

Local Plan Committee Meeting

**Moot Hall, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 13 September 2018 at 18:00

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

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COLCHESTER BOROUGH COUNCIL
Local Plan Committee
Thursday, 13 September 2018 at 18:00

The Local Plan Committee Members are:

Councillor Christopher Arnold
Councillor Lewis Barber
Councillor Nigel Chapman
Councillor Phil Coleman
Councillor Nick Cope
Councillor John Elliott
Councillor Andrew Ellis
Councillor Adam Fox
Councillor Gerard Oxford
Councillor Martyn Warnes

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.

1 Appointment of Chairman

To appoint a Chairman for the forthcoming Municipal Year

2 Appointment of Deputy Chairman

To appoint a Deputy Chairman for the forthcoming Municipal Year

3 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.

4 Substitutions

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

- 5 **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.
- 6 **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.
- 7 **Have Your Say!**
The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda or any other matter relating to the terms of reference of the meeting. Please indicate your wish to speak at this point if your name has not been noted by Council staff.
- 8 **Minutes of 19 March 2018** 7 - 26
The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 19 March 2018.
- 9 **Local Plan Examination Options** 27 - 62
A report by the Assistant Director Policy and Corporate giving details of the issues raised by the Inspector for the strategic Section 1 of the Local Plan prepared jointly with Braintree and Tendring which required further work and proposing a number of options for progressing the Local Plan.
- 10 **National Planning Policy Framework July 2018** 63 - 68
A report by the Assistant Director Policy and Corporate giving details of the finalised version of the revised National Planning Policy Framework (NPPF) was issued by the Ministry of Housing, Communities and Local Government (MHCLG) on 24 July 2018.
- 11 **Statement of Community Involvement – Consultation Summary and Adoption Request** 69 - 100
A report by the Assistant Director Policy and Corporate giving details of the completed consultation on the Statement of Community Involvement, summarising the responses from stakeholders during the six week consultation that was conducted predominantly due to changes within emerging national policy that needed to be reflected at the Borough level.
- 12 **Colchester Local List – Review 2018** 101 - 108
A report by the Assistant Director Policy and Corporate giving details of the review of the Colchester Local List and explaining its role in

safeguarding selected heritage assets that, although not suitable for designation nationally as a Listed Building or Scheduled Monument, are considered historically or architecturally important at a local level, are valued by the local community and make a significant contribution to the character and setting of Colchester and the surrounding villages.

13 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).

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

Local Plan Committee

Monday, 19 March 2018

Attendees: Councillor Lewis Barber, Councillor Nick Barlow, Councillor Nigel Chapman, Councillor Andrew Ellis, Councillor Adam Fox, Councillor Martin Goss, Councillor Dominic Graham, Councillor John Jowers, Councillor Martyn Warnes

Substitutes: No substitutes were recorded at the meeting

Also Present:

131 Have Your Say!

Giles Coode-Adams addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He referred to the outcome of that part of the recent planning inspection relating to West Tey and was of the view that the Council's viewpoint had not been supported because of factors including insufficient contingency levels, interest on land purchases, inflated employment figures, modal shift, no clear decision about Marks Tey railway station, the new route for the A12 closer to Easthorpe and Copford, the lack of space for patients and car parking at Colchester General Hospital, questionable viability based on current inflated house prices and low interest rates, the failure of the Council to publish details relating to Monks Wood on the website and failure to take account of the complexities of compulsory purchase arrangements.

The Chairman thanked the speaker, referred to the ongoing nature of the planning inspection process, that Part 2 of the Local Plan would be subject to review later this year and, as such, he explained that he was unable to comment further on the points made.

Christopher Lee addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He asked the committee to address what he considered to be repeated false remarks made by Conservative councillors in relation to the delivery of the Local Plan. He acknowledged that the Conservative members of the Committee had voted against the Local Plan but on the basis that they were opposed to the inclusion of the Colchester Braintree Borders garden community proposals, whilst supportive of the published housing target of 920 per year as well as development to the East of the town. He considered that a failure to deliver the Plan properly would have a massive impact on everyone in the Borough. He referred to the offence of misconduct in public office and quotes on social media by Conservative members which were, in his view, intended to deliberately mislead the public. He further speculated whether a failure to act on these matters by the Council could be deemed to be wilful negligence. He further referred to

the Country Park and sought clarification in relation to support for a garden community on the Colchester Tendring Border whilst at the same time advocating the creation of a 1.5 km wide Country Park in the same location. He further questioned whether this apparent anomaly would mean that the Inspector would deem the Plan to be unsound.

The Chairman thanked the speaker whilst reminding him that the Committee was a quasi-judicial body. He referred the speaker to the extensive information that he had voluntarily provided at the start of the previous meeting of the Committee which was a fact based list of issues intended to provide definitions and an explanation of the Local Plan process and an outline of which parameters the Committee was trying to work within.

Councillor Scott attended and, with the consent of the Chairman, addressed the Committee. She referred to the Statement of Community Involvement (SCI) and sought clarification in relation to the status of Wivenhoe Neighbourhood Plan which had been extensively consulted upon, with clear evidence that residents wishes for the community was for it to remain separate and for its rural character to be safeguarded. She requested confirmation that the Neighbourhood Plan would not be affected by the SCI update.

The Planning and Housing Manager confirmed that the Wivenhoe Neighbourhood Plan had advanced sufficiently to proceed to the examination process.

Councillor Cope attended and, with the consent of the Chairman, addressed the Committee. He referred to the children's' play area adjacent to Cavalry Road in the Quadriga estate which had been unusable for some five years. He considered the situation had consequences in terms of planning policy and, as such, was not entirely a matter for the Planning Committee. He explained that the area had been contaminated and, as such, the developers, Bovis, were required to submit information to the planning department. Permission for the development included a condition requiring a trigger point of 75% occupancy prior to the play area being released. He questioned the use of trigger points on the grounds that developers were able to restrict occupancy by use of the phasing of development so that the trigger is not activated. He had sought advice as to how this matter could be resolved and had been assured that officers were actively negotiating with the developer to bring the matter to a satisfactory conclusion. However, he considered that residents were becoming impatient that the matter would be resolved on the basis that the policy and its administration by officers were both at fault. He considered the continuation of this matter had become unacceptable.

The Chairman acknowledged the unsatisfactory situation but confirmed that, unfortunately, it wasn't unique.

The Planning and Housing Manager explained that the original decision had probably been made by the Planning Committee and subsequent reserved matters had followed.

She did not consider that it was a matter for the Local Plan Committee as it would not be appropriate to include a policy about trigger points in the Local plan. An approach of not including trigger points would mean there would be no flexibility and, as such, would be deemed to be unreasonable. She confirmed the Government was moving away from pre-commencement conditions, whilst a development of the scale of the Garrison development meant that not all of the infrastructure could be provided up-front. Certain elements would also suffer in terms of not being fit for purpose if provided too early, before sufficient residents had moved in. She confirmed that the officers were working with the developers to seek a satisfactory resolution.

132 Minutes of 18 December 2017

The minutes of the meeting held on 18 December 2017 were confirmed as a correct record.

133 National Planning Policy Framework Consultation

Councillor Jowers (in respect of his Vice-Chairmanship of Essex County Council and his substitute membership of Essex County Council's Development and Regulation Committee) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a report by the Assistant Director Policy and Corporate summarising proposed changes to the National Planning Policy Framework (NPPF) and providing committee members with the opportunity to feed in to the Council's response to the consultation.

Laura Chase, Planning Policy Manager, presented the report and, together with Karen Syrett, Planning and Housing Manager responded to members questions. She explained that the deadline for responses was 10 May 2018 and the Portfolio Holder for Business and Culture had agreed to consider individual comments from Local Plan Committee members submitted to him after the meeting but no later than 12 April 2018.

It was explained that the Ministry of Housing, Communities and Local Government had published draft revisions to the NPPF on 5 March 2018, together with a report which summarised the changes proposed and highlighted the questions asked in the consultation. The Planning Policy Manager confirmed that the consultation would not affect Colchester's draft Local Plan schedule.

The proposed changes to the framework, the first since the original version had been issued in 2012, included matters from the previous policy consultations and planning policy changes including the NPPF consultation in 2015, the Housing White Paper, Planning and Affordable Housing for Build to Rent, Planning for the Right Homes in the

Right Places, changes to planning policy implemented through Written Ministerial Statements, changes reflecting the effect of case law on the interpretation of planning policy and textual improvements to increase coherence and reduce duplication.

The consultation sought views on further changes to planning policy including those announced in the 2017 Budget. A number of supporting documents, government responses, and further consultations had also been published, including:

- Supporting Housing Delivery through Developer Contributions: consultation;
- Draft Planning Practice Guidance for Viability;
- Housing Delivery Test: draft measurement rule book;
- Government responses to the Housing White Paper and the Planning for the Right Homes in the Right Places consultations; and
- Section 106 Planning Obligations and the Community Infrastructure Levy in England, 2016 to 2017: report of study.

The NPPF was now set in 17 topic-based chapters which provided an overview of the planning framework and the relevance of different policies.

The review focused on ways to improve delivery to reach the Government's 300,000 homes per year target and how to increase affordable housing provision. The standardised methodology for calculating local housing need developed by the Local Plans Expert Group had been included, together with policies regarding design, densification, affordable home ownership expectations, the housing delivery test, making the most of town centre sites and small sites. A new proposed policy allowed the development of exception sites to provide entry-level housing for first-time buyers and renters.

Plans had been strengthened and provided with an even greater role, further underlining the Government's intention for the English planning system to be a plan-led one, with a focus on strategic policies. The plan-making chapter reflected previous announcements and/or changes, such as for local plan policies to be reviewed 'at least once every five years' as well as proposed revisions to the tests of soundness. The duty to co-operate would be bolstered by a requirement for the preparation of statements of common ground, documenting the cross boundary issues to be addressed, and progress in dealing with them.

The proposals clarified that when development proposals accorded 'with all the relevant policies in an up-to-date development plan' there would be no need to submit a viability assessment. Furthermore, there was a fundamental shift towards focusing viability assessments at the plan-making stage rather than the decision-making stage, but with the local plan setting out where further (publically available) viability assessments might be required at planning application stage.

The objectives of the proposed reform were to provide more clarity and certainty around

how developer contributions work, improve their relationship with market signals and changes through time, improve transparency, accelerate development, and allow the introduction of a Strategic Infrastructure Tariff by combined authorities. Proposals included the simplification of the process for reviewing Community Infrastructure Levy (CIL) charging schedules, lifting section 106 pooling restrictions, allowing CIL charging schedules to be set based on existing use of land, and for setting developer contributions nationally, which would not be negotiated. A separate consultation on supporting housing delivery through developer contributions had been launched alongside the NPPF consultation to deal with these proposed changes.

It was proposed that policies should look at least ten years ahead in allocating sites to meet the need for town centre uses but not necessarily over the entire plan period, in view of the difficulties of longer term forecasting. The changes proposed to the sequential test for main town centre uses would allow out-of-centre sites to be considered only if town centre or edge-of-centre locations were not available, or not expected to become available 'within a reasonable period', acknowledging that a suitable town centre site might be in the development pipeline. Whilst the requirement for office development outside of town centres to undertake and submit an impact assessment was proposed to be removed.

Consultation on the revised draft NPPF extended to 10 May and the government's intention was to produce a final version before the summer. The intention was also to consult on further planning reforms, particularly around new permitted development rights for upwards extensions, as well as around more effective ways of bringing agricultural land forward for housing. The transition period for plan-making would be six months following publication. However, there were no proposed transitional arrangements for either the amendments to the soundness test or for the introduction of statements of common ground as it was considered that the Housing White Paper, and other consultations, had provided enough time for local authorities to recognise the direction of travel and prepare for these potential future changes to the revised NPPF.

The Planning Policy Manager confirmed that the response to the consultation was likely to include comments in relation to the reference to Garden Community principles having been dropped and also in relation to viability and developer contributions.

Rosie Pearson addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). She was making representations in relation to the views of the Campaign Against Urban Sprawl in Essex (CAUSE) on what the consultation would mean for the Colchester and North Essex Garden Community project. She considered there were positive changes including a platform for local people to influence changes in their local communities, a situation which she felt hadn't been the case currently in Colchester. She also welcomed proposals that strategic matters would be dealt with rather than deferred, provision for stricter rules on statements of common ground, Community Infrastructure Levy (CIL) being encouraged more strongly with a request that

this be considered again for Colchester and she referred to examples of infrastructure being delivered elsewhere by means of CIL, such as in Bristol and Norwich. She also welcomed brownfield land being given more priority. The main area of concern for CAUSE was the new Objectively Assessed Needs (OAN) housing formula which she considered would punish Colchester as it would not help affordability and Colchester would continue to grow at an increasing rate. She asked the Committee to consider again the benefits available through the adoption of a CIL as an approach to deliver infrastructure, whether the brownfield land register would be looked at again, including a call for sites particularly in relation to the village locations, and whether the Council's response to the consultation would include a robust argument against the OAN formula proposed and how will the Committee ensure that local people's views are listened to and taken into account.

The Chairman responded by explaining that the Committee had considered the issues relating to a CIL a number of times but had not yet progressed to this option pending more information from the Government as to what it intends to do in relation to CIL and Section 106 agreements. He was of the view that currently more benefits could be obtained through the use of Section 106 agreements. He also referred to Colchester's very good record in relation to the use of brownfield sites for development, the challenge now being that such sites were now in short supply. The Council had already compiled a brownfield sites register which had included a call for sites and the register was open to the submission of suggested sites from the public for inclusion in the future. He was aware that members of CAUSE did not feel their views had been listened to but he referred to previous consultation exercises, the duration of which had been extended, to enable the public to submit more comments. He also referred to information he had provided at the last meeting of the Committee, setting out the numbers of houses which were planned to be delivered in Colchester and in the neighbouring local authority areas and the timescales attached to that delivery.

Karen Syrett, Planning and Housing Manager, explained that CIL was still included in Colchester's Local Development Scheme and, as such, could be progressed if it proved to be more viable than the use of Section 106 agreements. She confirmed that, when there was more certainty from the Government, then the matter could be considered again by the Committee. She was aware of funds being made available for infrastructure delivery in Bristol and Norwich but was of the view that it was not clear whether they had been delivered through CIL or Section 106 agreements. She further explained that of the total £6 billion combined financial contribution delivered through CIL and Section 106 agreements in 2016-17, £5 billion of that had been through Section 106 agreements and she confirmed that any consideration of CIL would be in conjunction with the continued use of Section 106 agreements. She explained that the brownfield sites register had included a call for sites on two previous occasions, however, it was an open register and requests for sites to be included could be made at any time. She confirmed that the Council's response to the consultation would include an objection to the housing methodology if it recommended the same approach as the previous consultation. She

went on to welcome the recent recognition of the Council's current housing target of 920 homes per year, as well as the affordable element of that, by a planning inspector.

Councillor Graham referred to misconceptions in social media which had referred to 42,000 homes being built in Colchester and explained that the 42,000 homes were to be delivered in the whole of North Essex, not just Colchester.

David Cooper addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He referred to the NPPF consultation as well as many other consultations being undertaken by the government and considered this made it very difficult for members of the public to understand the planning process. He hoped that consultees would be listened to and co-operated with. He called for a multi-way consultation and meetings between consultees and the Council for a public discussion. He welcomed the NPPF consultation in terms of proposals for more houses on exception sites which would assist first time buyers and renters. He considered this may be of interest in Mersea. He noted the new NPPF would not be applicable to the draft Local Plan currently under review but asked whether it would apply to Neighbourhood Plans which were being developed in West Mersea. He referred to continuing concerns about two sites being identified in the draft Local Plan for development in Mersea, each with up to 100 dwellings, which he considered did not comply with the NPPF principles of making 'effective use of land' and asked why this hadn't been consolidated to just one site.

The Planning and Housing Manager explained that, until the new NPPF had been adopted, in whatever form, it would not apply to the Local Plan or Neighbourhood Plans. She confirmed that the Local Plan had been submitted to the inspector so no changes to its contents, such as the number of sites identified in Mersea, were being proposed.

Councillor Jowers agreed with the comments made by Mr Cooper in relation to the inclusion of two sites in Mersea, which he regretted. However, he considered the total number of houses needed to be seen as a commitment such that 200 dwellings was a maximum which would not be exceeded.

Councillor Barber sought clarification on the benefits or otherwise of CIL and asked whether it would be possible for more information to be provided to the Committee in the future. In terms of his own ward he considered that there were too many restrictions on development in the countryside, particularly in relation to proposals which were supported by residents. He also advocated the support of businesses in rural areas and regretted the use of the term unsustainable as he wished to see local employment measures encouraged. He also asked for clarification on the Strategic Infrastructure Levy and voiced his concerns about the removal of references to the Garden Community principles in the consultation document.

The Planning Policy Manager explained that CIL was a tariff which applied to all

development and, as such, one of its benefits was that it applied to small scale developments. It did provide for the pooling of contributions for large scale infrastructure, rather than each development only mitigating its own impact. However, once the Levy was set then the contributions were required to be paid which may be at the expense of the delivery of affordable housing when this element remains to be negotiated. She referred to a potential national standard for affordable housing which would be seen as a benefit as this element would then be a known front-loaded expectation of the developers. She went on to confirm that there were no unsustainable settlements in Colchester, as all settlements had been designated either other settlements or less sustainable. There was provision in local policies and the current and new NPPF for development in these villages, predominantly through rural exception sites.

