

Local Plan Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Monday, 15 August 2022 at 18:00**

The Local Plan Committee deals with the Council's responsibilities relating to the Local Plan

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

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Access

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COLCHESTER BOROUGH COUNCIL
Local Plan Committee
Monday, 15 August 2022 at 18:00

The Local Plan Committee Members are:

Councillor Martin Goss	Chairman
Councillor Kayleigh Rippingale	Deputy Chairman
Councillor Tracy Arnold	
Councillor Lewis Barber	
Councillor Richard Kirkby-Taylor	
Councillor Jocelyn Law	
Councillor Sam McLean	
Councillor Patricia Moore	
Councillor Gerard Oxford	
Councillor Paul Smith	
Councillor William Sunnucks	

The Local Plan Committee Substitute Members are:

Other than the Local Plan Committee members, all members of the Council who are not members of the Planning Committee.

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

Live Broadcast

Please follow this link to listen to the audio stream of the meeting:

[. Colchester Borough Council \(cmis.uk.com\)](https://cmis.uk.com)

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 Substitutions

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

3 Urgent Items

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

4 Declarations of Interest

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

5 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 25 May 2022 and 13 June 2022 are a correct record.

2022-05-25 Colchester Borough Council Local Plan Committee Minutes 7 - 8

2022-06-13 CBC Local Plan Committee Minutes 9 - 18

6 Have Your Say!

Members of the public may make representations to the meeting. This must be in person at the meeting by addressing the Committee. Each representation may be no longer than three minutes. Members of the public wishing to address the Committee may register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date.

There is no requirement to pre register for those attending the meeting in person.

7 Infrastructure Audit 19 - 22

The Committee will consider a report that proposes that the Committee agrees the methodology for the undertaking of the infrastructure audit.

8 Supplementary Planning Guidance Update 23 - 30

The Committee will consider a report that provides an update on the current position on the supplementary Planning Documents and Other Guidance Documents following the adoption of the Local Plan. This report is for information only.

9 Guidance Note on Permitted Development 31 - 48

The Committee will consider a guidance note on permitted development and prior approval processes . The reports intention is to clarify the position for Members and the general public and if

agreed the note would be sent to all Councillors and added to the Council Website.

10 Neighbourhood Planning Update 49 - 52

The Committee will consider a report providing an update on the current position on Neighbourhood Plans which are part of the Statutory Development Plan and latest position on new Neighbourhood Plans and review work on made (Adopted) Plans. The report is for information only.

11 Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

Local Plan Committee Background Information Version 2 July 2022 53 - 58

**Part B
(not open to the public including the press)**

LOCAL PLAN COMMITTEE

25 May 2022

<i>Present:-</i>	Councillors Arnold, Barber, Cory, Kirkby-Taylor, Law, McLean, Moore, Ripplingale, Oxford, Smith, and Sunnucks
<i>Substitute Member:-</i>	Councillor Mark Cory for Councillor Martin Goss.

235. Appointment of Chairman

RESOLVED that Councillor Goss be appointed Chairman for the forthcoming Municipal Year

236. Appointment of Deputy Chairman

RESOLVED that Councillor Ripplingale be appointed Deputy Chairman for the forthcoming Municipal Year.

LOCAL PLAN COMMITTEE

13 JUNE 2022

<i>Present: -</i>	Councillors Goss (Chair) , Arnold, Barber, Kirkby-Taylor, Law, Laws, McLean, Ripplingale, Smith, Sunnucks
<i>Substitute Member:-</i>	Cllr Laws substituted for Cllr Moore.
<i>Also in Attendance:-</i>	Cllr Fox Cllr Goacher Cllr King Cllr Scordis Cllr Barton Cllr Harris Cllr Scott-Boutell Cllr J. Young

237. Minutes

The Minutes of the meeting held on the 13 December 2021 were confirmed as a correct record.

238. Have Your Say!

It was noted prior to the commencement of the Have Your Say! Speaking arrangements that that the Chair had doubled the amount of time allowed in the Council's procedure rules and would allow 10 speakers (30 Minutes) on the Local Plan – Section 2 Adoption item and unlimited time for Councillors.

Richard Martin addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(1). The Committee heard that the speaker had used the ranges for the past 30 years where there were a lot of dog walkers and open space that could be used for recreational purposes but if the plan was approved this would be lost. The Speaker outlined that the situation was reminiscent of Neville Chamberlain proclaiming peace in our time and outlined how other sites contained within the plan had been reduced in size. The speaker elaborated that there had been a U-turn on planting trees on Highwoods and outlined that other speakers in attendance would explain why the inclusion of Middlewick was wrong and concluded by asking whether all Members of the Committee had read the 650 page agenda.

Richard Kilshaw addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(1). The Committee heard how it was vital to understand the ecological evidence base and that this was being undermined by the Council who were underestimating this. The speaker elaborated that surveys had been conducted outside of required times and that the surveys on vertebrates and wildlife were not acceptable. Further to this the speaker outlined that the Council had failed to properly consider sites for compensation of the dry acid grassland making the desired outcome unlikely in the required timeframe. . The Speaker concluded that the strength of feeling regarding the Middlewick site would not be ignored

and that failures in procedures would be used to challenge the process and urged the Council not to agree to the officer recommendation.

Andrew Wilkinson addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(1). The Committee heard that it was a fact that section 1 of the Local Plan had been adopted and that the Council had a 5-year land supply, and that the Planning Inspector had found that Section 2 had met its legal requirements and urged Councillors to look at the figures contained within the plan and how Colchester could meet these. Members heard that a new Local Plan could be completed within 12 months as most of the plan had been completed and that the Council could look at other sites that would protect against speculative development and on the Middlewick Site. It was noted the possible windfall sites that could come forward and there was the possibility of 1250 more dwellings than needed and that this would increase housing targets within the borough. The speaker concluded that the strategy and approach needed to be redefined in terms of its priorities on growth.

Grace Darke addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5 (1). The Committee heard that the Council was in a predicament and outlined that the Middlewick Ranges should not have been included in the plan and detailed how some Councillors had commented that the plan had been forced upon them and urged the Committee investigate an alternative plan as it did not have to be adopted until 2023 which would also give the Government time to review. The speaker asked members to note the feeling at the local level and noted that the Council was between a rock and a hard place and would risk millions of pounds which would be a small price to pay if the currency was life and not money and that the destruction of the rare acid grassland would be ecological suicide. The Speaker outlined that the Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations had outlined that there would be changes to the Planning System and informed Members that new evidence had been received from Natural England, that the plan would be subject to a legal challenge and concluded by commenting that what was the use of a house if you don't have a tolerable planet to put it on.

Lisa Cross addressed the Committee pursuant to provisions of Meetings General Procedure Rule 5 (1). The Committee heard that there was a climate emergency and that the Council should make the morally and ethically right decision as trust had been placed on the Council to protect and safeguard local residents but the Councils record was shaky and that the Committee would be making a misinformed decision. The speaker elaborated that legal standpoints had been ignored and that it was morally repugnant that Councillors in other wards could throw other wards under the bus and that an officer had been put forward for an award when the current proposal was on the table. The Committee heard that the Ministry of Defence were also under scrutiny for their decision regarding the Middlewick Ranges and outlined that if the Council was a trustworthy ally the plan would be supported but the Council needed to come forward to build a resilient Colchester for the future.

Sir Bob Russell addressed the Committee pursuant to provisions of Meetings General Procedure Rule 5 (1). The Committee heard that the speaker wished to associate themselves with all comments that had been made by previous speakers and that all political parties were in the dock including the Government who were closing a firing range in a Garrison Town. The Speaker elaborated that 99% of wildflower meadows had been lost in Essex since 1945 and that the Committee had an opportunity to stop this proposal and referenced the creation of the Highwoods Country Park and whether this could be looked into for the Middlewick Ranges. The Committee heard how the speaker had spoken to an expert in the field of Local Planning who had found deficiencies in the plan concerning Middlewick. The speaker outlined that the proposed biodiversity increases would not be gained for a number

of years and that the policies did not constitute a masterplan but that one could be created ahead of adoption and that the modified plan had to allocate 15,970 dwellings with a further contingency for 1250 dwellings. The speaker concluded by urging Members to do what was done years ago on the Highwoods site and take back control.

Nick Chilvers addressed the Committee pursuant to provisions of Meetings General Procedure Rule 5 (1). The Committee heard that the environmental and transport impact upon the borough would be significant and outlined that he had never been in a room where Members had expressed sympathy for a country park at Middlewick as this was a smokescreen and that if there was a country park then this would need to work for new and existing residents. The speaker outlined that a masterplan should be in place before any application was made on the Middlewick Site and asked that the Council worked with residents in the area who were experts in their respective fields and that decisions should not be made behind closed doors. The Speaker elaborated that Essex County Council's Highways Department had been complacent, that the sustainable transport would be an issue as families would not want to access services via a bike or walking. The speaker concluded that the issues raised were the fault of the Council, that there was a trust problem at the Council and that the Committee should reject the plan.

John Akker addressed the Committee pursuant to provisions of Meetings General Procedure Rule 5 (1). The Committee heard that the speaker attended on behalf of West Mersea Parish Council and outlined support for adoption of Section 2 of the Local Plan although this was with a heavy heart as they had attended many meetings of the Committee and did not expect to be in the current position. The speaker elaborated that there was significant concern from rural areas that if the plan was not adopted then the rural areas of the borough could be open to speculative development, and that without the Local Plan West Mersea Neighbourhood Plan would be under threat as well. The Speaker concluded that the borough was under threat of development from Central Government and that they would take the decisions out of local communities hands, and that if there was a delay that the work put in for Neighbourhood Plans would have been for no benefit.

William Jolife addressed the Committee pursuant to provisions of Meetings General Procedure Rule 5 (1). The Committee heard that on the 26 May the speaker had received a letter from the Lead Officer for Housing, Planning and Economic Growth which outlined that the Planning Inspector had found that Section 2 of the Local Plan had been found to be legally compliant and ready for adoption. The speaker outlined that nobody wanted more development and that the letter stated the opposite, and that the Council should keep Middlewick ranges in its current form. The speaker elaborated that it would be a crime against the environment to allow dwellings on the Middlewick Ranges and they knew many people who used the area to clear their minds, that the infrastructure could not cope with increases in vehicle movements in the area especially during school drop off and pick-up times. The speaker concluded that the decision was not being taken locally as the Planning Inspectorate was based in Bristol and that Middlewick should stay as it currently is.

Alan Short addressed the Committee pursuant to provisions of Meetings General Procedure Rule 5 (1). The Committee heard that the Council had the ability to try and stop the development on Middlewick and that there needed to be a masterplan that protected the area from development and that as soon as one application on Middlewick was approved then further development would be allowed. The speaker outlined that the right thing to do was fight now and turn the area into a country park as the Council did not need the site as it was projected to have a surplus of 1200 dwellings. The speaker concluded that development on Middlewick should be stopped and urged the Committee to not adopt Section 2 of the Local Plan.

