drainage and flood management, housing, local economy, transport, design, and developer contributions; and the process for implementing the proposals contained in the Plan. The Plan did not allocate any sites for residential, or employment development. If approved, the Plan would become part of the Braintree District Local Plan and planning applications would be determined in accordance with the Local Plan.

Once the Regulation 16 consultation process had concluded, Braintree District Council would send the responses submitted to the appointed examiner. It was anticipated that the examination of the Plan would take place in January/February 2019. The examiner would consider the responses and he/she would issue a report as to whether or not the Plan should proceed to a Referendum. Braintree District Council would determine whether a Referendum should be undertaken and subject to a positive Referendum outcome the District Council would be requested to adopt the Neighbourhood Plan as part of the Local Development Plan for the District.

In considering this Item, Members of the Local Plan Sub-Committee commended Bradwell with Pattiswick Parish Council's Neighbourhood Plan Group for their excellent work on the Neighbourhood Plan.

DECISION: That Braintree District Council's proposed response to the Bradwell with Pattiswick Parish Neighbourhood Plan Regulation 16 consultation, as set out at section 3 of the report and repeated below, be approved and submitted to Bradwell with Pattiswick Parish Council:-

The submitted material meets the submission requirements as set out in the Neighbourhood Planning (General) Regulations 2012 (as amended) as it contains the following documents:

- A map or statement which identifies the area to which the proposed Neighbourhood Plan relates.
- A consultation statement.
- The proposed Neighbourhood Plan.
- A basic conditions statement.
- A Strategic Environmental Assessment (SEA) Screening Opinion.

Policy 10 – Design

Criteria a) x. – This deals with boundary treatment fronting highways. Currently boundaries which front and are within 2 metres of a highway are restricted in height to 1 metre. The Policy as currently worded would mean that boundary treatments would have to be soft landscaped and no higher than 3 feet. It may be more

appropriate for Essex County Council to comment on the appropriateness of this restriction.

Criteria a) xi. - This states that rear garden space should be of sufficient size to allow for home food production. This is vague as there is no specific size as to what would be appropriate to enable home food production, which would vary depending on what type of food (vegetables, fruit, meat, or a combination) was being produced as they would all require different sizes of space.

Policy 11 – Developer Contributions

Developer Contributions - It is suggested that footnote 33 may be better included within the context section of Policy 11, with the text from the second paragraph included as a footnote.

Table 2 – Potential developer contributions included within the Bradwell with Pattiswick Neighbourhood Plan (cross referenced to Policy 3 – Protecting and Enhancing Community Facilities and Public Open Space, and Policy 9 - Transport). Policy 3 - The requirements for additional enhancements need to be more specific. It is suggested that they are included within the Open Spaces Action Plan produced by Braintree District Council as a way of helping to secure Section 106 contributions.

Policy 9 – The Policy sets out who would be involved in improving transport infrastructure such as Essex County Council and local bus operators. It may be worth adding references to how an actual contribution would be calculated.

20 **BRAINTREE DISTRICT PUBLICATION DRAFT LOCAL PLAN - UPDATE**

INFORMATION: Consideration was given to a progress report on the Braintree District Publication Draft Local Plan.

The Publication Draft Local Plan had been submitted to the Government for examination in October 2017. Section 1 of the Plan set out strategic policies which were shared with Colchester Borough Council and Tendring District Council, including proposals for three Garden Communities at West of Braintree, Colchester/Braintree borders and Tendring/Colchester borders. Section 2 of the Plan contained policies and proposals which related specifically to the Braintree District.

The Planning Inspectorate had subsequently appointed Mr Roger Clews to examine Section 1 of the Plan and joint oral examinations had taken place in January and May 2018. The Inspector had concluded that the Plan as submitted was currently not sound and he had written to the joint Authorities setting out areas of the Sustainability Appraisal which required revision and asking the Authorities to consider the next stages of the Plan process. The three Authorities had considered the Inspector's letter and a joint response and method scoping statement had been sent to the Inspector on 19th October 2018. The response indicated that the Authorities wished to continue with Section 1 of the Plan and proposed to submit to the Inspector a range of additional evidence together with a revised Sustainability Appraisal to support an appropriate option for growth within North Essex. The work would consider reasonable alternatives for growth including the proposed Garden Communities at different scales and in different combinations, plus other strategic sites which had previously been considered but discounted, such as a proposed

Garden Community at Monks Wood Pattiswick and other developments around Braintree, Halstead, Silver End, Coggeshall and Kelvedon. A response had not yet been received from the Inspector.

It was proposed that a revised evidence base and Sustainability Appraisal would be considered by each of the joint Authorities in January and February 2019, together with any proposed changes to the Draft Local Plan. Public consultation would take place in March 2019, following which the Draft Local Plan would be re-submitted to the Inspector. Further examination sessions could potentially be held in June 2019. A revised Local Development Scheme would be produced, which would update the timetable for the production of the Draft Local Plan and other planning policy documents.

DECISION: That the content of the report be noted.

The meeting commenced at 6.00pm and closed at 6.40pm.

Councillor Mrs L Bowers-Flint
(Chairman)