The Planning Policy Manager explained that the Strategic Infrastructure Levy in London was the tariff to fund Crossrail.

Vincent Pearce, Planning Projects Specialist, explained that for communities with an adopted Neighbourhood Plan, there was a further benefit of CIL in terms the amount that community can take out of the financial contributions. He also reported that Colchester had managed £300m of planning gain through the Section 106 agreement system which had delivered significant benefits for the people of Colchester.

Councillor Barlow suggested, in the light of the growing number of consultations and changes to the legislation, the response to the consultation needed to include a request for stability within the planning regime, particularly if the government wished to move to plan based development.

Councillor Jowers recollected that the Committee had previously been on the verge of launching CIL but it had not been implemented when it was emerged that the Levy in Chelmsford was lower than that proposed for Colchester. He acknowledged that local authorities were able to use a combination of CIL and Section 106 agreements and recollected that on an average sized house the levy would amount to £15k to £19k whilst the actual amount required to provide all necessary infrastructure was £39k per house. He was therefore of the view that Section 106 provided more flexibility than CIL. He acknowledged the advantage of being able to pool CIL contributions and that CIL was often better in relation to larger scale schemes but he agreed that more information needed to be provided by government before the committee should consider it again.

Councillor Fox welcomed the report and the consistency of comments from the contributors. He referred to the dropping of the references to Garden Community principles in the consultation document and was hopeful that the draft Local Plan, including the joint garden community proposals would shortly receive the support of the planning inspector.

The Planning and Housing Manager confirmed that the Council had sought advice as to

why the Garden Communities principles had been removed from the consultation document and she confirmed that the quality and design aspects of the draft have been considered to be of predominant importance at a local level, whilst references to national standards had been removed. However because the Council's draft Local Plan included its own principles in relation to the Garden Communities then these would prevail.

Councillor Chapman asked about the proposed requirement for 20% of housing to be on half an hectare or less, presumably to encourage development in villages and whether this provision would be welcomed in the Council's response. He also asked whether there was any references to social housing in the document.

The Planning and Housing Manager confirmed she had not found anything specifically on social housing, more in terms of local authorities being innovative and to look at opportunities to increase social housing through rural exception sites and, as Colchester had done in the past, using local planning policies to deliver some market housing as part of an affordable housing development. She confirmed the intention to include a response to the consultation in relation to small sites.

Councillor A. Ellis commented that he found it difficult to differentiate the changes to the original NPPF proposed in the consultation document and speculated whether a version highlighting the changes was available. He indicated that he would welcome the adoption of a CIL if it meant that Colchester could take a more holistic approach to infrastructure delivery. He was aware that Chelmsford had adopted CIL but that the contributions had decreased from the levels achieved under a Section 106 agreement regime. He suggested that it would be helpful for committee members to be advised of neighbouring authorities who had adopted CIL and to what extent the change had affected the total financial contributions achieved. He questioned the 10% target level for affordable homes contained in the consultation document, given this was considerably below the 30% target identified by Colchester in the new Local Plan. He referred to the proposal regarding entry level homes that would be offered for discounted sale or affordable rent and queried that definition of affordable was being used. In terms of development in rural areas, he highlighted a clause within the document which supported the sub-division of existing residential property. He was also of the view, in relation to planning policies in rural areas being responsive to local circumstances and housing developments reflecting local needs, that this should also extend to local wishes. He also considered that the document made it patently clear that a Local Plan would, in future, only have a life of five years.

The Planning Policy Manager agreed to send a copy of a track changes version of the consultation document to Councillor Ellis and other members of the Committee, if this would be helpful.

The Planning and Housing Manager confirmed that the consultation did include a reference to the expectation of affordable housing levels being higher than 10%. The

definition of affordable housing was set out in the document as being at least 20% below local market rents.

Councillor Barber asked the Committee to consider having an in depth discussion about CIL in the new municipal year at which time the Government may have made its position more clearly.

Councillor Jowers asked whether the size of a village was applicable in relation to the development of exception sites in rural areas and queried the reference in the document to more effective ways to bring agricultural land forward for development which seemed to indicate an unwelcome relaxation of planning law. He also sought clarification on the viability assessment obligation on the part of developers and whether this was proposed to be a requirement for developers prior to development. He commented on the reference to areas defined as heritage coast and asked why Colchester had not taken the opportunity to look at this before now. He also mentioned planning policy for travellers sites and the need to initiate discussions with neighbouring authorities in order to agree a county wide solution sooner rather than later. He also asked for it to be made absolutely clear the distinction between green belt and green field.

The Planning and Housing Manager confirmed that the government was looking to introduce more viability testing at the plan making stage, rather than on individual applications, with a view to speeding up the application process. Also where viability discussions did take place, the detail of these could be made public. She agreed to look into the heritage coastline issue and confirmed that Roger Hirst, as Essex Police, Fire and Crime Commissioner was leading discussions on the traveller site issue and the transit site issue.

RESOLVED that –

- (i) The consultation on the National Planning Policy Framework be noted and the points raised as part of the Committee's discussions on the matter, together with any individual comments submitted direct to the Portfolio Holder for Business and Culture by Committee members prior to 12 April 2018, be considered for inclusion in Colchester Borough Council's response to the consultation, which would subsequently be finalised by means of a Portfolio Holder Report prior to submission to Government.
- (ii) That arrangements be made in the new municipal year for a training session on the issue of Community Infrastructure Levy – its benefits or otherwise and an invitation be extended to all councillors to attend.

134 Statement of Community Involvement

Councillor Jowers (in respect of his Vice-Chairmanship of Essex County Council and his substitute membership of Essex County Council's Development and

Regulation Committee) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a report by the Assistant Director Policy and Corporate seeking approval to consult with the public on the revised Statement of Community Involvement, new arrangements for which set out policies for involving communities and other interested parties in the preliminary stages of plan-making and would come into force on 31 July 2018.

Sean Tofts, Planning Policy Planner presented the report and, together with Karen Syrett, Planning and Housing Manager, responded to member's questions. The Planning Policy Planner explained that new arrangements for the production of Statements of Community Involvement (SCI), which set out policies for involving communities and other interested parties in the preliminary stages of plan-making, would come into force on 31 July 2018.

It was explained that the regulations would require all authorities to have up to date plans (and SCI) and commence the statutory duty for authorities to identify their strategic priorities and the policies to address them. Additional powers were also provided for the Secretary of State to intervene in plan-making where authorities were not planning effectively for the needs of communities. The regulations introduced a requirement to review Local Plans and SCI at least every five years from adoption. There was a requirement for local authorities to set out policies for giving advice or assistance to neighbourhood planning groups and their policies involving communities and other interested parties in the preliminary stages of plan-making. Also requirements to set out how Neighbourhood Plan Groups would be assisted within the process of reviewing matters which may be expected to affect the development of their area or the planning of its development and to set out how Neighbourhood Plan Groups would be assisted in relation to their plan preparation, timing and process.

Changes to the Colchester SCI as a result of the new requirements included:

- A new chapter with specific regard to Neighbourhood Planning
- A concise explanation of Neighbourhood Planning
- An explanation of the consultation process in relation to Neighbourhood Plans (including table of time frames)
- Support and guidance that will be provided by the Council.

Details were further provided in the SCI as to how this support and guidance were planned to be delivered. Preliminary work was being undertaken on producing a comprehensive Neighbourhood Planning Guide for the Borough.

It was explained that the requirement to update the Colchester SCI had also been taken as an opportunity to ensure that the information in relation to community involvement for the development management process was accurate, minor amendments had been

made to ensure the document accurately reflected the current procedures, restructuring to make the document clear and concise and reformatting to reflect the document style of other Local Plan documents.

Councillor Jowers welcomed the report and firmly supported the principle of local people being involved in the planning process. He referred to funding being made available in the early days of Neighbourhood Planning and two Parish Councils in Colchester had been able to benefit from this. However, he questioned whether funds from the New Homes Bonus could not have been used before now to assist the Neighbourhood Planning process. He was aware that there was a significant financial burden for Parish Councils and was hopeful these new arrangements would go some way to relieving this issue. He sought clarification in relation to certain specific consultation bodies quoted in the document and referred to how the council communicated with local communities, citing difficulties for Parish Councils in relation to their ability to comment on planning applications within required timescales due to cycles of meetings and the complexity of the Councillor call-in procedure for planning applications.

Councillor Barber welcomed the report and commented on the Neighbourhood Plan process and the length of time it took to come to a conclusion, asking whether it was possible to expedite the process as he considered that opportunities for speculative development proposals may take advantage of the protracted consultation process.

The Planning and Housing Manager explained that there was a meeting planned with West Bergholt Parish Council to take the matter forward. She explained that the consultant employed had been unwell which had slowed down the process. She explained that the Council only wished to support allocated sites especially in areas where a Neighbourhood Plan was under preparation and that this was recognised. It was necessary to get Neighbourhood Plans to a stage where they could carry weight and, as such, she gave an assurance to assist in this process wherever possible. She confirmed that there were statutory timescales and procedures which needed to be complied with but in the periods where there was discretion then they would offer support to maximise progress so far as possible.

RESOLVED that –

- (i) The Draft Statement of Community Involvement be approved and authorised for formal public consultation for a six week period commencing in March 2018; and,
- (ii) The results of that consultation be reported to a future meeting of the Local Plan Committee along with any proposed amendments to the content, where appropriate, with a view to the document being formally adopted.

Appraisals and Management Proposals

Councillor Jowers (in respect of his Vice-Chairmanship of Essex County Council and his substitute membership of Essex County Council's Development and Regulation Committee) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

John Akker addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He was making representations in relation to the collection of reports on conservation. He congratulated the author of the reports as they were an excellent example of a very important subjects for the Borough, namely heritage and cultural issues. The three reports went into detail and depth in terms of what is involved in assessing a potential conservation area. He was interested to know what the selection process was for these area assessments and he was of the view that Mersea and Pyefleet would be worthy of special consideration in order to safeguard historic areas particularly the waterfront. He hoped to see a report in due course on Mersea and for it to be considered sympathetically as a very important part of North Essex.

The Chairman thanked Mr Akker for his comments and congratulated him on speaking up for and on behalf of his local community.

Councillor Jowers explained that the waterfront at West Mersea was already designated a Conservation Area, as demonstrated by narrower yellow lines on the roadsides. He agreed with the comments of Mr Akker and supported the expansion of the Conservation Area and it would be interesting to look back at the rationale for previous Conservation Area designations in order to help in the consideration of which areas would have the appropriate merit to be included. He referred to areas of terraced housing and examples of artisan housing which were of interest.

The Committee considered three reports by the Assistant Director Policy and Corporate seeking approval to consult with the public on three individual Consultation Draft Conservation Area Character Appraisals and Management Proposals Document for:

- North Station Road,
- Birch and
- Mill Field Estate.

Vincent Pearce, Planning Projects Specialist, presented the reports and responded to members questions. It was explained that the Management Proposals Documents analysed the key components that contributed to making the three areas area worthy of designation as Conservation Areas. Included in the document was an assessment of positive and negative features and key issues and the documents followed an established format for such documents.

In respect of the North Station Road area, the need for Conservation Area consideration

had been triggered by:

- The emergence of the embryonic North Bridge Conservation Enhancement project (refurbishing North Bridge and other environmental improvements) for which external funding was being sought,
- The initial delivered phases of the 'Fixing the Link' project and
- The longstanding objectives within the North Station Road Masterplan.

All of these had indicated that the area, which retains significant special heritage importance, was likely to be under considerable positive pressure for change. In this context it was considered necessary to give additional statutory conservation protection to the area by the designation of a new Conservation Area.

The area was on the cusp of potential largescale change and it was clear that there had been little recent investment in property maintenance, with many sites representing redevelopment opportunities. This appraisal recognised that the area was vulnerable and had special historic and architectural merit worthy of greater statutory protection. It was considered that as North Station Road functioned as a major pedestrian corridor into and out of the Town Centre, this could bring new energy, investment, public spend and a bright future for the area.

Despite much change, some of which had not been particularly sympathetic, it is still easy to visualise its past, more picturesque character. The area was important in the recreational life of people of the town in that it once housed the public open air swimming pool. The area also has strong links with the growth of the railway, in that it housed one of the earliest Railway Worker Missions and Colchester's first publicly funded school was built, in what is now John Harper Street, and which remains in almost all its original external form. It was proposed to build on existing initiatives to promote better interpretation of the history of the area and to sensitively signpost other attractions, destinations and nodes in the wider vicinity.

In respect of the Birch area, the possible demolition of the Church of St. Peter and St. Paul within the existing Conservation Area and a possible Public Inquiry had increased the need for an appraisal to support the Council's objection to the proposed demolition. The Birch Conservation Area had been designated in 1993, soon after the Church of St Peter and St Paul was closed for worship, with uncertainty about the future of the landmark building and it being a key component within the townscape of Birch, prompted the designation.

In respect of the Mill Field Estate area, it had seen largescale redevelopment immediately to its east in the Garrison Conservation Area and the appraisal recognised that the area was vulnerable and had special historic and architectural merit worthy of greater statutory protection.

It was considered that, as the area was on a major walking route into and out of the town

centre, it brought with it great pressure for change, whether that be from the demand for more homes in an attractive area or from the pressure from existing residents to alter or extend their homes. Being a Conservation Area would allow for a development management that would reconcile these competing demands with the need to preserve and enhance the area's special character. It is proposed to describe the new Conservation Area as the Mill Fields Estate to reflect its Victorian suburban origins and the former windmill that preceded the Victorian terraced housing.

The Chairman thanked the Planning Projects Specialist for the exceptional quality of his presentation.

Councillor Jowers wholeheartedly welcomed the report and congratulated the Planning Projects Specialist on his enthusiastic and passionate presentation. He supported the view that areas of North Station Road which he considered to be the most important cultural part of Colchester. It was where things got done and in parts it was stunning and beautiful. He understood the need to protect the church in Birch from demolition and supported the proposals to designate the area around Maldon Road and Butt Road, including Hamilton School. He acknowledged that it was hard to determine what would be aesthetically valuable in the future. He wholeheartedly supported all three proposals whilst acknowledging that it would put an onus on people living in the areas but that this was a price worth paying.

Councillor Barber the passion demonstrated by the Planning Projects Specialist in his presentation gave him confidence to support the proposals. North Station Road in particular, because this was a main route into the town centre from the railway station which was currently quite disappointing visually. He acknowledged it would take time and a lot of effort, with people needing to support the concept. He agreed that a lot of the signage was brash and garish and did not fit into the area. Business owners would also need to take responsibility to improve the area visually. He had looked at places where signage had been improved elsewhere and cited Great Yarmouth where a small amount of money had been provided to business owners in order to deliver improvements. He asked the Committee to consider the inclusion of Belle Vue Road in the North Station Road Conservation Area boundaries which he understood also demonstrated some good historic features. He fully supported the measures to retain the church in Birch as it would be devastating to the area if it were lost.

Councillor Barlow he had lived on the edge of the proposed North Station Road Conservation Area for 20 years and wholeheartedly welcomed that proposal as well as the ones for Birch and Mill Field Estate. He supported the request for Belle Vue Road to be included in the Conservation Area and also the section of North Station Road to the north of Cowdray Avenue which included houses with features identical to those highlighted in the Mill Field Estate area. He also asked, because of the commercial nature of the North Station area, for the consultation to encompass residents living adjacent to the designated area itself and who may use the services and shops in the

area which would therefore capture the wider community implication beyond the area itself. He further commented, in respect of the proposed name of Mill Field Estate for the residential roads between Maldon Road and Butt Road, that he had been unaware of the area's historic association with a mill and suggested this was a matter for discussion for people who lived in the area as part of the consultation.

Councillor Graham confirmed that he used to live on North Station Road, just north of the Albert Roundabout and agreed that this section of North Station Road up to the Essex Hall Roundabout should be included in the Conservation Area, as it had very good examples of Edwardian architecture and it was the first introduction to Colchester to people walking to the town centre from the railway station. He also supported the inclusion of Belle Vue Road in the Conservation Area. He had previously been involved as Portfolio Holder with the Fixing the Link project which had cost in the region of £35k but this had only scratched the surface of what could be done and he was pleased this was continuing. He wholeheartedly supported the refurbishment of North Bridge and supported further partnership working with Essex County Council to deliver improvements here. He questioned the planting of trees in the wide pavements near North Bridge on the basis that it would also be beneficial to introduce cycling infrastructure, which would supplement the link to the railway station although he would welcome the introduction of both trees and a cycleway, if possible. He was disappointed how much Colchester was reliant on support from Essex County Council to deliver improvements and was particularly concerned about the track record in terms of improvements which were also aesthetically pleasing. He sought clarification as to whether there was anything that could be done to build on existing partnerships to improve this situation for Colchester. He also requested further information on the background to the vulnerability of the church in Birch.

Councillor A. Ellis also wholeheartedly welcomed the presentation by the Planning Projects Specialist although he recollected previous presentations and proposals to deliver improvements to bring the town to life had not actually come to fruition mainly due to budgetary restrictions. He referred to utility companies undertaking work but not reinstating original materials such as flagstones and was of the view that the Council may have to commit to pay the difference in cost between the use of standard reinstatement materials and the reinstatement of higher quality materials fitting a Conservation Area location. He was concerned about the deliverability of the project associated with the North Station Road area should the funding applications prove to be unsuccessful. He explained that he had sent a copy of the report on the Birch area to the Parish Council but had yet to receive a response. However, he had received some further information from the Round family who indicated that they would welcome a meeting with the Planning Projects Specialist. He was aware that there were proposals to convert the church into a dwelling but the issues associated with that were very complicated and the matter was now the subject of a public inquiry. He considered the church spire was a very important landmark for both Birch and Colchester generally and hoped it would be possible to preserve that landmark for the future. He acknowledged

that some of the road infrastructure in the village was visually unattractive, although serving a practical purpose and welcomed any proposals for replacement with more visually appealing solutions. He welcomed all three of the the proposals as an overall concept but needed further reassurance in terms of their deliverability.