The Lead Officer for Housing, Planning and Economic Growth responded to the Have Your Say! Speakers outlining that other sites had been reduced in number of dwellings through an evidence based approach and that the allocations in West Mersea were based on evidence and confirmed that the proposal for Middlewick had seen a reduction in dwellings from 2000 to 1000. It was also explained that the ecological evidence had been professionally reviewed, and that the Council had not ruled out building on compensatory land. The Committee also heard that a masterplan would need to be created for Middlewick which could ensure that up to 60% of the site would remain as open space, that the Council did have a five year housing land supply at the current time but that this was a rolling target which would require topping up as sites were delivered, and that the Annual Position Statement would be published soon but it was expected there would not be a large surplus. The Officer elaborated that the Council would require an extra 920 dwellings with a buffer of 5% for the next 5 year period to meet the target set by the Government. The more recent projections and the standard methodology indicated that an even higher figure would be used. The Officer responded that there was scepticism on how a Local Plan could be completed in 12 months. Members of the Committee heard that the difficult decisions would not go away regardless of what sites were included in the plan and that Middlewick had been the subject of a lot of evidence-based work and confirmed that Middlewick could have been submitted by the Ministry of Defence much later in the plan making process than it was but was still valid. The Officer concluded by outlining that the Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations statement did not transform into regulations and that the proposed plan would look at how any site across the Borough was developed.

The Lead officer for Housing, Planning and Economic Growth continued responding to Have Your Say! Speakers outlining that policies for Middlewick would be contained in a Masterplan, and enquired if it was the same expert that Sir Bob Russell was talking about who had also expressed the view that it was wrong not to adopt a plan, and that the housing target as described was a rolling target that had to be delivered. The Committee heard that if the planning authority did not have a plan or adopt a plan then there could be Government intervention in the planning process. The Lead officer for Housing, Planning and Economic Growth concluded their response by clarifying that the best way to protect the open space and not have it fenced off was through the Local Plan's adoption, and that the Planning Inspector had looked at the transport elements of the Plan and had found them to be acceptable.

At the request of the Chair the Democratic Services Officer read out a statement from Will Quince MP as follows:

Thank you for allowing me to have a statement read out at your meeting this evening. I would like to address my comments to the future of Middlewick Ranges.

I believe it to be important to highlight that I have been consistently outspoken in my opposition to the proposed development and inclusion of the Wick in the Local Plan. I have supported residents and community groups and remain in full support of their ongoing opposition to build houses and have worked to persuade the Ministry of Defence (MoD) to abandon plans to sell the Wick. I understand the need for housing, particularly affordable and for social rent, but it is clear to me, that Colchester Borough Council did not need to allocate 1,000 homes on Middlewick Ranges in the Local Plan and have consistently strongly argued against this.

I refer the Committee to my previous submissions in opposition to the inclusion of Middlewick in the Local Plan and my submissions to the Planning Inspector, again setting

out my opposition. The grounds for removing Middlewick from the Local Plan are numerous and compelling.

Most recently, I met with Minister for Defence Procurement, Jeremy Quinn, in March to outline my continued opposition to the sale, however the frustrating reality is the MoD will not simply withdraw the site from its disposal list, especially as Colchester Borough Council included Middlewick in the Local Plan and allocated it for 1,000 homes. A decision which went against the wishes of local residents and was completely unnecessary, especially given the lateness of the application by the Defence Infrastructure Organisation.

In particular, I have raised concerns about the rare lowland acid grassland which would be lost if the sale and development were to go ahead. On that basis, viability for development must be questioned. A stipulation made to the Local Plan meant a management company would need to be set up to look at the creation of acid grassland in another area in mitigation for up to 30 years. I impressed on the Minister the considerable risk this poses to the MoD given such a recreation of rare acid grassland on a site has never been done and is only possible in theory. The MoD would, as a result, have a 30-year liability based on an unproven concept.

The above is a compelling reason alone but one of many. Again, I refer the Committee to my previous submissions in opposition to the inclusion of Middlewick in the Local Plan.

Building on the Wick is not something I or my constituents ever wanted to see. This committee has the chance to right this wrong and stand with local residents. Middlewick should never have been included in the Local Plan and tonight you can change this.

I urge you to be bold and do the right thing.

Councillor Mark Goacher attended and with the consent of the Chair addressed the Committee. The Committee heard that the Councillor did not envy the role of new Members of the Committee and the position that they were being put in and continued by outlining that Middlewick should never have been included in the Plan in the first place. The best thing that could happen would be for the Ministry of Defence to remove it from sale but this is unlikely when they are being offered an allocation in Section 2 of the Local Plan. Members heard that the additional dwellings would rise above the 1000 dwelling mark with no guarantee that it would not go higher and asked how long it would take to remove the Middlewick allocation and re-write the plan as well as asking what ecological guarantees would there be for the site as they had no confidence from the Ministry of Defence expert who said that they could move Badger Setts. He elaborated that the inclusion of Middlewick would be ecocide and how they had visited the area on Sunday morning and noted how it was well used by the surrounding areas and if developed upon would be taking away residents right to the open area, and if included would increase the amount of traffic movements. The Councillor concluded by reminding the Council that there was a Climate Emergency and quoted Joni Mitchell that "you don't know what you got till it's gone."

Councillor David King, Leader of the Council, attended and with the consent of the Chair addressed the Committee. The Committee heard how he had listened to the passion and knowledge of those who had already spoken about one part of the whole plan which would need to cover the entirety of the Borough. The Committee heard that it would be wrong not to adopt Section 2 and asked members to note the quality of advice that had been received from Officers but noted the time that had been taken to get the plan into its current form and before the Committee. He outlined that they were troubled by the lack of trust from speakers but praised the Lead Officer for Housing, Planning and Economic Growth as an admirable

public servant whose service was nationally recognised. The Committee heard how they accepted that there were disagreements but the Council needed to press ahead with the plan which would bring more infrastructure and would safeguard against speculative development. Members were asked to note that higher housing targets would be put upon the borough if there was no plan and that these would not be in the interest of residents and referred to how the Council was between a rock and a hard place but encouraged the Committee to fall back on their sense of duty to the Borough. Members heard that the Committee and residents would have to work at getting 60% of Middlewick as open space as well as a high quality of design but asked the Committee to look at the big picture and that if the plan was not adopted it would have a serious impact on Colchester's reputation locally and nationally.

Councillor Lee Scordis attended and with the consent of the Chair addressed the Committee. The Committee heard how he did not envy the responsibility of the decision before the Committee which was a catch-22 decision and agreed that Middlewick should never have been included in the plan. He was disappointed in the Ministry of Defence for including this in the plan and it was disgraceful that a Planning Inspector had agreed to this and showed what the Borough had to work with at a national level. It was questioned whether the Council would have its own biodiversity study for Middlewick and if there was the possibility of a Country Park on the site would this be run by the Council and would it be possible to challenge the conclusions from Essex County Council's Highways Department and concluded that busses had been cut and that promises regarding public transport recently had not been forthcoming.

Councillor Adam Fox attended and with the consent of the Chair addressed the Committee. The Committee heard how the Councillor often walked in Middlewick and commented on how the statement from Will Quince MP had outlined doing the right thing but did not define what the right thing was. The visiting Councillor elaborated that the MP was playing politics as the Government wanted all Councils to have a Local Plan and that the Ministry of Defence was selling land all over the Country and responded to the comments from Sir Bob Russell regarding the support for Section 1 of the Local Plan and hoped that this was an inadvertent mistake regarding comments on who had approved Section 1. The speaker explained how they had been working with the local MP to take Middlewick out of Section 2 and put together petitions and visited Westminster on the matter. The Committee heard that Mersea and Middlewick could result in speculative development if the plan was not approved and concluded by outlining the infrastructure deficit in the Borough that all Councillors were aware of.

The Lead Officer for Housing, Planning and Economic Growth responded to the points raised by visiting Councillors as follows: that there was never a guarantee on the number of dwellings that could come forward in a planning application but that the best way to control this was through a Local Plan which would restrict the number on a site, that the process of changing the plan would not simply be removing the Middlewick site and including another and provided the example that there had been more representations on a site in Mersea than from Middlewick, and that at the current stage some of the data contained within the plan was 6 years old. The Committee heard that traffic had been addressed through sustainable modes included in the plan, that the average time from publication to adoption of a Local Plan was 19 months but there was significant time prior to that which the Lead Officer elaborated on and the processes and milestones in that process. The Lead Officer clarified that all Councils excepting National Parks were subject to the presumption in favour of sustainable development and that if Members did want externally commissioned work this was possible but would come at a cost and could challenge any proposed highway works at the Planning Committee stage.

239. Colchester Local Plan Section 2 – Adoption

The Place Strategy Manager presented the report to the Committee which included the report from the Planning Inspector who had found that the plan was legally compliant and that very few modifications had been made by them compared to what had been submitted. The Place Strategy Manager outlined that the agenda contained the final draft of Section 2 as well as the previously described alterations and Maps which would be included in the plan. Members were asked to consider tributes which had been included in the report for Stephen Ashworth and Alistair Day who had worked on the plan in their respective roles and had enriched the final result that was before the Committee. The Place Strategy Manager concluded by acknowledging that there were significant concerns from local residents regarding the plan in its current form but warned Members that once the current adopted plan was out of date and if the Council did not have one in place then the Borough would be open to speculative development.

In the debate Members of the Committee outlined how they had received significant correspondence on the report and raised the concerns as mentioned by officers of possible speculative development if the Borough did not have a plan in place and the impact that this would have. Members raised concern regarding the inclusion of Middlewick and whether there was any possibility of creating a country park as well as the approach of the Local Plan as a whole.

The Lead Officer for Housing, Planning and Economic Growth responded to a question raised by the Committee that no further letter had been received from Natural England other than the response to the Modifications consultation and explained that if the Committee chose to recommend that the Local Plan was not adopted that would be the recommendation that would be sent to full Council who would then make the final decision.

The Committee welcomed the inclusion of the tributes into the proposed document and continued to debate the application on the details concerning play parks, the design of housing and the environmental impact of traffic on residents as well as the alternative options that were open to the Council in terms of building upwards and making use of the Borough's airspace. Some Members of the Committee did not feel that the plan represented their political views which was based on the previous administrations and the governing parties within the Council should own the document and that the development of the Middlewick site would cause the loss of a green lung in the South of Colchester.