Councillor Chapman he strongly welcomed the recognition of Victorian and Edwardian architecture in the form of these proposals. He considered there may be challenges in attempting to improve the overall look of the areas and was aware of houses within the Mill Field Estate area which had undergone renovation using, for example, unsympathetic window replacements. He had been familiar with this area for many years but had not heard the term Mill Field Estate used to describe it at any time before now and hoped a better or more recognisable name may emerge from the consultation. He was aware of a scheme proposed by the Deputy Mayor to improve the Avenue of Remembrance wall as part of the commemoration of the centenary of the end of the First World War which would be an important contribution to the improvements to the North Station Road area. He commented that he had attempted to locate the various Conservation Areas within the Borough on the Council's website but had been unable to do so and asked that arrangements be made for the information to be made more accessible.

The Planning Projects Specialist acknowledged the problems with using the website for information on the Borough's various Conservation Areas but was hopeful this would be addressed in due course. He had included a Conservation Area list in the report but acknowledged this was also not entirely complete and would need to be updated.

Councillor Fox he welcomed the excellent reports and as a former resident of the North Station Road area he was pleased to see conservation and heritage being highlighted. He referred to previous work done by the Scrutiny Panel to make sure the town centre was accessible in terms of A Boards and other street furniture and wished to ensure that any work which does take place in the North Station Road area was accessible for people with disabilities, with pushchairs and wheelchairs. He fully supported the Mill Field Estate area designation as well. Being familiar with the area he was aware that the streets tended to have a uniform design but each house had individual characteristics and features. He also welcomed proposals to retain the church and its spire in Birch, which he considered to be of real value.

Councillor Barber urged the committee to look into the concept of living walls to help reduce pollution in run down areas and also consideration of the Council assuming some highway responsibilities from Essex County Council. He supported the proposal to look into the introduction of cycle ways for the North Station Road area but was of the view that these should not be shared with pedestrian routes.

Councillor Jowers explained that Essex County Council had provided funding for the Fixing the Link initiative and confirmed that he was aware of examples where the County

Council had responded positively to requests from District Councils for non-standard highway improvements. He further confirmed that a Conservation Area designation, once made, would greatly assist in delivering more aesthetically pleasing highway solutions. He also referred to the Community Initiative Fund which had delivered some innovative and community led projects.

The Chairman summarised the views expressed during the course of the Committee's discussions:

- That part of North Station Road, north of the Albert roundabout up to the Essex Hall roundabout, together with Belle Vue Road be included in the North Station Road Conservation Area boundary;
- Support for greater protection of traditional street furniture, such as lamp posts, as well as protection for traditional highway materials within the Conservation Areas;
- Consideration of a better working name for the area currently referred to as Mill Field Estate that would mean more to the people who lived in the area;
- In terms of trees on North Station Road, he was aware that a number had previously been subject to episodes of vandalism and some had been removed as a result due to the ongoing cost of maintenance and protection;
- The introduction of a Conservation Area designation would lead to the removal of permitted development rights for residents this may have an impact in relation to residents' ability to make the best energy efficiency choices;
- Support for the refurbishment of North Bridge with a need for clarification as to whether the funding would be available and sufficient to deliver the project;
- Support for using opportunities to be derived from the creation of Living Walls wherever possible;
- An overwhelming wish on behalf of all of the Committee for the church in Birch to be protected from demolition and for further investigations to be made by the Council to ensure all available measures had been pursued to prevent such an action.

Councillor T. Young, in his capacity as Portfolio Holder for Business and Culture (and Deputy Leader of the Council), attended and, with the consent of the Chairman, addressed the Committee. He agreed that the report and the presentation by the Planning Projects Specialist was exceptional and he supported all three Conservation Area designations. He acknowledged the benefits of the Fixing the Link project in the North Station Road area, agreed that the examples of street clutter needed to be improved urgently and hoped Colchester could work together with Essex County Council to improve the areas. He was very familiar with the Birch area, having been married in the church. Birch was an old fashioned village which, along with Layer Breton and Layer Marney, was a beautiful example of rural England and an important part of the Borough of Colchester. He agreed that the church itself was an important iconic landmark and welcomed the Committee's strong support for its protection. He also supported many of the issues raised by the Committee during its discussions.

The Planning Projects Specialist confirmed that he would be happy to extend the

boundaries of the North Station Road Conservation Area to include the additional part of North Station Road north of the Albert roundabout as well as Belle Vue Road and to do this before it went out to consultation. He confirmed that he had a very good dialogue with all the shop keepers in the North Station Road area and that they were on board with the project. However, he explained that he was mindful not to seek to completely refresh area as this may prompt many of the long term businesses to disappear. He confirmed some of the funding being applied for would be available to the local traders to assist with refurbishments. He confirmed that the consultation at North Station Road could be extended to include those living outside the strict boundaries of the proposed Conservation Area itself. He confirmed that he was working closely with colleagues in relation to cycling provision for the area with the intention of seeking measures to reduce traffic in the area to make it far more accessible for cyclists and pedestrians. In terms of deliverability, he confirmed that other sources of funding to support the projects would be actively pursued and that the Council had been working closely with Essex County Council and other partners to achieve the best outcomes. He confirmed he would be very happy to meet with the Round family in relation to the proposed Birch Conservation Area as well as representatives from the Parish Council. He also confirmed there may be funding available to look into improvements to the car park at the village hall and indicated his willingness to work with Councillor Jowers in order to put a good business case to Essex County Council in relation to the Community Initiative Fund. He supported the suggestion to investigate the creation of Living Walls to help reduce pollution and the need to work with Environmental Protection colleagues to pursue all pollution reducing measures. He confirmed that he would be happy to liaise with the Deputy Mayor in relation to the refurbishment of the Avenue of Remembrance memorial. He supported the need to ensure pavements were accessible for all. He also commenting that it was often statutory undertakers who were to blame for the use of inappropriate reinstatement materials, although he was of the view that there was likely to be a requirement for them to return to these sites to provide a better permanent solution at a later date. He acknowledged this needed to be looked at in more detail as it often had a huge and adverse impact, particularly in Conservation Areas. He was unclear as to what had led to the church in Birch being under threat of demolition but anticipated this would become known during the course of the public inquiry which was due to take place in October 2018.

RESOLVED (UNANIMOUSLY), bearing in mind the various points raised in the course of the Committee's discussion on these matters, that, –

(i) Subject to the extension of the proposed boundaries of the Conservation Area to include Belle Vue Road and North Station Road north of the Albert roundabout and the inclusion in the consultation of residents living in areas adjacent to the immediate Conservation Area boundaries, the Consultation Draft Colchester North Station Road Conservation Area Character Appraisal and Management Proposals be approved and authorised for formal public consultation for a six-week period commencing in March/April 2018;

- (ii) The Consultation Draft Birch Conservation Area Character Appraisal and Management Proposals be approved and authorised for formal public consultation for a six week period commencing in March 2018;
- (iii) The Consultation Draft Colchester Mill Field Estate Conservation Area Character Appraisal and Management Proposals be approved and authorised for formal public consultation for a six-week period commencing in March/April 2018;
- (iv) The results of the three consultations be reported to the Local Plan Committee at the earliest opportunity, along with any proposed amendments to the contents, where appropriate, with a view to the documents for North Station Road and Mill Field Estate being formally agreed to enable the statutory designation process to be legally pursued and the document for Birch being agreed as a formal Supplementary Planning Document (SPD).

Report of	Assistant Director: Policy and Corporate	Author	Karen Syrett ☎ 506477
Title	Local Plan Examination Options		
Wards affected	All		

1. Executive Summary

- 1.1 The Inspector for the strategic Section 1 of the Local Plan prepared jointly with Braintree and Tendring wrote to the local authorities on 8th June 2018 raising issues requiring further work and proposing a number of options for progressing the Local Plan.
- 1.2 The options are as follows:
 - 1.2.1 Option 1 – Removal of the Garden Communities from the Plan, continue to examination and adoption of the rest of the section 1 and section 2 Plan before considering the potential reintroduction of the Garden Communities under an early or focussed review of the Plan in 2-3 years' time.
 - 1.2.2 Option 2 – Continuation of Local Plan and examination following completion of further evidence base and sustainability appraisal work
 - 1.2.3 Option 3 – Withdrawal of the current draft Section 1 and Section 2 and submission of an entirely new Local Plan
 - 1.2.4 Alternative Option – any alternative course of action.
- 1.3 The Inspector has subsequently written two further letters which confirm the housing requirements (Objectively Assessed Need) and provide further detail about his interpretation of Option 1.
- 1.4 The Committee are being asked to consider the Options, the implications of each and agree a way forward.

2. Decision Required

- 2.1 The Committee is requested to agree how to proceed with the Local Plan.

3. Reason for Decision

- 3.1 The Council is required to agree how to take forward the draft Local Plan. The Local Plan is a statutory document and failure to produce one could result in government intervention.
- 3.2 The Draft Local Plan includes a common Section 1 prepared jointly with Tendring and Braintree District Councils. Subject to the agreement of this Council, Braintree and Tendring councils have already taken the decision to proceed with Option 2. If the three Councils cannot agree an approach to Section 1 the proposed Local Plans (both Section 1 and Section 2) will need to be withdrawn. A decision is required to enable all three local authorities to proceed with their respective local plans.

4. Alternative Options

- 4.1 The Inspector has set out three main options which could be pursued and also invited the Councils to put forward any alternative course of action they considered appropriate.

5. Background Information

- 5.1 The Council submitted its Local Plan for examination to the Planning Inspectorate on the 9th October 2017. The plan comprises Section 1 (written together with Braintree and Tendring District Councils) which includes 10 policies dealing with cross border strategic issues and Section 2 which contains Colchester specific allocations and policies.
- 5.2 The Planning Inspectorate appointed Roger Clews to examine the plan and he held sessions in January this year, with a further session held in early May. Following his examination, the Council has now received three detailed letters from the Inspector commenting on aspects of the plan. The letters have been added to the examination website hosted by Braintree DC. The Local Plan Committee previously scheduled for 13th August was postponed until the current date to allow the Council to give members more time to consider the implications of the Inspector's third letter clarifying his interpretation of the options, to allow the council time to obtain further advice and then to reconvene the Committee to consider the matter.
- 5.3 The Inspectors second letter of 27 June 2018 considered housing requirement aspects of the plan and provided the Inspector's view that the Policy SP3 housing requirements were soundly based. This confirms our target of 920 dwellings per year.
- 5.4 The letter of 8 June 2018 contained the Inspector's interim findings in respect of the Section 1 Local Plan including legal compliance, employment requirements and Garden Communities. The key findings are summarised below;
- 5.5 Legal compliance

The Inspector has found that the authorities have complied with the legal duty to cooperate, both in cooperating with one another and also wider adjoining authorities and other bodies. The Inspector also found that while there had been a failure to properly register a small number of representations the steps put in place to ensure that Lightwood Strategic and others were able to participate in the hearings meant they were not substantially prejudiced in any way.

- 5.6 The Inspector found that whilst the authorities had complied with the European Habitats Regulations in the preparation of the plan, the Habitats Regulation Assessment would need to be updated to ensure compatibility with a recent judgement from the Court of Justice of the European Union. This is a matter that Officers consider to be easily resolved through further work.

- 5.7 The Inspector concluded that the authorities undertook proper consultation in accordance with the planning regulations and their individual Statements of Community Involvement (SCI).

5.8 Garden Communities

The Inspector praised the authorities for their innovation and ambition in promoting three new Garden Communities in North Essex and stated that “if carried out successfully it has the potential to provide for housing and employment needs not just in the current Plan period but well beyond it.” However, the Inspector found the evidence and appraisal work provided to support the Garden Communities was lacking in a number of respects. The main areas of concern are as follows:

- 5.9 **Transport:** The Inspector raised concerns about the certainty of funding for the A120 and for the routing of the A12 as it travels north eastwards from Feering around Marks Tey. The Inspector also identified the need for further work on the rapid transit system to serve the Garden Communities and wider area. The Inspector notes that since this would need to be accompanied alongside a step change in public transit further evidence was required on how this can be achieved, when it will be delivered and how it will be funded.
- 5.10 **Viability:** The Inspector noted the need to include various contingencies and sensitivity modelling for the garden communities so that he can be assured that they are a long term viable and deliverable project.
- 5.11 **Sustainability Appraisal of the Local Plan (SA):** The Inspector has asked for a consideration of whether there are other scenarios for growth that are reasonable to be considered within the Sustainability Appraisal (required to assess the spatial strategy and policies in the Local Plan along with reasonable alternatives). This would include looking at the scoring of those options. To carry out this exercise, the Inspector suggested that it would be better to appoint new consultants.
- 5.12 **Housing Delivery:** The Local Plan currently relies on Garden Communities to deliver a considerable number of new homes within the period up to 2033. This assumes that high annual rates of development would need to be achieved

ranging from 250 to 350 homes a year in each location from 2023. The Inspector has raised concerns that whilst it might not be impossible to achieve such high rates of delivery, an annual average of 250 homes a year might be more realistic.

- 5.13 **Employment Provision:** The Inspector notes the authorities' desire to create one new job per household within each Garden Community or within a short distance by public transport. However, because the plan contains no specific figures for employment land and floorspace in each Garden Community, the Inspector is unable to confirm whether or not this aspiration is achievable.
- 5.14 The Councils have been given a clear steer from the Inspector on the additional evidence required to achieve a sound plan and have initiated further work to consider whether or not it is possible to update the evidence base and appraisal work to address the identified issues. The initial conclusion is that the evidence base can be updated, and further appraisal work carried out within an acceptable timeframe. Clearly, the further sustainability appraisal work may lead to a different conclusion(s) and that will need to be kept under continuing review. It is important to note that completion of the work will be required irrespective of choices made on options given that it involves addressing issues that require clarification under any scenario. Action on the highways point will follow on from partnership work with Essex County Council, Highways England and the Department for Transport who are the key delivery agents for these elements of national infrastructure funding programmes. Further evidence base work will follow on rapid transport and viability. Land Use Consultants (LUC) have been commissioned to carry out additional SA work given that the Councils' initial assumption was that this would be required for all options. This has subsequently been confirmed by Counsel. As part of the process for undertaking this work there will be engagement with local groups and statutory bodies as well as a formal period of consultation on the completed piece of work. The SA work could result in changes to the Local Plan and therefore would also need to be considered by the Committee.
- 5.15 Carrying out further evidence base work of course has implications for the existing timetable contained in the Local Development Scheme, which will require revision and approval by the Committee at a subsequent meeting.
- 5.16 The Inspector's 8 June letter, in paragraph 148, sets out "the options available to the NEAs, as I see them, on the assumption that Section 1 cannot be adopted in advance of Section 2... Essentially it seems to me that they have three main options". The NEA's have sought advice from leading Counsel on this matter and the conclusion is different to the Inspector's assumption in that it would be a lawful approach for the NEA to adopt Section 1 separately from, and ahead of, Section 2.
- 5.17 The Inspector provides further detail on the three main options at paragraphs 149-156;

Option 1 would be for the NEAs to agree to remove the GC proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time, for example within two or three years. This would involve drawing up main modifications to remove the current GC proposals and address the other soundness issues identified above. The NEAs would also need to amend their Local Development Schemes [LDS] to include the proposed partial revision to Section 1.

These steps should enable the Section 2 examinations to proceed, and subject to the findings of those examinations and to consultation on the main modifications to Section 1 and (potentially) to Section 2, each Local Plan should then be able to proceed to adoption. In preparing for the Section 2 examinations the NEAs would, of course, need to consider any implications of the removal of the current GC proposals – and any implications of my forthcoming findings on policy SP3 – for housing land supply in each NEA in the years before the partial revision comes forward.

Following the Section 2 examinations, under Option 1 the NEAs would then carry out further work on the evidence base and Sustainability Appraisal, as outlined in my comments above on the GC proposals. That further work would provide the basis for revised strategic proposals to be brought forward for examination as a partial revision to the Section 1 Plan, within the timescale identified in the revised LDS. The revised strategic proposals could in principle include one or more GC(s), if justified by the further evidence and SA work.

Option 2 would involve the NEAs carrying out the necessary further work on the evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. Due to the considerable length of time this is likely to take, it would be necessary to suspend the examination of Section 1 while the work is carried out and consultation on the SA and any revised strategic proposals takes place. Following the suspension, further Section 1 hearings would need to be held to consider the revised strategic proposals.

It seems to me that in this option the Section 2 examinations could not sensibly proceed before the additional Section 1 hearings had taken place and the Inspector's initial views on the revised proposals were known, as any significant revisions to Section 1 would have consequences for the examination of Section 2.

It is also possible under Option 2 that other parts of the evidence base for both Section 1 and Section 2 might become out of date or overtaken by changes in national policy. Should this occur, there would be a risk of additional delay to the examination of both parts of the Plan while the relevant evidence is updated and any necessary modifications are brought forward.

All this means that even in the most favourable circumstances the adoption of the NEAs' Local Plans would be substantially delayed under Option 2,

compared with Option 1. In turn this could give rise to continuity problems for all participants in the examinations of the plans.

Option 3 would be to withdraw the Section 1 and Section 2 Plans from examination and to resubmit them with any necessary revisions, after carrying out the required further work on the evidence base and SA, and the relevant consultation and other procedures required by legislation.

Alternative Option would be for the North Essex Authorities to propose an alternative course of action not explicitly detailed by the Inspector in his letter. The Inspector invites this at paragraph 158 of his letter.

- 5.18 Having sought legal advice, the Council, together with Braintree and Tendring, were of the view that Option 1, as presented in the letter of 8 June letter, did not fully set out the practicalities and implications of choosing this option. As a result, the Councils wrote to the Inspector on 20 July 2018 seeking further clarification of the implications of Option 1. The Councils did not seek further clarification in respect of Options 2 or 3 on the basis that the implications of these options were clear. The third letter of 2 August 2018 is the Inspector's reply to that letter. The questions asked by the Council, the Inspector's response to each and a legal opinion (where appropriate) is detailed below;

Sustainability Appraisal (SA)

Will the removal of the garden community proposals from Section 1 require a new SA? The letter notes the Councils' view that Option 1 would necessitate a further SA given the scale of the main modification to remove the garden communities and garden communities would need to be considered as a realistic alternative in any S.A.

Summary of Inspector's reply of 2 August

The extent of SA work required is for the NEA (North Essex Authorities) to decide. The need for an updated SA for Section 1 modifications will depend on whether or not the proposed main modifications to Section 1 would have any effects that have not already been assessed in the SA work carried out to date. It is not agreed that SA of the proposed main modifications would have to assess the current garden community proposals as a reasonable alternative. The appropriate time for SA of any garden community or other strategic-scale development proposals would be if and when they are brought forward as part of the plan revision, supported by further work on the evidence base (paras 24, 25, 33, 34 and 35).

Legal Advice

Counsel advised that the SA would have to be updated to support a revised Section 1 under Option 1. That SA would have to reflect the omission of the homes and employment proposed in the Garden Communities, and would have to address the shortfall that that would leave compared with the OAN homes. The SA would be able to take account of the commitment to review Section 1

but would have to reflect the fact that the future Section 1 review might not support Garden Communities, either in their present form or at all.

Counsel further advised that any Section 1 SA would have to treat the Garden Community options as a "reasonable alternative" for SA purposes.

Counsel also advised that the Section 2 SA's would all have to be reviewed to reflect the absence of the Garden Communities and the potential consequences of the uncertainty about the potential outcome of the Section 1 review.

Examination

Will further examination days be needed to deal with objections from Garden Community promoters if they make material objections to the deletion of the relevant policies? The letter notes that Councils assume that there would need to be a further hearing into those objections before a conclusion on soundness could be reached.

Summary of Inspector's reply of 2 August

Further hearings to discuss the main modifications would only be necessary if substantial issues, not already considered during the Section 1 examination, arose from the consultation responses (paras 23 and 35).

Legal advice

Counsel noted that examinations are re-opened only exceptionally to deal with proposed modifications.

Counsel advised that his view was that the omission of the Garden Communities would clearly be exceptional. If the examination was not re-opened he would expect a judicial review of that decision with consequential delays to the conclusion of the local plan process.

Review of Section 1

Do the implications that have to be considered include the possibility that the Garden Communities proposals will not be promoted in a revised future Section 1? The letter notes the Councils' view that the implications would need to be considered.

Summary of Inspector's reply of 2 August

Not in the context of the current Section 2 examinations. They might need to be considered when the partial revision to Section 1 is brought forward, depending on what is proposed in it (para 36).

Implications for Section 2

Will the Section 2 plans need review to consider whether they still represent the most appropriate strategy and include replacement housing sites for the deleted Garden Community numbers? Will consideration of Section 2 need to wait to

proceed until issues of soundness relating to Section 1 are addressed? The letter notes the Councils' view that additional sites would need to be assessed and modification and re-consultation on the Section 2's may be required before progressing to the examinations.

Summary of Inspector's reply of 2 August

The current Section 2 examinations would need to establish whether the Section 2 plans represent the most appropriate strategy to deliver each NEA's housing requirement, minus the 7,500 dwellings that the current garden community proposals are intended to deliver. The strategy to deliver those 7,500 dwellings would be a matter for the partial revision to Section 1 (and a subsequent Section 2 if necessary) (para 37).

Legal Advice

Counsel advised that it would be for the Section 2 examiners to consider whether the Section 2 plans were sound.

If the OAN is not being met each examiner would have to consider whether the commitment to a review in Section 1 was sufficient for them to find the plan sound. This would be a decision to be taken on each Section 2 plan and would depend on factors such as the extent of any shortfall and the consequences of the Garden Communities not being the chosen option in any Section 1 review.

- 5.19 The Council's letter is attached in full as Appendix 1 and the Inspector's replies to the questions is attached as Appendix 4. To provide further clarity on the Councils' legal position, the Councils' legal advisors, Dentons, commissioned additional advice from Christopher Lockhart Mummery QC on the points raised in the letters on options. The summary of his advice is attached as Appendix 5.
- 5.20 Colchester, Braintree and Tendring officers have considered the options carefully, along with legal advice contained in Appendices 2 and 5 to this report, and have previously recommended that the Councils support Option 2. Option 3 has been discounted as it would entail abandoning all the valuable work completed to date on the Local Plan. It would also result in substantial delay before an up to date plan was in place. Without an adopted plan the Council would be at a prolonged risk of speculative development.
- 5.21 A detailed analysis of the pros and cons of Options 1, 2 and 3 is attached as Appendix 3. This incorporates consideration of relevant points raised in all of the Inspector's three letters. It will be clear from the exchange that the Inspector and the officers and independent advisors (including Counsel) advising the Council differ in their views about the implications of adopting Option 1. Officers think that consultation/examination requirements, and the timescales, for Option 1 and Option 2 are broadly comparable. The Inspector considers that Option 1 would require less work and would be quicker. Removal of the Garden Communities element of the plan would result in a fundamental change to the plan that would need to be reflected by revision of Section 1 to both remove those specific policies and make consequential changes; further

Sustainability Appraisal work; consultation on the amended plan and SA; and potentially re-opening of the examination to consider representations from those that object to the removal of the garden communities.

- 5.22 A key consequential change arising from removal of the Garden Communities would be a significant shortfall in the supply of housing sites to meet the needs up to 2033. Although the Inspector does not believe it to be necessary, the Councils would need to consider whether the present allocations and patterns of development in Section 2 remain appropriate if the garden communities are not coming forward as proposed and assess additional sites for meeting the housing needs at the latter end of the plan period.
- 5.23 The Council's legal advice from Dentons (appendix 1) identifies that pursuing Option 1 would involve two problematic choices – proceeding with a plan for the full fifteen years that does not meet objectively assessed housing need, albeit with a commitment to review, or alternatively, propose a plan for a shorter period. As far as the first choice goes, it's noted that 'the NEAs could not, in good conscience, promote a Local Plan which has, before the examination commences, a known under-provision'.
- 5.24 Para 4.6 of the opinion evaluates the second choice as follows:
- 'The only way that we can see to avoid the need to assess additional sites is to shorten the plan period to the extent that the shortfall is not felt within the plan period. The new period would end at the point when the partial review is likely to be completed, perhaps in [2026/7]. This would mean a plan period of, say, 5 years post a 2022 adoption. That falls significantly short of the 15 year-time horizon required by paragraph 157 of the NPPF. We do not see how a plan for such a short period could be found sound.'
- 5.25 A shorter plan period and earlier review would also have implications for the Objectively Assessed Housing need figure. The current plan was submitted prior to the introduction of the new methodology introduced for calculating housing need so it has relied on the existing figure of 920 houses a year. The Inspector's letter of 27 June has confirmed that the Councils' approach is soundly based. A new review would, however, need to use the higher figure of 1095, resulting from the new methodology, as its starting point and allocate sites accordingly. If the review also needed to find alternative sites for the 2500 Garden Communities units, the plan could involve a total of 5,500 additional houses over a fifteen year period. This risk should not be overstated. Whichever Option is pursued there will be a requirement for a Local Plan review within 5 years of adoption, at which point the higher OAN numbers will need to be considered. Option 1 simply brings forward that date to the date of the proposed partial review.
- 5.26 Bearing in mind the deficiencies identified with Option 1, Option 2 has been supported by officers on the basis that, it provides a clear and agreed strategy for long term housing growth by the middle of next year, with the Section 2 plans following on to adoption in 2020. Although the Local Plan is delayed by 9/12

months it still allows the garden communities to start delivering houses in 2023/24, and make a contribution of up to 7,500 homes in the plan period. Clearly, this Option relies on the evidence base and SA work being carried out properly and satisfying the Inspector after a further open examination.'

5.27 A key factor weighing in favour of Option 2 is that it is consistent with the Council's earlier decision that Garden Communities are the best long term high quality sustainable strategy for growth in North Essex, properly supported by infrastructure, and there are unlikely to be any material timing advantages in pursuing Option 1. It also best sustains momentum on delivering the Councils commitment to innovative and sustainable new development via Garden Communities. The Inspector's letter to the Councils noted that 'my findings do not necessarily represent a rejection of their commendable ambitions for high-quality, strategic-scale development in North Essex.' The principle of Garden Communities accordingly has not been rejected and, to the contrary, has been gaining ever-greater support at Government level. This is evidenced by the following:

- The reinstatement of the garden city principles in the new NPPF (they were controversially removed from the draft version.)
- New legislation supporting the creation of Garden Community Development Corporations
- Financial support for the Councils' joint planning on Garden Communities
- Support for infrastructure required to enable development of Garden Communities, i.e. HIF bids, and A12/A120 decisions
- Growing national profile of North Essex Garden Communities

5.28 Braintree DC agreed to support Option 2 at their meeting held 23rd July. Similarly, the Leader of Tendring Council has written to all members stating that 'as progressing Option 2 follows through on the decision made by this Council when it approved the Local Plan, I have decided to therefore cancel the Local Plan Committee scheduled for 9th August 2018.' He will be making a further statement at the Council meeting on 11th September. Were the Councils not to reach a unanimous decision on which option to pursue, the effect would be the selection of Option 3 by default. Option 3 would result in the withdrawal of both section 1 and section 2 from examination and resubmission of an alternative plan. Progressing development of the current plan relies on all authorities pursuing the same option.

5.29 Timetable – All of the options introduce varying levels of delay as detailed in the pros and cons table. Option 2 is considered to involve a lesser level of delay with full adoption programmed for 2020/21, with all other options delaying full adoption until 2022 at the earliest. Additionally, Option 2 secures a lower OAN than the other options.

- 5.30 There is a lot of work already undertaken that the Councils can be proud of and this has been recognised at the highest levels. Neil Stock, Leader of Tendring District Council, received a letter from James Brokenshire MP, the new Secretary of State for Housing, Communities and Local Government (MHCLG) stating: “The North Essex Garden Communities Scheme is one of the most ambitious of the garden town and village projects supported by MHCLG not just in terms of the scale and complexity of development proposed, but also the level of collaboration achieved between the North Essex local authorities including Tendring.”

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:-
<https://colch.sharepoint.com/:b:/s/Store/DyLi/EZA0GdflinZFsYaVaABNZigBvK/SbQowOONFR-CqjyG4XAQ>

7. Strategic Plan References

- 7.1 Strategic planning and adoption of a Local Plan supports all four of the strategic goals in the 2018-21 Strategic Plan, including Growth, Responsibility, Opportunity and Wellbeing.

8. Consultation

- 8.1 While there are no direct consultation requirements concerning making a decision on options, in general terms consultation on the Local Plan is carried out in line with the Council’s Statement of Community Involvement and The Town and Country Planning (Local Planning) (England) Regulations 2012.

9. Publicity Considerations

- 9.1 Decisions on Local Plan issues create a high level of comment and will therefore need to be managed with press releases and other publicity measures.

10. Financial implications

- 10.1 A decision on Local Plan options will have an effect on the Council’s forward budgeting for Local Plan work.

11. Community Safety Implications

- 11.1 Development of a new Local Plan will address the community safety implications of creating sustainable communities.

12. Health and Safety Implications

- 12.1 Development of a new Local Plan will address the health and safety implications of creating sustainable communities.

13. Risk Management Implications

- 13.1 Progress in adoption of a new Local Plan will help to secure a plan led approach to development and to reduce the risk of inappropriate development being permitted.

Appendices

- Appendix 1 – Letter to Inspector on options
- Appendix 2 - Legal Advice on Options from Stephen Ashworth, Dentons
- Appendix 3 – Pros and Cons for Options 1 and 2
- Appendix 4 – Inspector's letter of 2 August concerning Option 1
- Appendix 5 – Counsel Opinion

Appendix 1 – letter to inspector

Dear Mr. Clews,

Questions of clarification on the options set out in the post-examination letter

We thank you for your post-examination letters dated 8th and 27th June 2018 which, taken together, set out your advice to the North Essex Authorities [NEAs] as to the further steps necessary for the Section 1 Local Plan to be made sound and legally-compliant. Whilst we are naturally disappointed that you have found that the plan cannot proceed to adoption as quickly as we had originally hoped, we are none the less pleased with the way you have conducted the examination to date and the way in which you have clearly set out your concerns about the Garden Communities and the steps needed to address those concerns.

We would like to take up your offer in paragraph 158 of the first letter to seek your further advice.

We are clear about the implications of Options 2 and 3 so this letter just addresses Option 1.

“Option 1 would be for the NEAs to agree to remove the GC proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time, for example within two or three years. This would involve drawing up main modifications to remove the current GC proposals and address the other soundness issues identified above. The NEAs would also need to amend their Local Development Schemes [LDS] to include the proposed partial revision to Section 1.

These steps should enable the Section 2 examinations to proceed, and subject to the findings of those examinations and to consultation on the main modifications to Section 1 and (potentially) to Section 2, each Local Plan should then be able to proceed to adoption. In preparing for the Section 2 examinations the NEAs would, of course, need to consider any implications of the removal of the current GC proposals – and any implications of my forthcoming findings on policy SP3 – for housing land supply in each NEA in the years before the partial revision comes forward.

Following the Section 2 examinations, under Option 1 the NEAs would then carry out further work on the evidence base and Sustainability Appraisal, as outlined in my comments above on the GC proposals. That further work would provide the basis for revised strategic proposals to be brought forward for examination as a partial revision to the Section 1 Plan, within the timescale identified in the revised LDS. The revised strategic proposals could in principle include one or more GC(s), if justified by the further evidence and SA work.”

Option 1 appears to be designed to enable the NEAs to proceed quickly to the adoption of a slimmed-down Section 1 and to progress to the Section 2 examinations so long as the NEAs commit to a partial review within two or three years – at which

point Garden Communities could be re-introduced if justified by the further evidence and SA work.

In order to modify Section 1 to remove the Garden Communities we would need to carry out an updated Sustainability Appraisal and, given the scale of the change, advertise both. The Sustainability Appraisal would have to consider the Garden Community options as a realistic alternative to what would then be a decision not to have a spatial dimension to housing delivery. At the moment we have not identified any additional evidence required to support the Option 1 changes to Section 1. If there are objections from the promoters then we are assuming that there would need to be a further hearing into those objections before you can report and reach a conclusion on whether the modified Section 1 is sound.

We note that in preparing for the Section 2 examination the NEAs would need to consider any implications of the removal of the current GC proposals for housing land supply in each NEA in the years before the partial revision comes forward. If there is a partial review as you suggest then it is possible that that partial revision will not support the GC proposals and this is an implication that will have to be considered. As a new plan it would need to address the updated housing numbers in accordance with the NPPF. As you indicate the partial review would be submitted after the Section 2 plans have been adopted. If garden communities are still proposed in a partial review then some of the work that we were proposing be incorporated in the Garden Community DPDs could be included in the plan to reduce the time before delivery but given that there would be a 5 year+ delay before the adoption of Garden Community policies it is unlikely that any of the garden communities would be able to make a material contribution to housing supply in the period up to 2033.

As it stands, the NEAs collectively rely on the Garden Communities to deliver a proportion of the new homes required to meet the (now confirmed as sound) objectively assessed housing needs to the end of the plan period in 2033. Removing the GC proposals from the Section 1 Local Plan would result in a significant shortfall in the supply of housing sites in the Section 2s to meet needs up to 2033, particularly from year 6 onwards. An implication for the NEAs of removing GCs from Section 1 would therefore be a requirement to consider whether the present allocations and patterns of development in Section 2 would be appropriate if the GCs did not come forward as part of a future revision of Section 1.

Even if GCs are included in the Section 1 revision since they would not be able to make a material contribution to housing delivery in the period to 2033 other options for delivering housing would have to be explored within the Section 2 plans. We think that we would therefore also have to assess additional sites and potentially modify and re-consult on the Section 2s before progressing to the examinations. An updated Sustainability Appraisal would be required

With these issues in mind, we would be grateful if you could clarify what is envisaged through Option 1. Our questions are as follows:

- 1) Do you agree that the removal of the GC proposals from Section 1 will require an updated SA before Section 1 could be adopted?