The Lead Officer for Housing, Planning, and Economic Growth and the Place Strategy Manager responded to a question from the Committee outlining that high rise development was better in some areas such as the Hythe than it was in other parts of the Town , that if included Middlewick would provide the infrastructure improvements required but if the 1000 dwellings were spread out across the Borough then would not deliver the same improvements. The Lead Officer for Housing, Planning, and Economic Growth elaborated that the plan had to provide a 15-year housing land supply and asked Members to note that not every site would deliver to its optimum level and that the 5 year housing land supply played a crucial role in making decisions on planning applications.

Members discussed the impact of previous housing market difficulties and how it was not possible to force an applicant to build out what they had planning permission for and that paragraph 11 of the National Planning Policy Framework (NPPF) detailed the plan making section of the document. It was elaborated that if Local Plans were out of date then it meant applications that were in accordance with the NPPF, they should be approved without delay

and that the presumption in favour of sustainable development would apply to Colchester as it was not an exception as detailed in the guidance.

Members continued to debate the report outlining the risks that Council would take in not adopting the plan as well as the impact that it would have on residents. It was noted by some Members of the Committee that adopting the Plan would be the less damaging option for the Borough, but that adoption would not be the end of the process as there would be the opportunity to create masterplans of specific areas and supplementary planning documents. The Committee discussed the limited time that was left before the deadline of adoption in 2023, the impact of not adopting the proposed plan, and that without the plan up to 80% of Middlewick could be developed on.

The Lead Officer for Housing, Planning and Economic Growth confirmed the 80% figure as mentioned was correct, based on 1000 dwellings being accommodated on 40%, and commented that the Ministry of Defence could use the site for another purpose as was happening in Braintree where a prison was being promoted as a use on another site. In response to questions from Members the Lead Officer for Housing, Planning and Economic Growth outlined that a meeting of the Full Council could withdraw the plan which would have the implication that Neighbourhood Plans would have to take on further growth, that the Ministry of Defence would not be interested in the numbers of dwellings on Middlewick as they would be selling the site, and that the best way to ensure that 2000 dwellings did not come forward was to limit it to 1000 as detailed in the plan before the Committee.

Members discussed the representations that had been made at the meeting, the response from the Planning Inspector, that there was a shortfall of infrastructure in Colchester, that the Committee should consider what was best for the whole of Colchester, whether the retention of 60% of open space was acceptable on the Middlewick site, and why it was not classed as irreplaceable habitat.

The Lead Officer for Housing Planning and Economic Growth responded to the question posed that the ecological evidence regarding Middlewick was in accordance with the Institute for Ecology and this evidence and the challenges to this evidence were put before the inspector and they had not changed the designation to irreplaceable habitat.

The Committee continued to debate the application on issues including: the safeguarding planning protections that the plan would bring to the Borough, the outcome of other Councils who had not approved their plans which had left them open to significant development and financial situations, the recent situation at Tendring District Council and how this had effected planning appeals and their outcomes in a negative way, that there was an opportunity for masterplans for specific areas to come forward and that when they did the community would need to be engaged and consulted on this process. The debate concluded with comments regarding how this consultation could be achieved, as well as drawing on comments from previous speakers including Sir Bob Russell and his contributions at the meeting and previous meetings.

It was proposed and seconded that the Committee recommend adoption of the Local Plan- Section 2 as detailed in the officer recommendation,

RECOMMENDED TO COUNCIL (SEVEN VOTED FOR and ONE VOTED AGAINST with TWO ABSTENTIONS) that the Modified Colchester Local Plan Section 2, attached as Appendix C to the Assistant Director's report , and accompanying Policies Maps (as appended to the Assistant Director's report as Appendix D) be formally adopted.

RESOLVED that (SEVEN VOTED FOR and ONE VOTED AGAINST with TWO ABSTENTIONS) the Lead Officer for Planning and Place Strategy be authorised to make minor corrections should any be required prior to publication of the final Plan and formal notification as required under the Planning Regulations.

A named vote was requested and supported by 2 other Members of the Committee pursuant to Meetings General Procedure Rules 9 2) and the voting was as follows:-

For	Against	Abstain
Cllr Tracy Arnold	Cllr Lewis Barber	Cllr Darius Laws
Cllr Martin Goss		Cllr William Sunnucks
Cllr Richard Kirkby-Taylor		
Cllr Jocelyn Law		
Cllr Sam McLean		
Cllr Kayleigh Rippingale		
Cllr Paul Smith		

240. Adoption of the Marks Tey Neighbourhood Plan and Adoption of the West Mersea Neighbourhood Plan

The Place Strategy Manager presented the report to the Committee and outlined to the Committee that the Marks Tey Neighbourhood Plan and West Mersea Neighbourhood Plan had successfully completed the examination process, had been approved at referendum and had now been adopted as part of the Colchester Local Plan. The Committee were asked to note the report.

241. Great Horkesley Neighbourhood Plan – Area Designation

The Principal Planning Policy Officer presented the report to the Committee outlining that Great Horkesley Parish Council wished to develop a Neighbourhood Plan and requested that the Parish boundary be designated as the Neighbourhood Area. The Committee were requested to formally designate the Great Horkesley Neighbourhood Plan Area, in accordance with Section 61(G) of the Town and Country Planning Act 1990.

RESOLVED (UNANIMOUSLY) That the Committee formally designated the Great Horkesley Neighbourhood Plan Area as the Parish Boundary as detailed in Appendix A in accordance with Section 61 (G) of the Town and Country Planning Act 1990.

242. National Updates – Levelling Up and Regeneration Bill

Nick Chilvers addressed the Committee pursuant to provisions of Meetings General Procedure Rule 5 (1). The Committee heard how the resident spoke positively of the Highwoods development and the Westlands development but raised concern regarding the density of developments and the works undertaken by Essex County Council's Highways Department as they thought that the junction between Old Heath Road and Abbots Road was dangerous and that there was a general feeling of no confidence in the Highways Authority especially with regards to Middlewick. The speaker elaborated that there were very few play areas for children in the Hythe and commented in the past that roads had previously been widened through Compulsory Purchase Orders. It was further noted that the bus routes took a lot of time to use and asked that the Council not build on the former B&Q site. The speaker concluded that the bus station needed improving but that this did not mean that cars would come off the road unless general infrastructure was improved across the town.

The Principal Planning Officer presented the report to the Committee and outlined that the Levelling Up and Regeneration Bill had been published on the 11 May 2022 with its purpose to devolve power and give local leaders and communities the tools they need to make better places. The Committee heard that the proposed legislation built upon the Levelling Up White Paper in February 2022 and covered the following planning topics:

- Beauty
- Infrastructure
- Democracy
- Environment
- Neighbourhoods
- Planning Application Process
- Enforcement; and
- Protecting Heritage

The Officer concluded by outlining that this would also include changes to planning application fees as well as the S106 Agreements and Planning Obligations, that the likely timescale foresaw implementation in 2024 following Royal Assent, and that the report was for noting only.

The Principal Planning Officer and Lead Officer for Housing Planning and Economic Growth responded to questions from the Committee on points including; that there was currently no detail regarding the transitional arrangements for current S106 Agreements, that a lot of the detail was still unknown regarding the possible changes but that if it was requested then a report could be brought back to the Committee when more was known.

The Committee debated the report on the issues including: that there was an infrastructure deficit which included disjointed cycling infrastructure and different modes of transport that were available, that there was concern regarding air pollution after there had been case law linking the death of a child in London with air pollution, the possible uplift in planning fees that could be charged, and the implications of whether the proposals would change planning offences from civil action to criminal action.

15 August 2022

Report of	Assistant Director of Place and Client Services	Author	Karen Syrett ☎ 506477
Title	Infrastructure Audit		
Wards affected	All wards		

1. Executive Summary

- 1.1 The previous Portfolio Holder for Planning and Housing, Councillor Andrew Ellis, asked that an infrastructure audit be undertaken for the borough. It was important that the timing of this reflected local plan production and it was agreed to hold off until the Local Plan was adopted.
- 1.2 The Local Plan was adopted in July and it is therefore considered appropriate to undertake the audit to gain an insight as to what infrastructure exists and where there are deficiencies. This will help inform the next review of the Local Plan.
- 1.3 Local Plan Committee are asked to agree the stages and content of the audit.

2. Recommended Decision

- 2.1 The Committee are asked to agree the methodology for undertaking the Infrastructure Audit.

3. Reason for Recommended Decision

- 3.1 To inform the preparation of the Infrastructure Audit.

4. Alternative Options

- 4.1 Not to proceed with the Infrastructure Audit; to work to a different timescale, ie delay production or to revise the methodology.

5. Background Information

- 5.1 The provision of infrastructure and the believe that it is not keeping up with new residential development is a common concern amongst those engaged in the planning process, both at a plan and application level. In recognition of this, the previous Portfolio Holder, Councillor Andrew Ellis, asked the team to undertake an Infrastructure Audit. Now the Local Plan has been adopted it is appropriate to consider if this work should now be undertaken. It will help inform any review of the Local Plan.
- 5.2 The importance of infrastructure is highlighted in national planning policy and guidance and consequently any audit of infrastructure will need to meet the requirements of the National Planning Policy Framework and Planning Practice Guidance. The National Planning Policy Framework states that strategic policies should make provision for a range of infrastructure, and that policy makers should engage with infrastructure providers.
- 5.3 The NPPF requires that strategic policies in plans should make sufficient provision for infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat) and community facilities (such as health, education and cultural infrastructure). Infrastructure providers are identified as relevant bodies in the NPPF. Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. The provision of infrastructure and community facilities at a local level can also be addressed by non-strategic policies. Infrastructure planning also forms an important means for local planning authorities to maintain effective cooperation under the duty to cooperate with each other, and with other prescribed bodies.
- 5.4 The NPPF highlights how the preparation and review of all policies should be underpinned by relevant and up-to-date evidence. The Infrastructure Audit will be an important part of this approach. Infrastructure has a key influence on the supply and delivery of new homes, business investment and expansion, healthy and inclusive communities, sustainable transport, communications, and planning for climate change and resilience. In summary national policy clearly states that it is the responsibility of local planning authorities to plan positively for the provision of infrastructure.
- 5.5 The term “infrastructure” includes a number of components. The Audit could address all or some of the following eight broad categories:
- Transport;
 - Utilities;
 - Education;
 - Health;
 - Waste;
 - Blue and Green Infrastructure;
 - Community Facilities; and
 - Emergency Services.
- 5.6 Within these broad categories are numerous sub-components and this project will involve working with many agencies. Some categories, such as open space and community facilities, the Council will have greater knowledge of. Others such as education and transport, including active travel, officers will work with colleagues at ECC to inform the outputs. Other categories will require more work and relationship building.