- 2) If the SA has to be updated then it will have to address the GC proposals as a realistic alternative. In order to do so do you agree that it will need to address the limitations that you have found in relation to the existing SA?
- 3) If Section 1 is modified as proposed will you require further examination days to deal with the objections from the promoters of those sites if they make material objections to the deletion of the relevant policies?
- 4) Do you agree that the "implications" that have to be considered include the possibility that the GC proposals will not be promoted in a revised future Section 1?
- 5) Do you agree that the Section 2 plans will need to be reviewed to consider whether they still represent the "most appropriate strategy"?
- 6) In the submitted Local Plans, the garden communities begin delivering housing numbers from 2023/24. Do you agree that the Section 2 plans will need to be revised to include replacement housing sites given that under Option 1 the GC proposals (even if pursued through a later review) will no longer be able to make a material contribution to housing supply in the plan period?
- 7) Do you agree that section 2 cannot proceed until the issues of soundness relating to Section 1 are addressed?

Please do not hesitate to contact us via the Programme Officer if you have any queries or concerns about the content of this letter.

Yours sincerely

Emma Goodings

Braintree District Council

Karen Syrett

Colchester Borough
Council

Gary Guiver

Tendring District Council

Appendix 2 – Legal Advice from Dentons

Considerations in respect of Option 1

1 Introduction

- 1.1 The Inspector's letter of 8 June 2018 included three options for taking the Section 1 Local Plan forward. This note sets out the implications for the North Essex Authorities ('NEAs') of adopting the partial review approach which is the basis of the Inspector's Option 1.
- 1.2 Option 1 would involve:
- (a) proposed modifications to Section 1 to:
 - (i) remove the garden communities from Section 1 and address any other soundness issues;
 - (ii) incorporate any other changes resulting from the removal of the garden community proposals;
 - (b) the preparation of a new Sustainability Appraisal¹ of the amended Section 1;
 - (c) consultation on the amended Section 1 and new Sustainability Appraisal;
 - (d) a potential re-opening of the examination to consider objections to the deletion of the garden communities;
 - (e) if Section 1 as proposed to be modified is found to be sound² then the Inspector would report on proposed Main Modifications to the plan which would have to be published for comment;
 - (f) assuming that Section 1 is sound and in the absence of garden communities, a review of Section 2 to consider whether:
 - (i) the present proposed allocation of sites and development in Section 2 is the most appropriate strategy. If not further evidence base material will be required;
 - (ii) additional sites need to be identified to meet the housing and employment needs in the plan period, and if so, the preparation of the evidence base to support that;

¹ Note that the updated Sustainability Appraisal would have to consider the possibility of Garden Communities as one of the realistic alternatives. If the updated Sustainability Appraisal reaches the same conclusions as the original Appraisal then the strategy being adopted may not score best in terms of the significant likely environmental effects.

² The promoters of the Garden Communities may submit evidence persuading the Inspector that the original proposals remain the "most appropriate strategy".

- (g) a further Sustainability Appraisal for Section 2 (irrespective of the above) to consider the significant environmental effects;
- (h) consultation on any amended proposals and on the Sustainability Appraisal ahead of fixing the Section 2 examination; and
- (i) a partial review of Section 1 within 2-3 years at which point the garden communities could be re-introduced if that, judged against the revised NPPF test, is an appropriate strategy. That partial review would have to consider the then present evidence on housing numbers and run for 15 years, potentially requiring a partial reconsideration of the Section 2 plan.

2 Legislative test and soundness

- 2.1 The purpose of the independent examination into Section 1 is to determine:
- (a) that legal and procedural requirements have been satisfied³;
 - (b) whether it is sound; and
 - (c) whether the NEAs have complied with the duty to co-operate during the preparation of Section 1.
- 2.2 The starting point of the local plan examination is that the local planning authority have submitted a plan which it considers sound.⁴ To be sound the plan must be:
- (a) Positively prepared – being based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;
 - (b) Justified – being the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;
 - (c) Effective – being deliverable over its period based on effective joint working on cross-boundary strategic priorities; and
 - (d) Consistent with national policy.
- 2.3 There are separate legal obligations in relation to the duty to co-operate. Care would need to be taken during the modification process that the duty to co-operate continues to be addressed, both as between the North Essex authorities and with those other authorities in the area who would be affected.

3 Soundness in respect of a revised Section 1

- 3.1 In terms of legislative compliance, it is open to the NEAs to have a purely strategic Section 1, provided that policies to address the identified strategic priorities are set out in the development plan documents, taken as a whole.

³ Including that it satisfies the requirements of sections 19 and 24(1) Planning and Compulsory Purchase Act 2004, Town and Country Planning (Local Planning) (England) Regulations 2012, and regulations

⁴ Para. 182 NPPF, which reflects section 20(2) Planning and Compulsory Purchase Act 2004

Although not in the NPPF the NPPG provides that Local Plans may be found sound conditional upon a review in whole or in part within 5 years of the date of adoption.

- 3.2 The garden communities could be deleted from Section 1 without necessitating any further evidence base work. Under Option 1, an amended Section 1 could identify the strategic priorities, set the overarching vision, set housing numbers and employment floorspace figures, but leave the distribution of development to the Section 2s.
- 3.3 The Inspector can find an amended Section 1 to be sound if satisfied that:
 - (a) the amended Section 1 approach of not having a spatial dimension to housing or employment delivery is the most appropriate strategy;
 - (b) the sustainability implications of that strategy have been considered in a Sustainability Appraisal including the possibility that the garden communities will not come forward on a partial review; and
 - (c) a strategy without garden communities is the most appropriate strategy when considered against the reasonable alternatives, including having regard to the garden communities proposals as a reasonable alternative.
- 3.4 The Inspector would have to consider whether the duty to co-operate had been met.

4 Soundness in respect of Section 2

- 4.1 The removal of the garden communities in an amended Section 1 would result in a significant shortfall in the supply of housing sites to meet the needs up to 2033.
- 4.2 The Inspector has suggested the inclusion of a review mechanism at 2-3 years in Section 1. It may be thought that an obligation to review remedies any potential deficiency sufficiently for Section 2 to be found sound. That is wrong for two reasons:
 - (a) if not pursued in the present Section 1 the Garden Communities cannot deliver the anticipated houses in the plan period even if they reappear in a subsequent review. There is a shortfall that has to be made up;
 - (b) it cannot be assumed that a partial review would necessarily choose to promote Garden Communities. The Inspector has indicated that further evidence is required to justify new communities. If there is confidence that the evidence is available then Option 2 should be followed; if there is doubt then that affects the approach to Section 2.
- 4.3 Absent the garden communities there would be a need for sites to accommodate the 'lost' 7,500 units (or at least a major part of them). The current Section 2, absent the garden communities, would fail the test of soundness given that:

- (a) it is not positively prepared as it fails to meet the entirety of the objectively assessed need;
 - (b) there is no credible evidence base to support the rationale not to address the under-provision, and to instead defer the identification of sites to the review stage; and
 - (c) in doing so it fails to comply with national policy.
- 4.4 In addition, the NEAs could not, in good conscience, promote a Local Plan which has, before the examination commences, a known under-provision.
- 4.5 As a result, the removal of the garden communities, even if a review mechanism were to be included in Section 1, would require the NEAs to:
 - (a) consider whether the present allocations and patterns of development in Section 2 remain appropriate given the garden communities are not coming forward at this time; and
 - (b) assess additional sites for meeting the housing needs at the latter end of the plan period.
- 4.6 The only way that we can see to avoid the need to assess additional sites is to shorten the plan period to the extent that the shortfall is not felt within the plan period. The new period would end at the point when the partial review is likely to be completed, perhaps in [2026/7]. This would mean a plan period of, say, 5 years post a 2022 adoption. That falls significantly short of the 15 year-time horizon required by paragraph 157 of the NPPF. We do not see how a plan for such a short period could be found sound.
- 4.7 If additional sites are identified to meet the shortfall there would be limited need for a partial review. In any event, there is no certainty that garden communities would still be an appropriate strategy (on the revised test which would then apply) at the point a review was carried out. As a result, whilst the introduction of a review mechanism appears to be a relatively straightforward solution, the scale of the under provision absent the garden communities means that the strategy for that shortfall cannot simply be deferred to a later review.

	OPTION 1	OPTION 2	OPTION 3
	Remove Garden Communities from the Local Plan and proceed to examination of Section 2 with a partial review of the Local Plan in 2-3 years.	Undertake further work to address the Inspector's concerns about Garden Communities and complete the examination of Section 1 before proceeding to Section 2 at a later date.	Withdraw Section 1 and Section 2 from examination and resubmit once further work to address the Inspector's concerns and consultation has been carried out.
Timetable	<p>The likely timetable depends on whether further hearing dates and further Sustainability Appraisal work is required. The two alternative timing scenarios are:</p> <p>A. Section 1 modifications process completed by Spring 2019 after further consultation (assuming there is no need for further hearing dates to consider the proposed modifications and the updated Sustainability Appraisal work).</p> <p>Adoption of Section 2, following consultation and examination, in early 2020 (assuming that there is no need to review spatial strategy of existing allocations and housing numbers).</p> <p>Adoption of Revised Plan Review in 2022 (as per the Inspector's suggestion).</p> <p>B. Section 1 modifications process (including further Sustainability Appraisal work) completed by Autumn 2019 after consultation and further examination.</p> <p>Adoption of Section 2, following consultation, further site allocations and examination, in Summer/Autumn 2021.</p> <p>Adoption of revised Plan Review in 2023/4 assuming 2021 start date.</p>	<p>Section 1 modifications process completed by Autumn 2019 after consultation and further examination</p> <p>Adoption of Section 2, following consultation and examination, winter 2020</p>	<p>Regulation 18 consultation process completed by end of 2019 (following Call for Sites and collection of evidence documents to support the new plans).</p> <p>Regulation 19 consultation process completed by end of 2020.</p> <p>Submission to Secretary of State early 2021.</p> <p>Examination of Local Plans in Spring 2021, adoption late 2022.</p>
Strengths	<ul style="list-style-type: none"> Best case is that it allows the NEAs to proceed to adopt a new Local Plan, fill the 'policy vacuum' that has existed (in Tendring) since 2011 and reduce the likelihood of continued speculative housing applications, sooner than Option 2 (unless Section 1 examination needs to be re-opened). The review of the Local Plan can be 'partial' i.e. not starting from scratch, with the majority of policies and proposals confirmed as sound and capable of being 'carried forward' with limited cost. Allows more time to develop the proposals for the Garden Communities. Allows the Councils to fully take on board the requirements of the new NPPF when it comes to reviewing the plan. The key test for soundness becomes whether the plan is "an appropriate strategy" rather than the "most appropriate strategy". 	<ul style="list-style-type: none"> Maintains the agreed NEA Garden Community policy that delivers the best prospects of high quality sustainable development over the longer term in North Essex. Keeps Garden Communities firmly on the NEA's and Government agenda and maintains the momentum for the garden community vision, partners and potential funding bodies. Provides more certainty and enables progress to be made with the Housing Infrastructure Funding bids to support early delivery of infrastructure and delivery of A12/120 improvements. Although the Local Plan is delayed by 9/12 months it still allows the garden communities to start delivering houses in 2023/24, and make a contribution of 7,500 homes in the plan period (subject to the revised SA and evidence base being agreed by the Inspector). Provides a comprehensive Plan to meet the housing need in the long term, providing the strongest plan to help protect against speculative development. 	<ul style="list-style-type: none"> Allows more time to develop the proposals for the Garden Communities if that remains the preferred approach. Garden Communities could form part of a resubmitted Local Plan if supported by further evidence base work and Sustainability Appraisal. The preparation of the resubmitted plan can fully take on board the requirements of the new NPPF. The revised NPPF test of soundness would apply, meaning that the plan must be "an appropriate strategy" rather than the "most appropriate strategy".
Weaknesses	<ul style="list-style-type: none"> The legal advice received by the NEAs indicates that further hearing dates are very likely, and the removal of the garden communities from the Local Plan will necessitate further Sustainability Appraisal work and a re-opened examination. A failure to re-open the examination is likely to lead to challenges from the site promoters. This means that the timetable is more likely to reflect that detailed at B above, limiting the speed at which a Local Plan can be adopted. 	<ul style="list-style-type: none"> Risk that the Inspector is not satisfied by the updated evidence base and/or the sustainability assessment outcome and still finds the plan unsound. Some of the evidence base will start to go out of date if the examination is delayed for too long, which could mean having to update evidence to support policies within the Section 2 Local Plans. 	<ul style="list-style-type: none"> There would be a substantial delay before the NEAs would have an up-to-date Local Plan and would be at continued and prolonged risk of speculative development until a plan was adopted. A new evidence base would be needed for a resubmitted plan. The existing evidence base will become increasingly out of date, even

	OPTION 1	OPTION 2	OPTION 3
	<ul style="list-style-type: none"> Garden Communities will not form part of the Local Plan until a later date, if at all. A planning solution that, until now, has been thought to be worse will need to be pursued. It would materially delay the start date for any new Garden Community, limiting the contribution they can make to the provision of new houses in the period to 2033. In the absence of the Garden Communities in the emerging plan Housing Infrastructure Funding bids (for early delivery of infrastructure) will be lost. There may also be impacts on the timing, route and delivery of A12/120 improvements. The risk of those improvements not coming forward, or being delayed, will need to be considered as part of the Section 2 SA. A large part of the evidence base for the Garden Communities would need to be updated for a new plan. Any review of Section 1 will require an update of the Objectively Assessed Need for each authority which could result in an uplift of overall housing numbers. That review would be carried out at an earlier point than under Option 2. When any further plan is proposed, whether it includes Garden Communities or not, it would have to look forward 15 years from that point which, together with the change in OAN will probably require further revisions to Section 2. 	<ul style="list-style-type: none"> Risk that the timetable for producing the evidence required is longer than anticipated, causing further delay to both Section 1 and Section 2. Continued pressure from speculative developments, with claims from developers that the emerging Local Plan cannot carry any weight because it is unsound and likely to be subject to substantial changes. 	<p>where it does remain relevant, thus necessitating further updates to be undertaken.</p> <ul style="list-style-type: none"> Any new Local Plan will need to reflect the Objectively Assessed Need for each authority under the revised methodology which could result in an uplift of overall housing numbers. The NEAs would need to refresh the site selection exercise (including sites previously excluded) and re-appraise their suitability for allocation in the plan. There would be a substantial delay to the start date for any new garden community, or alternative strategic development included in the resubmitted plan. A resubmitted plan would need to look forward 15 years from that point which, together with the change in OAN, will require significant revisions to the existing Section 2 plans. Lack of planning policy certainty seriously jeopardises Housing Infrastructure Funding bids to support early delivery of infrastructure and delivery of A12/120 improvements. and government support.
Opportunities	<ul style="list-style-type: none"> Upon adoption, NEAs can 'bank' the majority of policies and proposals in the Local Plan and the partial review can be more focussed, concentrating on longer-term growth aspirations which may include Garden Communities. Potential to re-introduce Garden Communities into the Local Plan as part of the partial review with the benefit of a greater level of evidence and detail, as is proposed to be developed through the DPDs, possibly dispensing with the need for further DPDs. 	<ul style="list-style-type: none"> Opportunity to use the extra time to strengthen the NEA's case for Garden Communities and evidence stronger commitment from government and statutory agencies such as Highways England and Network Rail. Through undertaking further work there is an opportunity to address and reduce current objections and concerns over garden community approach. There is scope to introduce additional policy wording to give increased certainty that developments will only progress once certain infrastructure is committed. 	<ul style="list-style-type: none"> Opportunity to use the extra time to strengthen the NEA's case for Garden Communities, and in doing so address and reduce current objections and concerns over garden community approach.
Threats	<ul style="list-style-type: none"> There is a possibility that the good cooperation between the authorities might begin to wane if they start to take different positions on the interim and longer-term approaches including individual authorities promoting garden communities independently. If Garden Communities are removed from the Local Plan, the proposed modifications would be the subject of consultation and, based on advice received would require an updated Sustainability Appraisal, and could draw strong objections from landowners, developers, promoters and communities that support the Garden Communities concept. This could lead to a delay in Section 1 being found to be sound. Landowners/promoters might make speculative applications for large scale developments without the need to secure early infrastructure and longer term stewardship, which are key principles of garden communities. 	<ul style="list-style-type: none"> The updated evidence might still fail to convince the Inspector about Garden Communities and the NEAs might then have to revert to Option 1. The Councils' reputations would suffer if, after all the additional work, the Inspector still concludes that Garden Communities are unsound. 	<ul style="list-style-type: none"> Speculative developers will continue to make the case that if the Local Plan fails to meet all the growth required in the Plan period then other planning applications should be allowed. Landowners/promoters might make speculative applications for large scale developments without the NEAs having the policy support to secure early infrastructure and longer term stewardship. The withdrawal of the plan may result in reputational damage both locally and at national level. By withdrawing the plan the NEAs would be going back to the Regulation 18 stage. A new Regulation 18 consultation will be required on any resubmitted plan. Those consultation comments will need to be reviewed and inform further iterations of the plan, which will be subject to further consultation prior to submission. New examination hearings will be required. Substantial financial and personnel resources will be required to facilitate this. The resubmitted plan may attract strong objections which leads to a delay in the plan being found to be sound.