- 5.7 The Audit is intended to be a living document which will initially contain information gathered in Autumn 2022. Phase 1 will aim to set out what infrastructure exists and where it is located. It is intended that this will be done by officers in house, reviewing documents that already exist and contacting service providers where necessary. Existing documentation includes;
- [EBC 5.1 Background Paper Public Health and Planning evidence March 2017](#)
 - [EBC 5.2 Colchester CIL Report 2015 Update](#)
 - [EBC 5.3 Colchester Infrastructure Development Plan Final Report 02.06.17](#)
 - [EBC 5.4 Colchester Local Plan Modelling Support Transport Planning Final Report April 2016](#)
 - [EBC 5.5 Colchester Local Plan Traffic Modelling Report 1 July 2017](#)
 - [EBC 5.6 Colchester Local Plan Traffic Modelling Technical Note July 2016 Version Two](#)
 - [EBC 5.7 Colchester Rapid Transit Report Strategic Outline Business Case September 2016](#)
 - [EBC 5.8 Indoor Sports Facilities Strategy June 2015](#)
 - [EBC 5.11 Playing Pitch Strategy and Action plan June 2015](#)
 - [EBC 5.12 Travel to Work Patterns Report 2015](#)
 - [EBC 5.13 Colchester Infrastructure Delivery Plan](#)
 - [EBC 6.1 Colchester Economic Viability Study June 2017](#)
 - [EBC 4.62 Colchester Town Centre Surface Water Management Plan](#)
 - [EBC 4.63 Colchester Surface Water Management Plan Action Plan 2018 Update](#)
 - [EBC 4.64 Colchester Surface Water Management Plan – Maps](#)
 - [EBC 4.65 Langham Position Statement](#)
 - Water Resources Management Plan 2015 – 2020
 - Greater Essex Growth and Infrastructure Framework 2016 – 2036 [Greater Essex Growth and Infrastructure Framework 2016-2036 – Essex Open Data](#)
- 5.8 The second stage of the work will seek to identify where there are already infrastructure deficits. This will be based on information and evidence from providers, rather than perceptions. It will then aim to provide the most accurate picture of infrastructure requirements and where possible the costs, at this point in time, to address those deficits.
- 5.9 The third stage will identify if there are areas in the borough where infrastructure deficits exist that will need to be addressed prior to any future development taking place and this may affect land values. There may even be deficits that cannot be remedied. This may mean that when the next Local Plan is produced certain areas are not considered for future growth.
- 5.10 A range of evidence will be used to support the Audit, primarily through a review of previous studies, existing sources of data and information, and further dialogue with key agencies and infrastructure providers.
- 5.11 A wide range of lead agencies will be involved in the planning and delivery of future infrastructure. The Audit will initially only identify a list of existing infrastructure and a list of infrastructure projects that are needed to address existing deficiencies. This is important in its own right as it will assist the Council and other stakeholders to understand and prioritise allocation of resources, prepare related service delivery and investment plans and support future bids for funding.
- 5.12 The information in the Audit will need to be monitored, reviewed and updated as necessary through the process of reviewing the Local Plan. Additional infrastructure not

identified in the Audit may be required to enable development as a result of potential changes to plans/strategies or priorities provided by infrastructure providers.

6. Equality, Diversity and Human Rights implications

- 6.1 An Equality Impact Assessment has been prepared for the Local Plan and is available to view on our website.

<https://cbccrmdata.blob.core.windows.net/noteattachment/Equality%20Impact%20Assessment%20June%202017.pdf>

7. Strategic Plan References

- 7.1 The Strategic Plan is relevant, in particular in contributing towards priorities under the themes:

- Delivering homes for people who need them;
- Growing a fair economy so everyone benefits; and
- Creating safe, healthy and active communities.

8. Consultation

- 8.1 N/A

9. Publicity Considerations

- 9.1 The Infrastructure Audit will collect publicly available information and is unlikely to generate publicity.

10. Financial implications

- 10.1 The Audit is expected to cost in the region of £50,000.

11. Health, Wellbeing and Community Safety Implications

- 11.1 N/A

12. Health and Safety Implications

- 12.1 N/A

13. Risk Management Implications

- 13.1 N/A

14. Environmental and Sustainability Implications

- 14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. This involves meeting the needs of the present without compromising the ability of future generations to meet their own needs. Infrastructure is an important component in meeting the economic, social and environmental objectives of sustainable development and reflecting the character, needs and opportunities of an area.

15 August 2022

Report of	Assistant Director of Place and Client Services	Author	Sandra Scott
Title	Supplementary Planning Guidance Update		☎ 282975
Wards affected	All		

1. Executive Summary

- 1.1 The purpose of this report is to provide an update on the current position on the Supplementary Planning Documents and Other Guidance Documents following the adoption of the Local Plan.
- 1.2 The Local Development Scheme (LDS) sets out the Council's timetable for adopting new planning documents which will help guide development in the Borough. This LDS covers the period 2021 to 2024.

2. Recommended Decision

- 2.1 No decision is required since the report is for information only.

3. Reason for Recommended Decision

- 3.1 The Report provides an update on the ongoing SPDs and no decision is required.

4. Alternative Options

- 4.1 Not applicable.

5. Background Information

- 5.1 A Supplementary Planning Document (SPD) provides detailed planning guidance which builds on Colchester's policies as set out in the Adopted Local Plan (July 2022). SPDs cannot set out new policy, but instead expand upon how Local Plan policies should be applied. They are material considerations in determining planning applications.
- 5.2 Supplementary Planning Documents (SPD) were introduced as part of the Planning and Compulsory Purchase Act 2004. Paragraph 153 of the National Planning Policy Framework (NPPF) says, 'Supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery and should not be used to add unnecessarily to the financial burdens on development'. The requirements for producing Supplementary Planning Documents are set out in Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 5.3 The Local Development Scheme (LDS) sets out the timetable for adopting new planning documents which will help to guide development in the Borough. This LDS covers the period 2021 to 2024. Colchester Borough Council first adopted a Local Development Scheme (LDS) in May 2005 with various revisions published since then. There have been updates to the LDS at various times with the current version dated June 2021.
- 5.4 The current LDS identifies the following five SPDs to be prepared in the next three years;
- Planning Obligations
 - Affordable Housing
 - Self and Custom Build and Specialist Housing
 - Climate Change / Sustainability
 - Biodiversity
- 5.5 In December 2019 Local Plan Committee approved consultation on The Planning Obligations SPD, Affordable Housing SPD and Self and Custom Build and Specialist Housing SPD for a six-week period from 24 January to 6 March 2020. This was carried out just before the Pandemic. It was then decided to put these SPDs on hold because they could not be progressed until the Local Plan had been adopted.
- 5.6 Now that the Local Plan has been adopted, work on these SPDs, and others as appropriate, can recommence. A summary of progress and programming for each one is indicated below.
- 5.7 The following SPDs will be updated taking into account the 2020 consultation and revisions required following the adoption of the Section 2 Local Plan and any other relevant new evidence or guidance. Revised drafts of the following SPDs will be brought to Local Plan Committee later in the year with a view to consultation in the Autumn / Winter and Adoption early 2023.
- 5.8 ***Self and Custom Build and Specialist Housing SPD***
This SPD provides further details on the delivery of self and custom build and specialist housing across the borough.
- 5.9 ***Affordable Housing SPD***
This SPD provides further details on the delivery of affordable housing within development proposals across the Borough. The current Affordable Housing SPD, Adopted August 2011, is based on the old Core Strategy / Development Policies Policy context.

5.10 ***Planning Obligations SPD***

This SPD will provide further details on the collection of the planning obligations received by the Council as a result of planned developments across the Borough. It is intended to produce one document which will replace and / or update a number of individual SPDs. The following SPDs are intended to be incorporated in the new Planning Obligations SPD paragraph;

5.11 *Communities Facilities SPD*, Adopted September 2009, updated July 2013.

The purpose of this SPD is to highlight the importance of community facilities to the well-being of residents and as a mechanism for building community cohesion. Ensuring adequate provision of community facilities to satisfy the needs of local communities and the borough and informing developers and other interested parties about what the Council will expect regarding contributions to community facilities within the Borough of Colchester.

5.12 *Provision of Open Space, Sport and Recreational Facilities SPD*, Adopted July 2006, updated April 2019.

This SPD defines the mechanism by which new housing developments, within the Borough make appropriate provision for open space, sport and recreation, required as a direct result of meeting the needs of new development, by establishing a comprehensive long-term framework for the development of open space provision throughout the district.

5.13 In line with the LDS work on a number of other new SPDs has commenced with scoping and evidence work with a plan to bring a Draft to Local Plan Committee early in 2023 with a view to consultation Spring 2023 and Adoption by end of 2023.

5.14 ***Climate Change and Sustainability SPD***

This SPD will provide further details on how development proposals across the Borough can contribute to measures to address the Climate Emergency. It will provide further guidance on many policy areas linked to achieving sustainability and climate change objectives crossing a number of planning policies.

5.15 ***Biodiversity SPD***

This SPD will provide further details on biodiversity net gain and environmental considerations in development proposals across the Borough.

5.16 Updates to the following SPDs will likely be incorporated into the new Climate Change and Sustainability SPD referred to above at paragraph 5.14;

5.17 *Sustainable Construction SPD* – Adopted June 2011

This SPD provides guidance and advice for those involved in development in Colchester to help them deliver sustainable design and adds more detail to the relevant policies relating to sustainable design.

5.18 *Sustainable Drainage Systems Design Guide*, Adopted April 2015, updated 2020

This SPD is primarily intended for use by developers, designers and consultants who are seeking guidance on the Local Lead Flood Authority's (LLFA) (Essex County Council) standards for the design of sustainable surface water drainage in Essex. It provides guidance on the planning, design and delivery of attractive and high-quality SuDS schemes which should offer multiple benefits to the environment and community alike. This report was produced by Essex County Council as the LLFA and any updates are made by them.