	OPTION 1	OPTION 2	OPTION 3
	<ul style="list-style-type: none"> • If Garden Communities are not the chosen outcome of the Partial Review then there will be an immediate need to review Section 2 to deal with the consequences. • Speculative developers will continue to make the case that if the Local Plan fails to meet all the growth required in the Plan period then other planning applications should be allowed. • Change of direction to NEA's policy on Garden Communities, resulting in a loss of momentum from the collective work of the local authorities, and reputational damage both locally and at national level. If the garden communities are pursued, the principle of them would be determined by a different Inspector at a future examination. 		<ul style="list-style-type: none"> • If the NEAs start to take different positions on the interim and longer-term approaches there is a serious risk that the good cooperation between the authorities will break down. • The Duty to Co-Operate will continue to apply, but given the potential delay in re-submitting a plan, the backdrop to those discussions may shift. • There is the potential that the change of direction, results in a loss of momentum from the collective work of the local authorities.

NORTH ESSEX AUTHORITIES

Strategic (Section 1) Plan

Inspector: Mr Roger Clews

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Address: Examination Office, Longcroft Cottage, Bentley Road, Clacton-on-Sea, Essex CO16 9BX

To:

Emma Goodings, Head of Planning Policy & Economic Development, Braintree District Council

Karen Syrett, Place Strategy Manager, Colchester Borough Council

Gary Guiver, Planning Manager, Tendring District Council

2 August 2018

Dear Ms Goodings, Ms Syrett and Mr Guiver

EXAMINATION OF THE STRATEGIC SECTION 1 PLAN

CLARIFICATION OF OPTIONS IN MY ADVICE LETTER OF 8 JUNE 2018

1. Thank you for your letter of 20 July 2018 seeking clarification on the options set out in my post-hearings advice letter of 8 June 2018. All your queries are about Option 1. Before I respond to each specific query, it may be helpful if I summarise the relevant findings of the examination to date, explain more fully what I consider Option 1 would involve, and offer some comments on your letter. Towards the end of my letter I also make some comments about Option 2.
2. As with my previous two letters, the views expressed in this letter are based on the evidence currently before me. I reserve the right to modify these views in the light of any further evidence that may come forward before the examination ends.

Relevant findings of the examination to date

3. In my Initial Observations and Questions letter to you (16 October 2017), I set out my understanding of the role of the Section 1 Plan. It is to:
 - Set out how the North Essex Authorities [NEAs]¹ will apply the presumption in favour of sustainable development (policy SP1);
 - Define the spatial strategy for North Essex (policy SP2);
 - Set the housing and employment land requirements for North Essex as a whole and for each of the three Local Planning Authority areas in North Essex (policies SP3 & SP4);
 - Identify strategic infrastructure priorities and place-shaping principles for North Essex as a whole (policies SP5 & SP6);
 - Allocate strategic areas for the development of three new garden communities, and set out policy requirements for the development and delivery of those communities, to be elaborated in future Strategic Growth Development Plan Documents (policies SP7, SP8, SP9 & SP10).
4. Subsequent discussion at the hearing sessions confirmed that this definition of the role of Section 1 was generally correct, with one qualification. The role of policy SP2 is to define the spatial strategy for North Essex in broad terms, but each of the NEAs will define a more detailed spatial strategy for its own area in its Section 2 plan.
5. In my advice letter of 8 June 2018 I concluded that the garden community proposals in policies SP7-10 were not adequately justified and had not been shown to have a reasonable prospect of being viably developed. They were therefore unsound.
6. The consequence of that conclusion is that, on the basis of the evidence currently before the examination, the Section 1 Plan cannot be adopted if it contains the existing garden community proposals. If the NEAs wish to pursue proposals for garden communities – or an alternative form of strategic-scale development – substantial further work needs to be done to develop the evidence to support them. My 8 June letter outlines the further work required.
7. Clearly the outcome of any further work could not be predicted in advance. It might or might not result in proposals for one or more garden communities, and/or for another form of strategic-scale development. The crucial requirement is that any such revised proposals must be supported by robust evidence, including sustainability appraisal [SA], taking full account of the conclusions and advice in my 8 June letter.

¹ The three NEAs in the context of this letter are Braintree District Council, Colchester Borough Council, and Tendring District Council

8. Against that background I advised that, in my view, the NEAs had three options for taking forward your Section 1 and Section 2 plans. In brief, and in reverse order, these were:

Option 3 – withdraw both Section 1 and Section 2 from examination and re-submit them after carrying out the necessary further work on the evidence base;

Option 2 – suspend the examination of Section 1 while the necessary further work on the evidence base is carried out and revised proposals are brought forward. Following consultation on the revised proposals, the Section 1 examination would then resume. The Section 2 examinations would not begin until the Section 1 Inspector had heard evidence and reached conclusions on the revised Section 1 proposals.

Option 1 – agree to remove the current garden community proposals from Section 1 and proceed to the Section 2 examinations. Subject to the outcome of the Section 2 examinations and consultation on main modifications, Sections 1 and 2 should then be capable of being adopted. Then carry out the necessary further work on the evidence base and bring forward revised proposals in a partial revision to Section 1, to be submitted for examination within a defined period.

Explanation of Option 1

9. In suggesting Option 1 I had in mind the advice in paragraphs 4 and 5 of the Planning Inspectorate's *Procedural Practice in the Examination of Local Plans*. These advise that

Inspectors, in conducting the examination, will at all times keep in mind the benefits of getting a robust and up-to-date plan adopted ... [C]onsideration will be given to the option of the LPA making a commitment to review the plan or particular policies in the plan within an agreed period, where this would enable the Inspector to conclude that the plan is sound and meets the other legal requirements.

10. Option 1 is intended as a constructive response to the shortcomings I found in the evidence base for the key strategic-scale (garden community) proposals in Section 1. My purpose in suggesting it is to offer the NEAs a way to proceed to the examination of their individual Section 2 plans, and the adoption of both Section 1 and Section 2, more quickly than via Option 2 or 3.
11. Under Option 1 the Section 1 Plan would no longer seek to deal with garden communities, or any other form of strategic-scale development proposals,

in the current examination. Nor would it – or the current Section 2 plans – seek to allocate sites for the 7,500 dwellings which the garden community proposals were intended to deliver within the plan period (see paragraphs 15-21 below). Instead those issues would be deferred to a future partial revision of Section 1. This would enable the sound elements of the current Section 1 to be adopted along with your Section 2 plans (subject to examination of the latter).

12. Under Option 1, therefore, main modifications to Section 1 would remove the garden community proposals from the plan, make consequential amendments to other policies where necessary, and make it clear that a partial revision to Section 1 containing revised development proposals would be submitted for examination within a defined period. The NEAs' Local Development Schemes [LDS] would need to be revised to reflect the altered scope of the existing Section 1 Plan and the scope and timing of the partial revision.
13. As the revision to Section 1 would be only a partial revision to the current submitted plan, it would apply to the same plan period (ending in 2033) as the current plan. But the examination of the partial revision would be a new examination, separate from the current one.
14. It would be for your authorities to decide how long is needed to bring forward the partial revision to Section 1. In my 8 June letter I suggested that two to three years would be a realistic period to allow time for the current Section 1 and 2 examinations to be completed, and for the necessary further work on the evidence base and consultation on the revised proposals to be carried out.
15. As submitted, Section 1 envisages that the proposed garden communities would deliver 7,500 dwellings during the plan period which ends in 2033. Option 1 would mean that the Section 1 Plan would be adopted without those 7,500 dwellings. One of the main tasks for the partial revision of Section 1 would be to bring forward proposals to provide an equivalent amount of housing, provided that such proposals are supported by evidence.
16. A commitment to do this would be written into the current Section 1 Plan, as part of the main modifications. As a result, the current plan would not be made unsound by the deletion of the 7,500 dwellings associated with the current, unsound garden community proposals. As modified, the current Section 1 Plan would still provide the means to bring forward (in combination with the Section 2 plans) sufficient dwellings to meet the overall housing requirement for the plan period. The majority of those

dwellings are already allocated in the current Section 2 plans, and provision for the remaining 7,500 would be made in a plan revision.

17. It is, of course, possible that when the necessary further work on the evidence base is complete, the NEAs may conclude that it is not possible to bring forward garden community proposals or other strategic-scale development proposals to deliver all 7,500 dwellings. The implications of that situation would need to be considered if and when it occurred. The NEAs might, for example, need to consider also making partial revisions to one or more of their Section 2 plans, concurrently with the revision to Section 1, to bring forward additional non-strategic sites to make up the shortfall. But it is not something that would need to be considered in the context of the current Section 1 and 2 examinations, if Option 1 is adopted.
18. The “Justified” soundness test in NPPF paragraph 182 requires that the plan should be the most appropriate strategy when judged against the reasonable alternatives, based on proportionate evidence. Under Option 1, the Section 2 examinations will assess whether the Section 2 plans are the most appropriate strategy to deliver each of the NEA’s individual housing requirements, minus the 7,500 dwellings that were intended to come forward from the current garden community proposals. Additional sites to provide those 7,500 dwellings would be brought forward in the partial revision to Section 1 (and to Section 2 if necessary), as described in paragraphs 15 to 17 above. It would not be necessary to assess the strategy for delivering those additional sites in the current Section 2 examinations.
19. Examinations normally seek to establish whether there is a reasonable prospect that a five-year supply of housing sites to meet the full plan requirement will be maintained throughout the plan period. However, in the particular circumstances of this examination, Option 1 would require that the current Section 2 plans identify sufficient sites to maintain a five-year supply of deliverable sites against each NEA’s full plan requirement only during the period before the partial revision to Section 1 is to be adopted.
20. For example, if the partial revision is programmed to be adopted in 2022, the current Section 2 plans would need to show that an adequate supply against each NEA’s full plan requirement could be maintained for each five-year period from now until the five-year period beginning in 2022. For subsequent five-year periods the five-year supply in the current Section 2 plans would be judged against each NEA’s plan requirements, minus the 7,500 dwellings to be brought forward in the partial revision to Section 1.

21. This means that it would not be necessary for the NEAs to identify additional sites in the current Section 2 plans, unless the removal of the garden community proposals would result in a shortfall in the five-year supply at any point during the period before the partial revision to Section 1 is adopted.

Comments on your letter of 20 July 2018

22. In the fifth paragraph of your letter of 20 July 2018 you say that

In order to modify Section 1 to remove the Garden Communities we would need to carry out an updated Sustainability Appraisal and, given the scale of the change, advertise both. The Sustainability Appraisal would have to consider the Garden Community options as a realistic alternative to what would then be a decision not to have a spatial dimension to housing delivery. At the moment we have not identified any additional evidence required to support the Option 1 changes to Section 1. If there are objections from the promoters then we are assuming that there would need to be a further hearing into those objections before you can report and reach a conclusion on whether the modified Section 1 is sound.

23. I do not agree with that analysis, for the following reasons. I am required by legislation² to recommend main modifications that would make the Section 1 Plan sound (if the NEAs ask me to do so). My 8 June letter sets out the reasons why the current garden community proposals are unsound. Unless additional evidence comes forward, those reasons would provide the justification in my report for main modifications to remove those proposals from the Section 1 Plan. No additional evidence from the NEAs would be required to justify the main modifications. Further hearings to discuss the main modifications would only be necessary if substantial issues, not already considered during the Section 1 examination, arose from the consultation responses.

24. It is for the NEAs to determine whether, and to what extent, SA of the main modifications to the Section 1 Plan, and of any reasonable alternatives to them, is required. In doing so you may wish to refer to the judgment in the case of *Grand Union Investments v Dacorum Borough Council* [2014] EWHC 1894 (Admin), which has some similarities with my suggested Option 1. In his judgment, Lindblom J determined, among other things, that

the requirement to assess likely significant effects on the environment of reasonable alternatives is specifically a requirement to consider reasonable alternatives to the implementation of a plan, not alternatives to every modification of a plan, including modifications which do not in themselves constitute substantive proposals. It is predicated on the existence of reasonable alternatives to the

² Section 20 of the *Planning and Compulsory Purchase Act 2004*, as amended

preferred strategy which are capable of being assessed in the same way, whether or not to the same depth, as the preferred strategy itself (see, for example, the judgment of Ouseley J. in *Heard v Broadland District Council* [2012] EWHC 344 (Admin), at paragraphs 69 to 71). Main Modification 28 did not amount to a new policy or allocation in the core strategy, but a commitment by the Council to an early review of it. There was, therefore, nothing by way of an alternative policy or allocation to assess [paragraph 94 of the judgment].

25. In any event, it seems to me that there would be no requirement to assess the retention of garden community proposals in the Section 1 Plan as a reasonable alternative to main modifications deleting them from the plan, as the fifth paragraph of your letter appears to suggest. This is because, first, the current garden community proposals have already been the subject of SA during the preparation of the plan, and secondly, it is difficult to see how their retention could now be considered as a reasonable alternative, given the conclusions I reached on them in my 8 June letter. The appropriate time for SA of any garden community or other strategic-scale development proposals would be if and when they are brought forward as part of the plan revision, supported by further work on the evidence base.
26. Paragraph 6 of your 20 July letter refers to my observation that in preparing for the Section 2 examinations the NEAs would need to consider any implications of the removal of the current GC proposals for housing land supply in each authority area, in the years before the partial revision comes forward. Your paragraphs 6 to 8 go on to make the following points:
 - a) As a new plan the partial revision would need to address the updated housing numbers in accordance with the NPPF.
 - b) If garden communities are still proposed in a partial review, given that there would be a 5 year+ delay before the adoption of garden community policies it is unlikely that any of the garden communities would be able to make a material contribution to housing supply in the period up to 2033.
 - c) Removing the garden community proposals from Section 1 would result in a significant shortfall in the supply of housing sites in the Section 2 plans to meet needs up to 2033, particularly from year 6 onwards.
 - d) An implication for the NEAs of removing garden communities from Section 1 would therefore be a requirement to consider whether the present allocations and patterns of development in Section 2 would be appropriate if the garden communities did not come forward as part of a future revision of Section 1.
 - e) Even if garden communities are included in the Section 1 revision since they would not be able to make a material contribution to housing delivery in the period to 2033 other options for delivering housing would have to be explored within the Section 2 plans.
 - f) The NEAs would therefore also have to assess additional sites and potentially modify and re-consult on the Section 2s before progressing to the examinations. An updated Sustainability Appraisal would be required.

27. I would make the following comments on those points. I assume your point (a) refers to the new arrangements for assessing housing need contained in the revised NPPF published last week. It seems to me that, under Option 1, the partial revision to Section 1 would not necessarily need to revisit the justification for the NEAs' housing requirement figures. Essentially, whether or not it did would depend on how the purpose of the partial revision is defined, including in your LDSs³. On the other hand, it is true that paragraph 33 of the revised NPPF does indicate that plans are likely to require early review if local housing need is expected to change significantly in the near future. You may wish to seek further legal advice on this point.
28. If the revision to the Section 1 plan did revisit the NEAs' housing requirement figures, and found that they needed to change, then the plan revision would of course need to meet the altered requirements in full.
29. Your point (b) suggests it is unlikely that any garden community or other strategic-scale proposals brought forward in a partial revision would be able to make a material contribution to housing supply in the period up to 2033. But in my 8 June letter I found that the planning approval process would allow housing delivery at any garden communities to start within four or five years from the adoption date of the plan (or plan revision) which establishes the garden communities in principle.
30. Assuming that a partial revision to the Section 1 plan comes forward in two or three years' time, and the examination takes a year, the partial revision could in principle be adopted in 2021 or 2022. On those assumptions, there would seem to be a reasonable prospect that any strategic-scale development proposals proposed in a partial revision would be capable of beginning to deliver housing at some point between 2025 and 2027.
31. For my comments relevant to your points (c) to (f), see paragraphs 15 to 21 above.

Responses to your specific queries

32. All the responses below apply to my suggested Option 1 only.
- 1) Do you agree that the removal of the GC proposals from Section 1 will require an updated SA before Section 1 could be adopted?

³ See *Oxted Residential Ltd v Tandridge DC* [2016] EWCA Civ 414, and *Gladman Development Ltd v Wokingham BC* [2014] EWHC 2320 (Admin)

33. That will depend on whether or not the proposed main modifications to Section 1 would have any effects that have not already been assessed in the SA work carried out to date. See paragraph 24 above.
- 2) If the SA has to be updated then it will have to address the GC proposals as a realistic alternative. In order to do so do you agree that it will need to address the limitations that you have found in relation to the existing SA?
34. I do not agree that SA of the proposed main modifications would have to assess the current garden community proposals as a reasonable alternative. See paragraphs 24-25 above. However, the limitations in the existing SA would need to be addressed when preparing the evidence base for the partial revision.
- 3) If Section 1 is modified as proposed will you require further examination days to deal with the objections from the promoters of those sites if they make material objections to the deletion of the relevant policies?
35. That will depend on whether or not the responses to consultation on the main modifications raise substantial issues that have not already been considered. See the last sentence of paragraph 23 above.
- 4) Do you agree that the "implications" that have to be considered include the possibility that the GC proposals will not be promoted in a revised future Section 1?
36. Not in the context of the current Section 2 examinations. They might need to be considered when the partial revision to Section 1 is brought forward, depending on what is proposed in it. See paragraph 17 above.
- 5) Do you agree that the Section 2 plans will need to be reviewed to consider whether they still represent the "most appropriate strategy"?
37. The current Section 2 examinations would need to establish whether the Section 2 plans represent the most appropriate strategy to deliver each NEA's housing requirement, minus the 7,500 dwellings that the current garden community proposals are intended to deliver. The strategy to deliver those 7,500 dwellings would be a matter for the partial revision to Section 1 (and Section 2 if necessary). See paragraphs 15-18 above.
- 6) In the submitted Local Plans, the garden communities begin delivering housing numbers from 2023/24. Do you agree that the Section 2 plans will need to be revised to include replacement housing sites given that under Option 1 the GC proposals (even if pursued through a later review) will no longer be able to make a material contribution to housing supply in the plan period?