- 5.20 The following SPDs may be replaced / superseded by other work such as by the work on the Town Centre Masterplan in the case of **Better Town Centre SPD**, Adopted December 2010. This will be further considered at the appropriate time.
- 5.21 It is considered that there is an opportunity for the Cycling SPD (**Cycling Delivery Strategy SPD**), Adopted January 2012 to be updated to include updates to the mapping, and in line with Local Plan policy, to include Active and Sustainable Modes of Travel, and focus more broadly on the Active Environment, bringing it more into line with the current policy focus. Initial scoping work on this has commenced working with the new Active Environment Officer and the Transport and Sustainability Team.
- 5.22 The Essex Parking Standards SPD is being updated as a collective piece of work through the Essex Planning Officers Association. Once completed it can be adopted as SPD and replace the current SPD below.
- 5.23 **Vehicle Parking Standards SPD**, Adopted September 2009
This SPD provides details on issues such as the minimum number of parking spaces that will be required for new residential development; the maximum number of spaces for commercial, leisure, retail, etc.; along with guidance on such subjects as the design and layout of car parking, and the provision of cycle parking.
- 5.24 **Archaeology in Planning SPD** – Adopted 2015. This SPD supplements and adds an additional level of detail to planning policy. It is an important material consideration for Development Management when assessing development proposals or applications within Colchester Borough. Updates to this to reflect the need for greater guidance in respect of mosaics has been identified and supported by supported by the current and previous Portfolio Holder for Heritage. It is anticipated this update will be carried out in the Autumn 2022. A number of Archaeology Management Plans have been prepared for sites where development has occurred. (See paragraph 5.36 below)
- 5.25 The following SPDs have recently been adopted with the evidence remaining relevant and as such they do not need replacing or updating;
- 5.26 **Recreational Disturbance Avoidance and Mitigation Strategy SPD**, Adopted August 2020. This SPD focuses on the mitigation that is necessary to protect the wildlife of the Essex coast and their habitats from the increased visitor pressure associated with new residential development in combination with other plans and projects, and how this mitigation will be funded.
- 5.27 **ABRO site Development Brief SPD**, Adopted December 2021
The purpose of this SPD is to provide guidance on issues and opportunities and sets out the Council's aspirations for the redevelopment of the site. The document provides a clear and robust development framework, which is intended to assist in the smooth delivery of a suitable scheme.
- 5.28 The following SPDs have not been identified for updating currently but will be considered as part of future work programming and consideration in light of the new Local Plan. Once further assessment of their continued relevance has been made in consultation with Development Management Team and others, a programme of further SPD updates will be prepared as well as de-adoption of any SPDs which are no longer considered valuable.
- 5.29 **Backland and Infill SPD**, Adopted December 2010.
The purpose of this SPD is intended to explain how backland and infill developments can be designed to protect and enhance existing residential areas.

- 5.30 **Colne Harbour Masterplan SPD**, Adopted January 2008
Colne Harbour Masterplan adopted as SPD to help promote and co-ordinate the ongoing regeneration and redevelopment of the area.
- 5.31 **North Colchester Growth Area SPD**, Adopted June 2012
This SPD provides further clarity to supplement the North Colchester urban extension and will inform future planning applications for the site. The role of the SPD guidance is to provide more information about the site and its context, to set out the Council's aspirations, and to make it clear what the Council's expectations are for any future development proposals.
- 5.32 **Shop front Design Guide SPD** – Adopted June 2011
The purpose of this SPD is to provide design guidance on the alteration or installation of shopfronts and shop signs in order to maintain or raise the design quality of these features of the townscape.
- 5.33 **Street Services SPD**, Adopted October 2012, updated February 2016
This SPD supports sustainable growth highlighting the importance of Street Services facilities and infrastructure to ensure adequate provision of the service. It informs developers and other interested parties about what the Council will expect to be planned into new developments and where contributions for infrastructure are required.

Other Guidance

- 5.34 The Council has also produced a number of other planning guidance documents which support the assessment of planning applications and development of sites. Below is a summary of Other Guidance documents which have been adopted by the Council but do not have the full status of SPDs. They are used where relevant as material considerations when making planning decisions or guiding development opportunities. They are not currently identified for updating but will be considered as part of future work programming and consideration in light of the new Local Plan. The list and relevant links are provided below, in the Appendices.
- 5.35 A number of Parishes have prepared Village Design Statements or Parish Plans which were of particular interest to many communities particularly before Neighbourhood Planning was established through the Localism Act. Some provide an evidence base underpinning Neighbourhood Plans where these have been made. Those Village Design Statement and Parish Plans were agreed by the Council as Planning Guidance See Appendix 1 for links to individual documents.
- 5.36 Archaeology implications are a material consideration for development management planners when assessing development proposals. A number of Archaeology Management Plans have been prepared and adopted by the Council as guidance. See Appendix 2 for individual links to documents.
- 5.37 **Development Briefs**
A range of key issues and opportunities relevant to some areas and topics are covered by Development Briefs adopted by the Council as guidance. These inform developers and other interested parties of the constraints and opportunities presented by specific sites and the type of development expected or encouraged by the council. See Appendix 3 for individual links to documents.
- 5.38 Work has commenced on a Conservation Area Management Plan for the North Station Road Conservation Area which will be brought to a future Local Plan Committee for consideration later this year.

- 5.39 Finally Essex County Council produce the Essex Design Guidance (EDG) which provides detailed design advice on the layout, design and spatial principles of new residential and mixed-use development. The EDG version Adopted by Colchester Borough Council is the 1997 edition. The most recent version is an online version which is frequently updated and added to. This is not adopted by Colchester Borough Council as SPD, although it provides useful guidance on many issues in decision making.

6. Equality, Diversity and Human Rights implications

- 6.1 An Equality Impact Assessment has been prepared for the Local Plan, and is available to view by clicking on this link:
[Equality Impact Assessment June 2017.pdf \(windows.net\)](#)

7. Strategic Plan References

- 7.1 The Strategic Plan is relevant, in particular in contributing towards priorities under the themes:
- Creating safe, healthy and active communities;
 - Growing a fair economy so everyone benefits; and
 - Delivering homes for people who need them.

8. Consultation

- 8.1 Not required at this stage, the report is for information purposes.

9. Publicity Considerations

- 9.1 Not required at this stage, the report is for information purposes.

10. Financial implications

- 10.1 Not required at this stage, the report is for information purposes.

11. Health, Wellbeing and Community Safety Implications

- 11.1 None.

12. Health and Safety Implications

- 12.1 None.

13. Risk Management Implications

- 13.1 None.

14. Environmental and Sustainability Implications

- 14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement

of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.

- 14.2 Each SPD will take into account the Climate Emergency sustainable developments objectives set out in the NPPF.

Appendices

Appendix 1 - [Village Design Statement and Parish Plans](#)

[Dedham Parish Plan June 2011](#)

[Dedham Village Design Statement](#)

[Eight Ash Green Village Design Statement Final 23 July 2013](#)

[Langham VDS Final](#)

[Little Horkesley Village Design Statement](#)

[Stanway Parish Plan and Design Statement](#)

[East Mersea Village Design Statement April 2013](#)

[Peldon, The Wigboroughs and Salcott-cum-Virley Village Design Statement](#)

[West Bergholt Parish Plan Final](#)

[West Bergholt VDS Final](#)

[Wivenhoe Town Plan 2008](#)

Appendix 2 - [Archaeology Management Plans](#)

[Managing Archaeology in Development](#)

[Colchester Town Wall Management Plan](#)

[Roman Circus Management Plan](#)

[Roman Circus Management Plan Figures](#)

[Roman Circus Photos](#)

[Roman Circus Management Plan Appendix](#)

Appendix 3 - [Development Briefs](#)

[2015-09-10 AN ARCHAEOLOGICAL STRATEGY FOR COLCHESTER BOROUGH ver 1.3](#)

[Air Quality Management Areas Maps Aug 2012](#)

[Air Quality Management Order](#)

[AONB Exec Sum 2016](#)

[ABRO site Development Brief - Now adopted SPD](#)

[Colchester Air quality planning guidance note adopted Aug 2012](#)

[Development and Public Rights of Way Jan2010](#)

[Essex County Hospital Development Brief](#)

[External Materials Guide for New Development](#)

[LPS adopted planning guidance](#)

[Magdalen Street Development Brief FINAL FEBRUARY](#)

[Magdalen Street Sidings Development Brief](#)

[Planning for Broadband 2016 updated](#)

[Procedure and Policy for Public Path Creations June2008](#)

[procedure path diversion Oct2007](#)

[Public Realm Strategy Lighting Strategy Guidance Note](#)

[Rural Workers Dwellings Guidance Note Adopted Aug 2012](#)

Stanway Railway Sidings Development Brief FINAL
Stanway Southern Sites Access Development Brief final
St Botolph adopted MP low res (for website e-mail) 110805
Tollgate Vision Doc Adopted July13

15 August 2022

Report of	Assistant Director of Place and Client Services	Author	Simon Cairns ☎ 506477
Title	Guidance Note on Permitted Development		
Wards affected	All wards		

1. Executive Summary

- 1.1 This report provides a summary on permitted development and prior approval processes. It is intended to clarify the position for Members and the general public.
- 1.2 If agreed the guidance note will be circulated and added to the Council website.

2. Recommended Decision

- 2.1 The Committee are asked to agree the content of the Guidance Note.

3. Reason for Recommended Decision

- 3.1 To provide guidance on the numerous sections of the General Permitted Development Order (as amended).

4. Alternative Options

- 4.1 Not to publish the Guidance Note or to revise it prior to publication.

5. Background Information

- 5.1 National policies allow certain changes of use and works to take place under permitted development. In some instances, no application is required and in others “Prior Approval” is required. Prior approval means that a developer has to seek approval from the local planning authority that specified elements of the development are acceptable before work can proceed. The matters for prior approval vary depending on the type of development and these are set out in full in the relevant Parts in Schedule 2 to the General Permitted Development Order 2015 (as amended). A local planning authority cannot consider any other matters when determining a prior approval application.
- 5.2 There are a considerable number of different categories of permitted development granted by order of the Secretary of State. This is in effect a blanket national conditional planning permission. In some cases, no further application is required to be submitted and the council may have no further involvement e.g. permitted change from a dwelling to a small HMO. In some cases, applicants may still choose to apply for a certificate of lawful development to confirm that the development is lawful. In such cases a strict legal interpretation is required on the facts and representations received by the Council cannot influence the outcome.
- 5.3 In many cases an application for ‘prior approval’ may be required and the order sets out the matters that the Local Planning Authority (lpa) must take into account. Listed in the Guidance Note are the most commonly used categories of permitted development (including changes of use) together with the relevant processes and prescribed matters that are applicable to the consideration of applications for prior approval under the order.
- 5.4 It was agreed by Planning Committee that a summary of the matters within the scope of each category of such applications would be provided for member guidance to assist with briefing interested parties on the regulations pertinent to each application category. This briefing note is intended to provide Councillors and members of the public with a summary of this background information.

6. Equality, Diversity and Human Rights implications

- 6.1 N/A as this relates to national regulations.

7. Strategic Plan References

- 7.1 The Strategic Plan is relevant, in particular in contributing towards priorities under the themes:
- Delivering homes for people who need them; and
 - Growing a fair economy so everyone benefits.

8. Consultation

- 8.1 N/A

9. Publicity Considerations

- 9.1 N/A

10. Financial implications

10.1 N/A

11. Health, Wellbeing and Community Safety Implications

11.1 N/A

12. Health and Safety Implications

12.1 N/A

13. Risk Management Implications

13.1 N/A

14. Environmental and Sustainability Implications

14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. This involves meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Permitted Development (PD) and matters that the Council can take into account in determination of prior approval applications

Background:

National policies allow certain changes of use and works to take place under permitted development. In some instances, no application is required and in others "Prior Approval" is required. Prior approval means that a developer has to seek approval from the local planning authority that specified elements of the development are acceptable before work can proceed. The matters for prior approval vary depending on the type of development and these are set out in full in the relevant Parts in Schedule 2 to the General Permitted Development Order. A local planning authority cannot consider any other matters when determining a prior approval application.

5.6 In the case of conversions from office to residential use the only determining factors are;

- *the impact of development on transport and highways*
- *contamination risks on the site*
- *flooding risks on the site.*

Issues such as loss of residential amenity cannot be a consideration in the determination of the application. Flood risk and contamination are factual and cannot be changed by discussion. Impact of a development on highways and transport can only justify a refusal where the impact is severe, in accordance with national policy. Essex County Council, as the highway authority, provide advice in relation to this aspect. There is therefore very little that the Committee can actually influence. It is therefore suggested that applications for Prior Approval are delegated to Officers to make the decision."

It was agreed by Planning Committee that a summary of the matters within the scope of each category of such applications would be provided for member guidance to assist with briefing interested parties on the regulations pertinent to each application category. This briefing note is intended to provide Councillors and members of the public with a summary of this background information.

Summary of Matters relevant to PD Prior Approval Applications by class under

SCHEDULE 2 of the GPDO 2015 (as amended) (The Order)

There are a considerable number of different categories of permitted development granted by order of the Secretary of State. This is in effect a blanket national conditional planning permission. In some cases, no further application is required to be submitted and the council may have no further involvement e.g. permitted change from a dwelling to a small HMO. In some cases, applicants may still choose to apply for a certificate of lawful development to confirm that the development is lawful. In such cases a strict legal interpretation is required on the facts and representations received cannot influence the outcome.

In many cases an application for 'prior approval' may be required and the order sets out the matters that the Local Planning Authority (Lpa) must take into account. Listed below are the most commonly used categories of permitted development (including changes of use) together with the relevant processes and prescribed matters that are applicable to the consideration of applications for prior approval under the order.

Part 1 Development within the curtilage of a dwellinghouse

Class AA – Enlargement of a dwellinghouse by construction of additional storeys.

Permitted Development

AA. The enlargement of a dwellinghouse consisting of the construction of—

- a) up to two additional storeys, where the existing dwellinghouse consists of two or more storeys; or
- b) one additional storey, where the existing dwellinghouse consists of one storey, immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction.

PROCESS

Application for prior approval:

- a) before beginning the development, the developer must apply to the local planning authority for prior approval as to —
 - i. impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light;
 - ii. the external appearance of the dwellinghouse, including the design and architectural features of —
 - aa. the principal elevation of the dwellinghouse, and
 - bb. any side elevation of the dwellinghouse that fronts a highway;
 - iii. air traffic and defence asset impacts of the development; and
 - iv. whether, as a result of the siting of the dwellinghouse, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State;
- b) before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on adjoining owners or occupiers will be mitigated.

Part 3 Permitted Changes of Use

Where changes of use are proposed that require an application for 'prior approval' to be submitted to the lpa then para. W applies, which requires:

Procedure for applications for prior approval under Part 3

W.—The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required. In relation to development proposed under Class M, MA, N, O, PA or Q of this Part, a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses; Where the Environment Agency is required to be consulted, a site-specific flood risk assessment, together with any fee required to be paid. Where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.

The local planning authority may refuse an application where, in the opinion of the authority—

- a) the proposed development does not comply with, or
- b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions,

Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult—

- a) where the increase or change relates to traffic entering or leaving a trunk road, the highway authority for the trunk road;
- b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and
- c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

6. Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency F15 where the development is—

- a) in an area within Flood Zone 2 or Flood Zone 3; or
- b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency

7. The local planning authority must notify the consultees referred to in sub-paragraphs (5) and (6) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

8. The local planning authority must give notice of the proposed development—

- a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—
 - i. describes the proposed development;
 - ii. provides the address of the proposed development;
 - iii. specifies the date by which representations are to be received by the local planning authority; or
- b) by serving a notice in that
 - i. on any adjoining owner or occupier; and
 - ii. where the proposed development relates to part of a building, on any owner or occupier of the other part or parts of the building

9. The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—

- a) assessments of impacts or risks;
- b) statements setting out how impacts or risks are to be mitigated; or
- c) details of proposed building or other operations.

10. The local planning authority must, when determining an application—

- a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);
- b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and
- c) in relation to the contamination risks on the site—
 - i. determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012 and

- ii. if they determine that the site will be contaminated land, refuse to give prior approval.
- 11. The development must not begin before the occurrence of one of the following—
 - a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
 - b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or
 - c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
- 12. The development must be carried out—
 - a) where prior approval is required, in accordance with the details approved by the local planning authority;
 - b) where prior approval is not required, or where sub-paragraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (1), unless the local planning authority and the developer agree otherwise in writing.
- 13. The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

Class A Change of use of a Casino, Betting office, pay day loan shop or hot food takeaway to commercial, business and service

A.1. Development under Class A is permitted subject to the condition that, before beginning the development, the developer provides written notification to the local planning authority of the date on which the use of the building will change

Class L Dwellinghouse to small HMO (up to 6 persons) and vice-versa

Class L – small HMOs to dwellinghouses and vice versa

Permitted Development

- L. *Development consisting of a change of use of a building—*
 - a) *from a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule;*
 - b) *from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule.*

Development not permitted

- L.1 Development is not permitted by Class L if it would result in the use—
 - a) as two or more separate dwellinghouses falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order of any building previously used as a single dwellinghouse falling within Class C4 (houses in multiple occupation) of that Schedule; or
 - b) as two or more separate dwellinghouses falling within Class C4 (houses in multiple occupation) of that Schedule of any building previously used as a single dwellinghouse falling within Class C3 (dwellinghouses) of that Schedule.

PROCESS

No application for prior approval is required and no conditions beyond a) and b) above to be considered

Class MA Class E Employment Uses to Dwellinghouses

MA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

PROCESS

Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- a) transport impacts of the development, particularly to ensure safe site access;
- b) contamination risks in relation to the building;
- c) flooding risks in relation to the building;
- d) impacts of noise from commercial premises on the intended occupiers of the development;
- e) where—
 - i. the building is located in a conservation area, and
 - ii. the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
- f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
- g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;
- h) where the development involves the loss of services provided by—
 - i. a registered nursery, or
 - ii. a health centre maintained under section 2 or 3 of the National Health Service Act 2006 the impact on the local provision of the type of services lost and
- i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

3. An application for prior approval for development under Class MA may not be made before 1 August 2021.

The provisions of paragraph W (prior approval – see above) of this Part apply in relation to an application under this paragraph

Class Q – Agricultural buildings to dwellinghouses

Where the development proposed is development under Class Q before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- a) transport and highways impacts of the development,
- b) noise impacts of the development,
- c) contamination risks on the site,
- d) flooding risks on the site,
- e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order,

- f) the design or external appearance of the building and
- g) the provision of adequate natural light in all habitable rooms of the dwellinghouses,

and the provisions of paragraph W (prior approval- see above) of this Part apply in relation to that application.

Class R – Agricultural buildings to a flexible commercial use

R. Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within one of the following provisions of the Use Classes Order—

- a) Class B8 (storage or distribution) of Schedule 1;
- b) Class C1 (hotels) of Schedule 1; or
- c) Class E (commercial, business or service) of Schedule 2.

PROCESS

where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit exceeds 150 square metres, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- i. transport and highways impacts of the development;
- ii. noise impacts of the development;
- iii. contamination risks on the site; and
- iv. flooding risks on the site,

and the provisions of paragraph W (prior approval- see above) apply in relation to that application.

Part 6 Agricultural development

Class A – agricultural development on units of 5 hectares or more

Permitted Development

A. *The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—*

- a) *works for the erection, extension or alteration of a building; or*
- b) *any excavation or engineering operations,*

which are reasonably necessary for the purposes of agriculture within that unit.

development consisting of—

- a) the erection, extension or alteration of a building;
- b) the formation or alteration of a private way;
- c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.1(4) of this Part, exceeds 0.5 hectares); or
- d) the placing or assembly of a tank in any waters,

PROCESS

The developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;

Class B – agricultural development on units of less than 5 hectares

Permitted Development

Class B. The carrying out on agricultural land comprised in an agricultural unit, of not less than 0.4 but less than 5 hectares in area, of development consisting of—

- a) the extension or alteration of an agricultural building;*
- b) the installation of additional or replacement plant or machinery;*
- c) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus;*
- d) the provision, rearrangement or replacement of a private way;*
- e) the provision of a hard surface;*
- f) the deposit of waste; or*
- g) the carrying out of any of the following operations in connection with fish farming, namely, repairing ponds and raceways; the installation of grading machinery, aeration equipment or flow meters and any associated channel; the dredging of ponds; and the replacement of tanks and nets,*

where the development is reasonably necessary for the purposes of agriculture within the unit.

Development consisting of the extension or alteration of a building situated on article 2(4) land (national park or specified parishes (N/A CBC) or the provision, rearrangement or replacement of a private way on such land is permitted subject to—

PROCESS

The developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building as extended or altered or the siting and means of construction of the private way

Part 20 Construction of New Dwellinghouses

Class ZA - Demolition of buildings and construction of new dwellinghouses in their place
Permitted Development

ZA.—1. Development consisting of works for the demolition of one or other of—

- a) any building comprising a single purpose-built detached block of flats, and
- b) any other single detached building, comprising premises established—
 - i. for office use falling within Class B1(a) of the Schedule to the 1987 Order,
 - ii. for research and development falling within Class B1(b) of the Schedule to the 1987 Order, or
 - iii. for an industrial process falling within Class B1(c) of the Schedule to the 1987 Order,

or for any combination of them,
existing on 12 March 2020, together with its replacement by a single building covered by sub-paragraph (2), involving operations listed in sub-paragraph (3).

2. The building in question is to comprise one or other of—

- a) a purpose-built detached block of flats, or
- b) a purpose-built detached dwellinghouse.