38. Possibly, but only to the limited extent set out in paragraphs 19 to 21 above. For the reasons given in paragraphs 29 and 30 above, I disagree with the premise that, under Option 1, strategic-scale development proposals (even if pursued through a later review) will no longer be able to make a material contribution to housing supply in the plan period.

7) Do you agree that section 2 cannot proceed until the issues of soundness relating to Section 1 are addressed?

39. Under Option 1, the issues of soundness relating to Section 1 would be addressed by the main modifications I have outlined in paragraph 12 above. This would allow the Section 2 examinations to proceed and the sound elements of the current Section 1 to be adopted along with the Section 2 plans (subject to examination of the latter).

Option 2 – scope of and timetable for further work

40. Should the NEAs decide to proceed with Option 2, the current examination would be suspended while the NEAs carry out the necessary further work on the evidence base, as outlined in my 8 June letter. Guidance on the suspension procedure is given in the Planning Inspectorate's *Procedural Practice in the Examination of Local Plans*, at paragraphs 9.13 to 9.17. As outlined in that guidance, I would expect to discuss and agree with the NEAs the scope of and timetable for the additional work needed. The guidance also makes it clear that LPAs should be realistic in making their timing estimates and that the Inspector will request regular updates on progress during the suspension period.

Concluding remarks

41. I hope this letter is helpful in clarifying what Option 1 would involve. Please do not hesitate to contact me again, through the Programme Officer, if you wish to seek any further clarification.

42. I understand that the NEAs will need to consider carefully which of the three options I have outlined, or any alternative course of action, they now wish to pursue. I look forward to hearing from you when this has been decided.

Yours sincerely

Roger Clews

Inspector

Appendix 5

Braintree District Council, Colchester Borough Council and Tendring District Council (NEA)

Section 1 Local Plan Examination

Summary of Advice from Leading Counsel

1. Dentons instructed Christopher Lockhart-Mummery QC to provide advice on four main issues arising out of the Local Plan Inspector's letters of the 8th June (**First Letter/FL**) and 2nd August (**Second Letter/SL**). Advice has been provided both in writing and orally.

Issue 1: Can Section 1 be adopted separately from, and ahead of, Section 2?

2. The Inspector's First Letter (FL146/147) suggested that the North Essex Authorities should seek their own legal advice on whether Section 1 can be adopted independently to and before the Section 2 examinations.
3. Counsel advised that this would be a lawful approach for the NEA to adopt.

Issue 2: If the Garden Communities are removed from Section 1 as proposed in the Inspector's Option 1 will the Sustainability Appraisal need to be updated to take account of the omission of the homes that would otherwise have been accommodated and, if so, are the Garden Communities a "reasonable alternative" that the SA has to consider?

4. Counsel advised that the SA would have to be updated to support a revised Section 1 under Option 1. That SA would have to reflect the omission of the homes and employment proposed in the Garden Communities, and would have to address the shortfall that that would leave compared with the OAN homes. The SA would be able to take account of the commitment to review Section 1 but would have to reflect the fact that the future Section 1 review might not support Garden Communities, either in their present form or at all.
5. Counsel advised that any Section 1 SA would have to treat the Garden Community options as a "reasonable alternative" for SA purposes.
6. Counsel advised that the Section 2 SA's would all have to be reviewed to reflect the absence of the Garden Communities and the potential consequences of the uncertainty about the potential outcome of the Section 1 review.

Issue 3: If the Garden Communities are removed from Section 1 is there a risk that the examination would have to be re-opened to hear objections, if made, from the promoters of the Garden Communities?

7. Counsel noted that examinations are re-opened only exceptionally to deal with proposed modifications.
8. Counsel advised that his view was that the omission of the Garden Communities would clearly be exceptional. If the examination was not re-opened he would expect a judicial review of that decision with consequential delays to the conclusion of the local plan process.

Issue 4: If the Garden Communities are removed from Section 1 would the Section 2 examinations need to consider alternative sites to make up the shortfall against OAN for each local plan?

9. Counsel advised that it would be for the Section 2 examiners to consider whether the Section 2 plans were sound.
10. If the OAN is not being met each examiner would have to consider whether the commitment to a review in Section 1 was sufficient for them to find the plan sound. This would be a decision to be taken on each Section 2 plan and would depend on factors such as the extent of any shortfall and the consequences of the Garden Communities not being the chosen option in any Section 1 review.

Dentons

3 September 2018

13 September 2018

Report of	Assistant Director: Corporate & Policy	Author	Karen Syrett
Title	National Planning Policy Framework July 2018		
Wards affected	All		

1. Executive Summary

- 1.1 The finalised version of the revised National Planning Policy Framework (NPPF) was issued by the Ministry of Housing, Communities and Local Government (MHCLG) on 24 July. There are a number of areas where the new NPPF has confirmed or altered key proposals and policies.
- 1.2 The document has been reformatted so there is not an opportunity to provide a tracked change version or an easily comparable report. Section 5 below therefore highlights the most significant areas of change.

2. Recommended Decision

- 2.1 The Committee is asked to note the publication of the revised National Planning Policy Framework July 2018.

3. Reason for Recommended Decision

- 3.1 To make members aware of the latest national planning policy.

4. Alternative Options

- 4.1 There are no alternative options – the report is for information only.

5. Background Information

- 5.1 The Government published draft revisions to the National Planning Policy Framework (NPPF) on 5 March this year. The Council, along with 29,223 others, responded to the consultation and the revised Framework was published on 24th July. This is the first revision of the National Planning Policy Framework since 2012. It implements around 85 reforms announced previously through the Housing White Paper, the planning for the right homes in the right places consultation and the draft revised National Planning Policy Framework consultation.
- 5.2 Alongside the NPPF the Government published a number of other documents including;
 - a press release, "Government's new planning rulebook to deliver more quality, well-designed homes",
 - James Brokenshire's short written ministerial statement, entitled "housing policy"
 - The Government response to the draft revised National Planning Policy Framework consultation, setting out its summary of consultation responses

received to the March draft and "the Government's view on the way forward". The document only identifies the main substantive changes.

- Updated Planning Practice Guidance on housing and economic development needs assessments (albeit with further guidance to come).
- Updated Planning Practice Guidance on Viability.
- The "Housing Delivery Test Measurement Rule Book", setting out the methodology "for calculating the Housing Delivery Test result".
- There is a call for evidence in relation to the Independent Review of Planning Appeal Inquiries chaired by Bridget Rosewell. The call for evidence is accompanied by some additional material.

- 5.3 Key issues and changes are summarised below, and further information on the potential implications for Colchester will be presented verbally at the Committee once officers have had time to analyse proposals in more detail.
- 5.4 The introduction of a housing delivery test for local authorities in November this year. The test will measure the number of homes created against local housing need and penalise councils that underdeliver against various thresholds over a three-year period. This includes applying the presumption in favour of sustainable development where delivery is below 75 per cent of the housing requirement from 2020. However, this year, the presumption penalty threshold is less than 25 per cent, rising to 45 per cent next years.
- 5.5 The introduction of a new standardised method of calculating housing need. The method takes the government's household growth projections and applies an affordability ratio, comparing local house prices with workplace earnings, to produce a need figure. The government hopes the method will end protracted wranglings on the issue during local plan examinations. However, the MHCLG, in its consultation response, said it will consider adjusting the methodology in order to meet its 300,000-homes-a-year target in light of the impending publication of new household growth projections that are likely to be lower than previous estimates. It will "consult on the specific details" when the new projection figures are published in September.
- 5.6 The reinstatement of "social rent" in the NPPF's definition of affordable housing. The term had been omitted from March's draft version prompting concerns from some sector bodies.
- 5.7 A controversial small sites requirement in the draft NPPF has been watered down in response to sector concerns. The new NPPF says councils must accommodate ten per cent of their housing requirement on small sites, as opposed to 20 per cent of sites under the draft version.
- 5.8 The importance of design standards is emphasised. The creation of high-quality buildings and places is 'fundamental' to what the planning and development process should achieve, the revised NPPF states. In particular, councils should try to "ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme.
- 5.9 The policy on green belt alterations has been revised. In new wording added to the draft, the new NPPF requires green belt reviews to be "fully evidenced and justified".
- 5.10 The new NPPF strengthens the requirement for councils to produce local plans compared to the draft version. The draft stated that local policies "may" come forward "either as part of a single local plan or as part of a subsequent local plan or neighbourhood plan", while the final version says that "non-strategic" policies "should be included in local plans".

- 5.11 The NPPF's policies come into effect straight away for decision making. However local plans submitted before the end of January 2019 will be examined against the 2012 framework. The revised NPPF's annex states that development plans submitted after 24 January - exactly six months after publication of the final revised NPPF - will be examined under the new document's policies.
- 5.12 The glossary confirms the revised definition of "deliverable" housing sites set out in the March draft, apart from one minor clarification. It says that "sites that are not major development" – rather than "small sites", as in the draft – and sites with detailed planning permission "should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years". Sites with outline planning permission, permission in principle, allocated in the development plan or identified on brownfield registers should only be considered deliverable "where there is clear evidence that housing completions will begin on site within five years", it says. For housing, the glossary defines "major development" as schemes where ten or more homes will be provided or the site has an area of at least 0.5 hectares.
- 5.13 The approach advocated in the 2016 written ministerial statement on neighbourhood development plans (NDPs) is enshrined in the finalised framework. Paragraph 14 says that where the presumption in favour of sustainable development would otherwise apply in the absence of relevant or up-to-date plan policies, the adverse impact of allowing housing schemes that conflict with NDPs is likely to "significantly and demonstrably outweigh the benefits" where the plan was adopted two years or less before the decision, it contains policies and allocations to meet its identified housing requirement and the local planning authority has at least a three-year supply of deliverable housing sites against its five year requirement, including any appropriate buffer against underdelivery. In addition, the planning authority's record must show that at least 45 per cent of homes required were delivered over the previous three years, the document says.
- 5.14 Policies on developer contributions should not undermine plans' deliverability, the finalised framework insists. Paragraph 57 says applications that comply with contributions policies "should be assumed to be viable". It adds: "It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage." This is in contrast to the March draft, which suggested that where proposals for development accord with all the relevant policies in an up-to-date development plan, "no viability assessment should be required to accompany the application". The finalised framework explains: "The weight to be given to a viability assessment is a matter for the decision-maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force."
- 5.15 Local plans and spatial development strategies must, as a minimum, "seek to meet the area's objectively assessed needs" to be declared sound. This phrase reinforces the soundness test laid down in paragraph 35 of the finalised framework, which requires plans that are positively prepared, justified, effective and consistent with national policy. A footnote adds that, for housing policies, such needs should be assessed using a clear and justified method. Paragraph 60 says that, in determining the minimum number of homes needed, strategic policies should be informed by a local housing need assessment conducted using a standard method to be prescribed in national planning guidance, "unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals". It adds: "In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for."

- 5.16 Larger-scale developments must be well located and designed and supported by the necessary infrastructure and facilities. This proviso appears in paragraph 72 of the finalised framework, which backs options such as new settlements and "significant extensions" to existing towns and villages as ways in which the supply of large numbers of new homes "can often be best achieved". Newly added guidance says that before proposing such development, strategic policy-makers should consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains. It requires planning authorities to ensure that the size and location of such developments will support a sustainable community, make a "realistic assessment" of likely delivery rates and identify opportunities for supporting rapid implementation, "such as through joint ventures or locally led development corporations". It also reinserts a reference to garden city principles, controversially omitted from the March draft, as an example of how "clear expectations" for development quality can be laid down.
- 5.17 Planning performance agreements (PPAs) are likely to be needed for applications that are particularly large or complex to determine. This suggestion, contained in paragraph 46 of the finalised framework, did not appear in the March draft. The final version reiterates the government's view that applicants and local planning authorities should consider the potential for voluntary PPAs "where this might achieve a faster and more effective application process".
- 5.18 Plan reviews will be needed at least every five years where local housing need figures have or look set to "change significantly". Paragraph 33 of the finalised framework says: "Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future." This appears to be a less stringent review requirement than proposed in the March draft, which referred only to actual or anticipated "increases" in housing need figures.
- 5.19 The specific locational requirements of storage and distribution operations should be recognised in planning policies and decisions. This requirement, set out in paragraph 82 of the finalised framework, was absent from the March draft, which made no mention of the sector. The framework says policies and decisions should make provision for storage and distribution operations "at a variety of scales and in suitably accessible locations". Elsewhere, paragraph 20 reinstates employment in the list of land uses for which strategic policies will be required to set the pattern, scale and quality of development and make sufficient provision.
- 5.20 Free-standing veteran trees are accorded more protection in the finalised statement. Paragraph 175(c) says that development resulting in the loss or deterioration of irreplaceable habitats, such as ancient woodland and ancient or veteran trees, should be refused, "unless there are wholly exceptional reasons and a suitable compensation strategy exists". The glossary of the March specifically excluded draft individual aged or veteran trees found outside ancient woodland from its definition of irreplaceable habitat.
- 5.21 The revised NPPF includes several change to policies on planning for town centres compared to the draft version published in March. In particular, it drops a policy in the draft version that said authorities should "support diversification and changes of use where town centres are in decline". Chapter seven of the new NPPF, "Ensuring the vitality of town centres", says councils should "define a network and hierarchy of town centres and promote their long-term vitality and viability". In an addition to the draft, it says they should do this "by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries". March's draft version said councils should, when defining the extent of town centres and primary shopping areas, "identify primary and

secondary frontages" and make clear which uses will be permitted in such locations. The final version drops the frontages requirement but recommends that councils should carry out the exercise "as part of a positive strategy for the future of each centre".

- 5.22 Local Wildlife Sites have been reinstated in the document. The all-important new wording says that local councils will need to identify, map and safeguard components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity. Locally designated sites, as it explains in the glossary, means local wildlife sites. The wording doesn't go quite as far as recommending against development of these sites but the wildlife trusts have pledged to work with the government "to ensure that the guidance that accompanies the National Planning Policy Framework makes it clear how local wildlife sites should be safeguarded."
- 5.23 The Framework introduces Entry Level Exception Sites. These comprise of homes suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. These sites should be on land which is not already allocated for housing and should:
- a) comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of this Framework; and
 - b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance identified in the Framework, and comply with any local design policies and standards.

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:-
<https://colch.sharepoint.com/:b:/s/Store/DyLi/EZA0GdflinZFsYaVaABNZigBvKSbQowOONFR-CqjyG4XAO>

7. Strategic Plan References

- 7.1 The Councils Strategic Plan 2018 – 2021 includes 4 themes under which are a number of objectives which are relevant to the NPPF.

8. Consultation

- 8.1 Consultation on the draft document took place earlier this year and the Council responded.

9. Publicity Considerations and Financial, Community Safety, Health and Safety and Risk Management Implications

- 9.1 There are no publicity implications or financial, community safety, health and safety or risk management for the Council.

13 September 2018

Report of	Assistant Director: Corporate & Policy	Author	Sean Tofts ☎ 508639
Title	Statement of Community Involvement consultation summary and adoption request		
Wards affected	All		

1. Executive Summary

- 1.1 This report follows the completed consultation on the Statement of Community Involvement (SCI). The report summarises the responses from stakeholders during the 6 week consultation that was conducted between the 28th of March and the 9th of May 2018. The consultation draft SCI was predominantly undertaken due to changes within emerging national policy that needed to be reflected at the Borough level.
- 1.2 Officers consider the document to be appropriate for adoption subject to the correction of some minor formatting areas.

2. Recommended Decision

- 2.1 To adopt the proposed Statement of Community Involvement 2018 as shown in Appendix One.

3. Reason for Recommended Decision

- 3.1 Officers has have considered the consultation responses and found no significant objections to the contents of the SCI.

4. Alternative Options

- 4.1 The Committee could decide not to update the Statement of Community Involvement but this would conflict with national regulations and may undermine plan making in the borough.
- 4.2 The Committee could alternatively propose amendments to the proposed Statement of Community Involvement.

5. Background Information

- 5.1 The Council approved the draft Colchester SCI 2018 on the 19th of March and agreed to undertake public consultation. The document was subject to consultation between the 28th of March and the 9th of May 2018. The SCI required updating to be compliant with regulations under the Neighbourhood Planning Act 2017 which were laid before Parliament on 13 December 2017, and, subject to parliamentary procedures will be brought into force this year.
- 5.2 A brief summary of the amendments to the document that were included within the consultation draft are highlighted below:

- A new chapter with specific regard to Neighbourhood Planning;
- A concise explanation of Neighbourhood Planning;
- An explanation of the consultation process in relation to Neighbourhood Plans (including table of time frames);
- Support and guidance that will be provided by the Council in relation to Neighbourhood Plans.

- 5.3 For further information on the changes to the regulation please see the committee report pertaining to the SCI for the 19th of March 2018.
- 5.4 Further to the requirement to update the Colchester SCI this process has also provided an opportunity to ensure that the information in relation to community involvement for the development management process was accurate. Minor amendments have been made to text to ensure the document accurately reflects the current procedures. The process has also allowed for the document to be restructured to make it clear and concise. It has also been reformatted to reflect the document style of other Local Plan documents.