PROCESS

Where any development under Class ZA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—

- a) transport and highways impacts of the development;
- b) contamination risks in relation to the new building;
- c) flooding risks in relation to the new building;
- d) the design of the new building;
- e) the external appearance of the new building;
- f) the provision of adequate natural light in all habitable rooms of each new dwellinghouse in or comprising the new building;
- g) the impact of the development on the amenity of the new building and of neighbouring premises, including overlooking, privacy and light;
- h) impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;
- i) the impact on business and new residents of the development's introduction of, or increase in, residential use in the area in which the development is to take place;
- j) the impact of the development on heritage and archaeology
- k) the method of demolition of the old building;
- l) the plans for landscaping of the development, including the planting and maintenance of shrubs and trees; and
- m) any—
 - i. air traffic and defence asset impacts of the development, and
 - ii. impact that, because of the siting of the new building, the development will have on a protected vista identified in the Directions Relating to Protected Vistas dated 15 March 2012 by the Secretary of State,

Class A - New dwellinghouses on detached blocks of flats

Permitted Development

A. Development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats, together with any or all—

- a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
- b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;
- c) works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;
- d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

PROCESS

Where any development under Class A is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—

- a) transport and highways impacts of the development;
- b) air traffic and defence asset impacts of the development;
- c) contamination risks in relation to the building;
- d) flooding risks in relation to the building;

- e) the external appearance of the building;
- f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light; ..
- h) whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012 issued by the Secretary of State, .
- i) where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building,; and
- j) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

and the provisions of paragraph B (prior approval) of this Part apply in relation to that application.

Class AA - new dwellinghouses on detached buildings in commercial or mixed use

Permitted Development

AA.—(1) Development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building to which sub-paragraph (2) applies, together with any or all—

- a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
- b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;
- c) works for the construction of appropriate and safe access to and egress from the new dwellinghouses and existing premises in the building, including means of escape from fire, via additional external doors or external staircases;
- d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

PROCESS

AA.2.—1. Where any development under Class AA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—

- a) transport and highways impacts of the development;
- b) air traffic and defence asset impacts of the development;
- c) contamination risks in relation to the building;
- d) flooding risks in relation to the building;
- e) the external appearance of the building, including—
 - i. the design and architectural features of—
 - aa. the principal elevation; and
 - bb. any side elevation that fronts a highway; and
 - iii. the impact of any works under sub-paragraph (1)(c) or (d) of Class AA;
- f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
- h) impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;

- i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;
- j) whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State,
- k) where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building,; and
- l) where the development meets the fire risk condition (see paragraph C(3) of this Part), the fire safety impacts on the intended occupants of the building

Class AB - new dwellinghouses on terrace buildings in commercial or mixed use

AB.— 1. Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a terrace building to which sub-paragraph(2) applies, where that development comprises—

- a) up to two additional storeys, in the case of an existing building consisting of two or more storeys;
- b) one additional storey, in the case of an existing building consisting of one storey,
- c)

together with any development under sub-paragraph (3).

2. This sub-paragraph applies to a building which is—

- a) used for any purpose within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1(a) (offices) of the Schedule to the 1987 Order, or as a betting office, pay day loan shop or launderette;
- b) in a mixed use combining—
 - i. two or more uses within paragraph (a); or
 - ii. a use falling within Class C3 (dwellinghouses) of the Schedule to the 1987 Order, together with one or more uses within paragraph (a).

3. Development consisting of any or all—

- a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
- b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;
- c) works for the construction of appropriate and safe access to and egress from the new dwellinghouses and existing premises, including means of escape from fire, via additional external doors or external staircases;
- d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

PROCESS

AB.2.— 1. Where any development under Class AB is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—

- a) transport and highways impacts of the development;
- b) air traffic and defence asset impacts of the development;
- c) contamination risks in relation to the building;
- d) flooding risks in relation to the building;
- e) the external appearance of the building, including—
 - i. the design and architectural features of —
 - aa. the principal elevation; and
 - bb. any side elevation that fronts a highway; and

- ii. the impact of any works under paragraph AB(3)(c) or (d);
- f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
- h) impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;
- i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;
- j) whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State,

Class AC - New dwellinghouses on terrace buildings in use as dwellinghouses

Permitted Development

AC.1. Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a terrace building in use as a single dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order, where the development comprises—

- a) up to two additional storeys, in the case of an existing dwellinghouse consisting of two or more storeys;
- b) one additional storey, in the case of an existing dwellinghouse consisting of one storey,

together with any development under sub-paragraph (2).

2. Development consisting of any or all—

- a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
- b) works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;
- c) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

PROCESS

AC.2.—1. Where any development under Class AC is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—

- a) transport and highways impacts of the development;
- b) air traffic and defence asset impacts of the development;
- c) contamination risks in relation to the building;
- d) flooding risks in relation to the building;
- e) the external appearance of the building, including—
 - i. the design and architectural features of—
 - aa. the principal elevation; and
 - bb. any side elevation that fronts a highway; and
 - ii. the impact of any works under paragraph AC(2)(b) or (c);
- f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- g) impact on the amenity of the neighbouring premises including overlooking, privacy and the loss of light;

- h) whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State,

and the provisions of paragraph B (prior approval) of this Part apply in relation to that application.

- 2. Any development under Class AC is permitted subject to the following conditions—
 - a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
 - b) following the development, the roof pitch of the principal part of the building must be the same as the roof pitch of the principal part of the existing dwellinghouse; and
 - c) the development must not include a window in any wall or roof slope forming a side elevation of the dwellinghouse.
- 3. Any development under Class AC is permitted subject to the condition that it must be completed within a period of 3 years starting with the date prior approval is granted.
- 4. Any development under Class AC is permitted subject to the condition that before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.

Class AD - New dwellinghouses on detached buildings in use as dwellinghouses

Permitted Development

AD.—1. Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a detached building in use as a single dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order, where the development comprises—

- a) up to two additional storeys, in the case of an existing dwellinghouse consisting of two or more storeys;
- b) one additional storey, in the case of an existing dwellinghouse consisting of one storey,
- c)

together with any development under sub-paragraph (2).

- 2. Development consisting of any or all—
 - a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
 - b) works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;
 - c) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

PROCESS

AD.2.— 1. Where any development under Class AD is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—

- a) transport and highways impacts of the development;

- b) air traffic and defence asset impacts of the development;
- c) contamination risks in relation to the building;
- d) flooding risks in relation to the building;
- e) the external appearance of the building, including—
 - i. the design and architectural features of —
 - aa. the principal elevation; and
 - bb. any side elevation that fronts a highway; and
 - ii. including the impact of any works under paragraph AD(2)(b) or (c);
- f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- g) impact on the amenity of the neighbouring premises including overlooking, privacy and the loss of light;
- h) whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State,

and the provisions of paragraph B (prior approval) of this Part apply in relation to that application.

- 2. Any development under Class AD is permitted subject to the following conditions—
 - a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
 - b) following the development, the roof pitch of the principal part of the building must be the same as the roof pitch of the principal part of the existing dwellinghouse; and
 - c) the development must not include a window in any wall or roof slope forming a side elevation of the building.

END.

15 August 2022

Report of	Assistant Director of Place and Client Services	Author	Sandra Scott
Title	Neighbourhood Planning		☎ 282975
Wards affected	All		

1. Executive Summary

- 1.1 The purpose of this report is to provide an update on the current position on the Neighbourhood Plans which are part of the Statutory Development Plan and latest position on new Neighbourhood Plans and review work on made (Adopted) Plans.

2. Recommended Decision

- 2.1 No decision is required since the report is for information only.

3. Reason for Recommended Decision

- 3.1 The Report provides an update on the Neighbourhood Planning position in the Borough and no decision is required.

4. Alternative Options

- 4.1 Not applicable.

5. Background Information

- 5.1 The 2011 Localism Act empowered local communities to influence and shape their own local areas through Neighbourhood Planning. Many of the communities within the Borough since that time embraced this opportunity and have embarked on Neighbourhood Plans for their area. This included two front runners being the first of a number in the Country to undertake NHPs- Boxted and Myland & Braiswick. Boxted NHP was the first in Essex to be made. The complete list of made (adopted) Neighbourhood Plans is set out below;

Adopted Neighbourhood Plans:

- Boxted – December 2016
- Myland Braiswick – December 2016
- Wivenhoe – May 2019
- West Bergholt – October 2019
- Eight Ash Green – December 2019
- Marks Tey – April 2022
- West Mersea – April 2022

- 5.2 As adopted Neighbourhood Plans these all comprise part of the Statutory Development Plan and as such provide additional planning policies relevant to considering planning applications.

- 5.3. A number of other areas continue to work on emerging Neighbourhood Plans with the following underway at the stage indicated below;

Emerging Neighbourhood Plans;

- Tiptree (Reg 14 consultation completed and Submission anticipated during the Summer followed by Reg 16 consultation and Examination)
- Copford (Reg 14 consultation completed and Draft Plan Submitted- Reg 16 consultation to commence imminently, followed by Examination)
- Great Tey- (Draft Plan being prepared)
- Great Horkesley- (Area Designated June 2022- Draft Plan being prepare for Reg 14 Consultation)

Stanway and Messing also have areas designated, however work has currently been abandoned and there is no active Neighbourhood Plan Steering Group. However this position could be reviewed by the Qualifying Body at any time.

- 5.4 Some of the Neighbourhood Plans which were adopted a number of years ago, have commenced, review / modification, other Groups are considering undertaking modifications / reviewing the Plan. Myland and Braiswick are working on a draft review of the Plan and have been engaging with Officers, making good progress with evidence base updates and drafting along with community engagement. Consultation on a draft review of the Plan is envisaged later this year. Other Neighbourhood Plan Groups or Parish Councils have mentioned potential review in discussion and correspondence with Officers including West Bergholt, Wivenhoe and Boxted, but no clear plans regarding the scope and nature of this have been progressed with CBC Officers on these to date.
- 5.5 The process for reviewing / modifying Neighbourhood Plans is similar to that for preparing Plans for the first time, although there are tiers of review which influence the process and need for Examination and or Referendum. There are 3 types of

modification which can be made to a neighbourhood plan or order. The process will depend on the degree of change which the modification involves:

- *Minor (non-material) modifications* to a neighbourhood plan or order are those which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum.
- *Material modifications which do not change the nature of the plan* or order would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.
- *Material modifications which do change the nature of the plan* or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

5.6 Officers continue to support Neighbourhood Plan Groups to prepare and review Plans and are working on preparing updated guidance to help steer groups through the process and hints, tips, lessons learned and resources available. Representatives of Groups have also networked with each other providing valuable advice to one another and to Groups from other Parishes who may be considering embarking on an NHP. This peer support is invaluable and effective with many lessons learned shared along the way.

5.7 Where a community wants to take up the opportunities offered by neighbourhood planning, the legislation enables 3 types of organisation, known as qualifying bodies, to lead it:

- a parish or town council
- a neighbourhood forum
- a community organisation

5.8 Within in Colchester all NHPs to date have been within parished areas, which is the most common Plan area boundary for NHPs. Outside of defined parishes a group of a minimum of 21 interested representatives in the community / organisations in the area which a NHP is to cover, can apply to the Local Planning Authority to be designated as a "Neighbourhood Forum". The membership of a forum must be open and include representation from a range of community interests including living / working in the area. If designated, they become the Qualifying Body for the purposes of Plan making in the same way that the Parish Council does.

6. Equality, Diversity and Human Rights implications

6.1 An Equality Impact Assessment has been prepared for the Local Plan which is relevant, and is available to view by clicking on this link:
[Equality Impact Assessment June 2017.pdf \(windows.net\)](#)

7. Strategic Plan References

7.1 The Strategic Plan is relevant, in particular in contributing towards priorities under the themes:

- Creating safe, healthy and active communities;

- Growing a fair economy so everyone benefits; and
- Delivering homes for people who need them.

8. Consultation

8.1 Not required at this stage, the report is for information purposes.

9. Publicity Considerations

9.1 Not required at this stage, the report is for information purposes.

10. Financial implications

10.1 Not required at this stage, the report is for information purposes.

11. Health, Wellbeing and Community Safety Implications

11.1 None.

12. Health and Safety Implications

12.1 None.

13. Risk Management Implications

13.1 None.

14. Environmental and Sustainability Implications

- 14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.
- 14.2 The NHPs take into account the Climate Emergency sustainable developments objectives set out in the NPPF. Policies may include objectives and initiatives which can contribute to managing climate change.

Local Plan Committee - Background Information

What is a Local Plan?

A Local Plan is the strategy for the future development of a local area, drawn up by the Local Planning Authority (LPA) in consultation with the community. The Local Plan sets out the vision, objectives, spatial strategy and planning policies for the entire Colchester Borough. A Local Plan provides the overall framework for the borough in terms of employment and housing growth, infrastructure needs and identifying areas that require protection i.e., open space and community uses. The plan making process includes several rounds of public consultation with local communities, stakeholders and statutory consultees.

The Local Plan usually covers a 15-year period and identifies how communities will develop over the lifetime of the Plan.

In law, this is described as the Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004. A Local Plan must be prepared in accordance with national policy and guidance.

The National Planning Policy Framework (NPPF) states at paragraph 15 that *“The planning system should be genuinely plan-led. Succinct and up to date plans should provide a vision for the future of each area, a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings”*.

Planning involves making decisions about the future of our cities, towns and countryside. This is vital to balance our desire to develop the areas where we live and work with ensuring the surrounding environment is not negatively affected for everyone. It includes considering the sustainable needs of future communities.

Independent Planning Inspectors must examine all Local Plans that local authorities in England prepare. This examination is the last stage of the process for producing a Local Plan. The process should have fully involved everyone who has an interest in the document, and they should have had the chance to comment.

Why is a Local Plan important?

A Local Plan is a statutory requirement as outlined in Section 19 of the Planning and Compulsory Purchase Act 2004.

The Local Plan contains policies to guide development by identifying a spatial strategy, site allocations for employment and housing development and protecting the environment, land and buildings for certain uses to ensure delivery of sustainable communities.

Without a Local Plan to identify where and how the borough should develop, planning applications are determined in accordance with national policy which does not provide

the local context of Colchester. Without a Local Plan, the borough would be at significant risk from speculative development. A Local Plan provides certainty of where development can be delivered sustainably across the Borough.

What is a Neighbourhood Plan?

The Localism Act 2012 devolved greater powers to neighbourhoods and gives local communities more control over housing and planning decisions.

A Neighbourhood Plan is a planning document that communities can put together to set out how they would like their town, parish or village to develop over the next 15 years. The Neighbourhood Plan is prepared by the local community for a designated neighbourhood area, usually this is undertaken by the Parish/Town Council or a Neighbourhood Plan Development Forum can be established for areas without a parish/town council.

A Neighbourhood Plan enables communities to identify where new homes and other developments can be built and enables them to have their say on what those new buildings should look like and what infrastructure should be provided. This provides local people the ability to plan for the types of development to meet their community's needs.

A Neighbourhood Plan must undergo a number of formal processes to ensure it is robust and well-evidenced. This includes two formal consultation periods, independent examination and a public referendum.

A Neighbourhood Plan is subject to examination where the Examiner must determine if the Neighbourhood Plan complies with the Basic Conditions as set out in the Town and Country Planning Act 1990 (as amended). Following an Examination, the Neighbourhood Plan must be subject to a referendum. In order for the Neighbourhood Plan to pass a referendum and be 'made' (adopted) the majority of voters (more than 50%) must be in favour of the Neighbourhood Plan.

If a Neighbourhood Plan passes the referendum, this becomes part of the Statutory Development Plan for that area. Where a Neighbourhood Plan has been 'made', both the Neighbourhood Plan and Local Plan are used when determining planning applications alongside national policy.

What is included in the Development Plan for Colchester?

The Development Plan is a suite of documents that set out the LPAs policies and proposals for the development and use of land and buildings in the authority's area. This includes Local Plans, Neighbourhood Plans and is defined in section 38 of the Planning and Compulsory Purchase Act 2004.

Within Colchester Borough this currently includes:

- Section 1 Local Plan (adopted February 2021);
- Section 2 Local Plan (adopted July 2022);
- Tiptree Jam Factory DPD (adopted 2013);
- Neighbourhood Plans.

Section 1 of the Colchester Local Plan sets out the overarching strategy for future growth across Braintree, Colchester and Tendring, including the Tendring Colchester Borders Garden Community as well as including policies setting the overall housing and employment requirements for North Essex up to 2033. Section 2 provides the policy framework, site allocations and development management policies for Colchester Borough up to 2033.

In Partnership with Tendring District Council, a Development Plan Document (DPD) is being prepared to further guide development on the Tendring Colchester Borders Garden Community. This process is being governed by the Tendring Colchester Borders Garden Community Joint Committee.

There has been considerable neighbourhood planning activity within Colchester with seven 'made' (adopted) Neighbourhood Plans across the borough. These are:

- Myland and Braiswick
- Boxted
- Wivenhoe
- West Bergholt
- Eight Ash Green
- Marks Tey and
- West Mersea

Four further Neighbourhood plans are at various stages of the plan making process. These include Copford with Easthorpe, Great Horkesley, Great Tey and Tiptree.

For minerals and waste matters, Essex County Council are the authority responsible for production of the Waste and Minerals Local Plans, which forms part of the Colchester Development Plan. At present the adopted plans for Essex are:

- Essex Minerals Local Plan (2014)
- Essex and Southend-on-Sea Waste Local Plan (2017)

What is included within the Development Framework for Colchester?

The Local Development Framework (LDF) is a non-statutory term used to describe a folder of documents, which includes all the local planning authority's local development documents. A Local Development Framework is comprised of:

1. Development Plan

Currently for Colchester this includes:

- Section 1 Local Plan (adopted February 2021)
- Section 2 Local Plan (adopted July 2022)
- Neighbourhood Plans (Myland and Braiswick, Boxted, Wivenhoe, West Bergholt, Eight Ash Green, Marks Tey and West Mersea)
- Essex Minerals Local Plan (2014)
- Essex and Southend-on-Sea Waste Local Plan (2017)

2. Supplementary Planning Documents (SPD)

An SPD is a document produced by the Local Planning Authority to add further detailed guidance and information on a particular subject such as Sustainable Construction or Open Space, Sports and Recreational Facilities. An SPD is subject to a formal consultation period and then is used as a material consideration when determining planning applications.

Currently for Colchester these are:

- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) – August 2020
- Affordable Housing – August 2011
- Backland and Infill – December 2010
- Better Town Centre – December 2012
- Cycling Delivery Strategy – January 2012
- Provision of Community Facilities – July 2013
- Provision of Open Space, Sport and Recreational Facilities – July 2006, updated April 2019
- Shopfront Design Guide – June 2011
- Street Services Delivery Strategy – October 2012 revised February 2016
- Sustainable Design and Construction – June 2011
- Sustainable Drainage Systems Design Guide – April 2015
- Vehicle Parking Standards – September 2009
- ABRO Development Brief SPD (December 2021)
- Archaeology and Planning (2015)

A number of these will be reviewed and updated along with new SPDs to be compliment with new policies in the Adopted Local Plan.

3. Local Development Scheme (LDS)

The LDS is a project plan for a three-year period for the production of all documents that will comprise the Development Plan. It identifies each Local Development Plan Document and establishes a timescale for preparing each.

4. Authority Monitoring Report (AMR)

The AMR is a report published annually by the LPA, monitoring progress in delivering the Local Plan policies and allocations. The report covers the financial year from 1 April to 31 March and for Colchester is published in December.

5. Statement of Community Involvement (SCI)

The SCI sets out the standards that the Local Planning Authority (LPA) intend to achieve in relation to involving the community and all stakeholders in the preparation, alteration and continuing review of all Local Development Plan documents and in significant planning applications. The SCI also outlines how the LPA intends to achieve those standards. The SCI itself, is not a development plan document, but is subject to independent examination. A consultation statement showing how the LPA complies with its SCI should accompany all Local Development Plan documents.

What are housing targets and why do we have them?

The Government have committed to delivering 300,000 new homes per year across England to significantly boost the supply of homes.

A Local Plan identifies the minimum number of homes needed through policies which are informed by a local housing need assessment produced in accordance with the Standard Methodology as outlined in national planning guidance, unless exceptional circumstances justify an alternative approach. The Standard Method was introduced through the National Planning Policy Framework (NPPF) in 2019.

For Colchester, the minimum housing requirement has been established in the Section 1 Local Plan. Policy SP4 set out the minimum housing requirement figure for Colchester as 920 dwellings per annum and 18,400 new homes over the period 2013 to 2033. This number was based on the previous assessment method outlined in the NPPF 2012 known as the Objectively Assessed Need. The Local Plan has been examined in accordance with the transitional arrangements outlined in the NPPF 2019, which requires examination of the Plan under the NPPF 2012.

The Council are required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement figure as set out in the Local Plan, this is often referred to as the five year housing land supply (5YHLS).

The Council publish annually a Housing Land Supply Statement. This sets out Colchester's housing land supply position over a five-year period from 1 April of each year and explains how this position complies with the requirements of national policy and guidance. The Statement is prepared by the LPA with engagement from developers and agents regarding expected delivery of new homes.

What happens if the borough does not meet their housing target?

If an LPA cannot demonstrate a five-year supply of housing, national planning policy takes precedence over the Local Plan. The '*presumption in favour of sustainable development*' as outlined in national policy (NPPF paragraph 11d) will be triggered.

This means that if a planning application is considered to deliver sustainable development, then planning permission should be granted, even if the site is not identified for development in the Local Plan. In effect, the Council would have little control over where new homes are built and would be required to approve planning applications for sites that they may not have chosen for development. Many authorities can reject these schemes, but the decision can be overturned, and planning permission granted on appeal.