Consultation Process and Response

- 5.5 Emails and letters were sent out to consultees prior to the commencement of the consultation and the Council's website was updated to highlight the dates of the consultation. Further to this hard copies of the draft SCI were on display at the Colchester Library and available from Rowan House. Several telephone calls were answered prior to and during the consultation by officers and several requests were met to have printed copies of the document sent out.
- 5.6 12 responses were received to the consultation and are included in full (with redactions as required) in Appendix 2. Due to the nature of the document and the scope of changes being sought through the consultation draft the level of response expected to such a consultation is relatively low.
- 5.7 It is noted that some of the responses offered little commentary upon the SCI itself and focused upon a view that this document forms part of a wider 'tick box' exercise.
- 5.8 Officers note that none of the responses proposed any specific revisions to the SCI document prior to adoption by the Council.
- 5.9 Minor amendments have been made to the document including the deletion of the section in relation to the consultation process. This was only intended to be included for the consultation draft. A formatting error noted with regard to paragraph numbering has also been corrected.

Post Adoption

- 5.10 If adopted the Colchester SCI will be published on the Council Website and become part of the adopted evidence base; superseding the existing version of the document. The new SCI will provide clarity on the extent of community involvement that will take place. It will also set out clear consultation procedures and standards that the Council will follow when undertaking consultations on draft planning policy documents and when planning applications are received.

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:- <http://www.colchester.gov.uk/article/12745/Policy-and-Corporate>

7. Strategic Plan References

- 7.1 The Council's Strategic Plan 2018 – 2021 includes a key priority concerning Responsibility. The Statement of Community Involvement provides an opportunity under this theme for residents to get involved in their communities through the planning process.

8. Consultation

- 8.1 The document has been subject to a six-week public consultation exercise. The Council's website carried full details of the Draft Document and responses were made electronically and in writing. Officers also spoke to several respondents via telephone and the document was available to view at Colchester Library and from the Council's offices. All responses have been considered without prejudice in the compiling of this report.

9. Publicity Considerations

- 9.1 If adopted the SCI2018 will be published upon the Council's website.

10. Financial implications

- 10.1 There are no financial implications for the Council

11. Community Safety Implications

- 11.1 There are no community safety implications for the Council.

12. Health and Safety Implications

- 12.1 There are no health and safety implications for the Council.

13. Risk Management Implications

- 13.1 Adopting the Statement of Community Involvement will reduce the risk of the Council failing to adhere to the most recent regulations.

Appendices

- Consultation Responses
- Proposed Final Draft of the Colchester Statement of Community Involvement 2018

Appendix One: Consultation Responses

Chelmsford City Council Response to Colchester Borough Council Statement of Community Involvement Consultation – 2018

Thank you for consulting Chelmsford City Council (CCC) on the Consultation Draft Statement of Community Involvement (SCI). This Council considers that the draft is clear and comprehensive and notes the anticipated adoption in Summer 2018.

This Council notes the recognition that as part of the statutory Duty to Cooperate, neighbouring councils and other relevant organisations must work together on strategic planning issues that affect them all as outlined in the Regulations and will continue to support the principle of engagement as set out in the SCI.

The Council notes the commitment to produce separate development plan documents (DPD) for each of the new proposed Garden Communities and that the consultations on the plans for the Garden Community will have regard to the revised SCI.

The Council notes the new section referencing Neighbourhood Plans and support offered in preparing new neighbourhood plans.

Chelmsford City Council will continue to actively engage with Colchester Borough Council on each other's respective Local Plans.

Whilst the content of this document is laudable, there is absolutely no reason to believe that Colchester Council will pay any attention to it when finalised.

It is meant to explain how the Community will be involved & engaged in the Garden Communities and other Planning issues.

Why are Colchester Council even considering it, when for the last 3 years the Council has totally ignored all responses from the public on all matters with the 3 Garden Communities? Does anyone actually think Colchester Council will properly consider and act on the responses of the public as claimed in the SCI? The public are tired of responding to consultations when they know their responses will be ignored as seen in the recent Issue & Options consultation, extended on the very last day to give a 12 week period, presumably to try and boost the number of responses. It achieved only 725 responses via the portal for the 3 Garden Communities and if the original 10 week period had been maintained, then there would have been less than 400 responses. By comparison about 3000 responses were received in the summer 2016 consultation for the Garden Communities.

Philip Jellard

Sir/Madam,

The 'Statement of Community Involvement' is no more than a tick-box exercise. Change is needed in the way the council interacts with residents. The steps taken by the council to date, and outlined in this consultation, do not go far enough.

The West Tey proposal demonstrates that a complete review of the way that Colchester Borough engages with residents is required. An 8,500-signature petition has been ignored. Thousands of responses to consultations run by Colchester over the past three years have been ignored. Letters to the press and talks in the public question time at Local Plan meetings, Cabinet meetings and Full Council meetings have been ignored. Representations forwarded by the MPs have been ignored.

It is time to move from 'Consult & Ignore' and to start listening to your residents.

Regards

Carly Byrne

Sir/Madam,

The 'Statement of Community Involvement' is no more than a tick-box exercise. Change is needed in the way the council interacts with residents. The steps taken by the council to date, and outlined in this consultation, do not go far enough.

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It is time to move from 'Consult & Ignore' and to start listening to your residents.

Yours,

Siobhan Clarke

Sir/Madam,

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The West Tey proposal demonstrates that a complete review of the way that Colchester Borough engages with residents is required. An 8,500-signature petition has been ignored. Thousands of responses to consultations run by Colchester over the past three years have been ignored. Letters to the press and talks in the public question time at Local Plan meetings, Cabinet meetings and Full Council meetings have been ignored. Representations forwarded by the MPs have been ignored.

It is time to move from 'Consult & Ignore' and to start listening to your residents.

Kind regards

Mark Champion

The 'Statement of Community Involvement' is not a valid document because the council does not interact with residents with a genuine intention of taking on board comments. I have seen comments by the council claiming that 1000 responses is good and there are various positive comments about providing infrastructure. Nothing about the majority of comments being negative.

The West Tey consultation to date demonstrates that a complete review of the way that Colchester Borough engages with residents is required. Letters to the press and talks in the public question time at Local Plan meetings, Cabinet meetings and Full Council meetings and representations forwarded by the MPs have been ignored.

We have a new route for the A12 being proposed through Copford ahead of the Part 1 examination report, and now we have John Spence stating on BBC Look East that the A12 is being rerouted around the new town. And Paul Smith stating that building a new part of the A12 is actually cheaper than widening the existing. Where is the evidence of that questionable claim and why is the due process being ignored by these people? This is pure arrogance and flagrant disregard of a democratic process.

The Localism Act 2011 states the following aims:

- new freedoms and flexibilities for local government
- new rights and powers for communities and individuals
- reform to make the planning system more democratic and more effective and ensure that decisions about housing are taken locally

It appears to have succeeded on the first point but the rest is directly undermined by the council's actions. It is time for you to consider and address the remainder of these three points.

Regards

Neil Gilbranch

Sir/Madam,

The 'Statement of Community Involvement' is no more than a tick-box exercise. Change is needed in the way the council interacts with residents. The steps taken by the council to date, and outlined in this consultation, do not go far enough.

The West Tey proposal demonstrates that a complete review of the way that Colchester Borough engages with residents is required. An 8,500-signature petition has been ignored. Thousands of responses to consultations run by Colchester over the past three years have been ignored. Letters to the press and talks in the public question time at Local Plan meetings, Cabinet meetings and Full Council meetings have been ignored. Representations forwarded by the MPs have been ignored.

It is time to move from 'Consult & Ignore' and to start listening to your residents.

Yours Sincerely,

Rebecca Greene.

Dear sirs and madam, I wrote to you about this subject because u believe that the head of the council has no intention to respect his constituent's wishes. He seems to believe in a legacy. Unfortunately all the current administration will be known for is one of getting us into debt over the proposed garden communities.

These exercises are only viable if the council actually engages and listens.

Many thanks

Spencer Carter

Sir/Madam,

The 'Statement of Community Involvement' is no more than a tick-box exercise. Change is needed in the way the council interacts with residents. The steps taken by the council to date, and outlined in this consultation, do not go far enough.

The West Tey proposal demonstrates that a complete review of the way that Colchester Borough engages with residents is required. An 8,500-signature petition has been ignored. Thousands of responses to consultations run by Colchester over the past three years have been ignored. Letters to the press and talks in the public question time at Local Plan meetings, Cabinet meetings and Full Council meetings have been ignored. Representations forwarded by the MPs have been ignored.

It is time to move from 'Consult & Ignore' and to start listening to your residents.

I look forward to your response and also voting on May 3rd.

Kind regards,

Julie Hitchcock

"Sir/Madam,

The 'Statement of Community Involvement' is no more than a tick-box exercise. Change is needed in the way the council interacts with residents. The steps taken by the council to date, and outlined in this consultation, do not go far enough.

The West Tey proposal demonstrates that a complete review of the way that Colchester Borough engages with residents is required. An 8,500-signature petition has been ignored. Thousands of responses to consultations run by Colchester over the past three years have been ignored. Letters to the press and talks in the public question time at Local Plan meetings, Cabinet meetings and Full Council meetings have been ignored. Representations forwarded by the MPs have been ignored.

It is time to move from 'Consult & Ignore' and to start listening to your residents.

Thus far all councils - Colchester, Essex and Braintree, seem intent on giving preference to future residents whoever they might be at the expense of existing ones.

Rights of way are simply suspended, the countryside is being systematically shut off already.

What exactly do you believe you are creating in North East Essex?

Yours James Millar

Dear Sir/Madam,
West Tey Garden Village

I write against the proposed destruction of green belt areas in West Tey and beyond with regard to the so called "garden villages". I doubt there will be anything "garden" about it and the local area cannot sustain that amount of house building. These will not be "affordable" homes for local people but just a commuter area for those moving out of London.

The 'Statement of Community Involvement' is no more than a tick-box exercise. Change is needed in the way the council interacts with residents. The steps taken by the council to date, and outlined in this consultation, do not go far enough.

The West Tey proposal demonstrates that a complete review of the way that Colchester Borough engages with residents is required. An 8,500-signature petition has been ignored. Thousands of responses to consultations run by Colchester over the past three years have been ignored. Letters to the press and talks in the public question time at Local Plan meetings, Cabinet meetings and Full Council meetings have been ignored. Representations forwarded by the MPs have been ignored.

It is time to move from 'Consult & Ignore' and to start listening to your residents.

Yours faithfully

Mrs Heather Jewson

Sir/Madam,

The 'Statement of Community Involvement' is no more than a tick-box exercise. Change is needed in the way the council interacts with residents. The steps taken by the council to date, and outlined in this consultation, do not go far enough.

The horrendous West Tey proposal demonstrates that a complete review of the way that Colchester Borough engages with residents is required. An 8,500-signature petition has been ignored. Thousands of responses to consultations run by Colchester over the past three years have been ignored. Letters to the press and talks in the public question time at Local Plan meetings, Cabinet meetings and Full Council meetings have been ignored. Representations forwarded by the MPs have been ignored.

It is time to move from 'Consult & Ignore' and to start listening to your residents.

Regards

Mrs L Dear

I think CBC should bring ECC into their 'ideas' stage earlier to check that their thinking is practically possible (highways) and can be funded. There seem to be too many ideas floated by politicians without doing the homework on the feasibility which then mean that public hopes are raised but later dashed.

More joined up project thinking between cbc/ecc please to achieve better long term outcomes.

Equally, CBC shouldn't play the "not our brief" card every time someone mentions highways. They can speak and lobby. They must have some influence, after all, they know the town better than ECC.

Nicholas Chilvers



Statement of Community Involvement

**Consultation draft of the Colchester Borough
Council Statement of Community Involvement**



Tendring Colchester Borders Garden Community
Concept Framework consultation event.

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1. Introduction

What is a Statement of Community Involvement?

- 1.1 A Statement of Community Involvement (SCI) is a document that Councils are required to produce that sets out what consultation will take place with the community on planning policy documents and planning applications. The document states who the Council will consult with, when and how.

- 1.2 National Planning Practice Guidance states that:

“Section 18 of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to produce a Statement of Community Involvement, which should explain how they will engage local communities and other interested parties in producing their Local Plan and determining planning applications. The Statement of Community Involvement should be published on the local planning authority’s website.”

(Planning Practice Guidance 15-004-20140306) (06.03.14)

- 1.3 The SCI provides clarity on the extent of community involvement that will take place. It sets out clear consultation procedures and standards that the Council will follow when undertaking consultations on draft planning policy documents and when planning applications are received. This 2018 SCI supersedes the 2013 SCI and has been produced predominantly to reflect changes in national policy and legislation. This requirement has also been taken as an opportunity to make the document more concise and user friendly.

2. Colchester's Approach

Planning Policy

- 2.1 Colchester Borough Council attaches great importance to undertaking effective consultation with all stakeholders. The type and coverage of plans has evolved over the years but the overall requirement to ensure wide consultation remains. The NPPF and Localism Act 2011 introduced a new tier of planning called Neighbourhood Plans and provided greater flexibility in the requirements for plan preparation. The continuing source of information and progress on all the Council's planning policy documents continues to be the Local Development Scheme, which is available on the Council's website.
- 2.2 The Local Plan Committee has been established as a sub-committee of Full Council and is open to the public in the same way as other formal council committees. The Committee has responsibility for guiding the Local Plan process and takes decisions on the various documents to be produced. As part of this process they will take account of all consultations.
- 2.3 The shared strategic Section 1 Local Plan for North Essex includes proposals for three cross boundary Garden Communities; two of which are partially within the Colchester Borough. The Council is committed to producing a separate development plan document (DPD) for each of these Garden Communities. The consultations for the Garden Community plans will need to have regard to the Colchester Borough SCI as well as the SCI's of Braintree and Tendring, where appropriate.
- 2.4 As part of involving the community in the preparation of planning policy documents Colchester Borough Council will maintain an up to date consultation database so that any individual or organisation who wishes to be informed of the progress of planning policy documents is directly consulted when a document is consulted on. Further information on how the Council will work with the community on planning policy documents is set out in Part 1 of this document. Anyone wishing to be added to the database can do so by emailing planning.policy@colchester.gov.uk.
- 2.5 Once consultation has taken place on draft planning policy documents, a consultation summary will be produced which will summarise the key points made and provide a response to the issues raised before the document is finalised. This will be published on the Council's website alongside the accompanying committee report.

Duty to Cooperate

- 2.6 As part of the statutory Duty to Cooperate, neighbouring councils and other relevant organisations must work together on strategic planning issues that affect them all. In accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, Colchester Borough Council will work together on strategic planning issues with the organisations shown in the following table.

Duty to Cooperate Consultees	
	Office of Rail and Road
Environment Agency	Highways Agencies
Historic England	Integrated Transport Authorities
Natural England	Highway Authorities
Civil Aviation Authority	Marine Management Organisation
Homes and Communities Agency	Local Enterprise Partnerships
Clinical Commissioning Groups	Neighbouring Local Authorities
NHS England	Essex County Council

Table One – Duty to Cooperate Consultees

- 2.7 In addition to the above, the Council is required to consult ‘specific’ and ‘general’ consultation bodies and other consultees including the community, neighbourhood plan groups, businesses and third sector groups. The following list of organisations will be informed of any consultation being undertaken, as appropriate.

Specific Consultation Bodies	General Consulting Bodies
Neighbouring Local Authorities	Voluntary Bodies
All Parish Councils within and adjoining the boundary of Colchester Borough as appropriate.	Ethnic / Racial / National Groups
Essex Police	Religious Groups and Churches
The Environment Agency	Disabled Groups
Historic England	Local Business Support Agencies
Natural England	Other Consultees
The Secretary of State for Transport	Health Agencies
Electronic Communication Providers	Learning Agencies
Telephone Operators	Schools
Electricity Suppliers	Transport Bodies and Groups
Gas undertakers	Sports Clubs
Sewage Undertakers	Recreation Bodies
The Homes and Communities Agency	Infrastructure and Service Providers
The Ministry of Housing, Communities and Local Government	Design, Town Planning, Conservation and Landscape and Nature Conservation Bodies
Marine Management Organisations	Environmental Groups
Network Rail	Planning Consultants and Agents
Highways England	The Development Industry
Public Health England	Other miscellaneous bodies.
Electricity and Gas Suppliers	
Sport England	

Table Two – Wider Consultees

- 2.8 The Council will make sufficient resources available in order to meet its statutory responsibilities and the procedures and standards contained within this SCI.

Planning Applications

- 2.9 As part of notifying the community when a planning application is received, the Council will ensure there is appropriate publicity to enable members of the public to comment on proposals. Further information on how the Council will consult on planning applications is set out in Part 2 of this SCI.

3. Development Plans

- 3.1 Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise as set out in section 38(6) of the Planning and Compulsory Purchase Act 2004. The previous SCI referred only to Local Plans under this section, however the new shared strategic Section 1 Local Plan for North Essex includes proposals for three cross boundary Garden Communities. The Garden Community DPDs and the Local Plan are all classed as Development Plan Documents (DPDs).
- 3.2 The Borough also has several adopted and emerging Neighbourhood Plans. A Neighbourhood Plan attains the same legal status as the Local Plan once it has been approved at a referendum. At this point it comes into force as part of the statutory development plan for the Borough.

Local Plan

- 3.3 The Local Plan is the main planning policy document produced by the Council; it contains policies to guide the development of an area and includes allocations that indicate where development will take place (normally over a 15 year period from the adoption of the Plan). As required by national planning policy, the Local Plan should be drawn up by the local planning authority in consultation with the community. It will be reviewed every 5 years in part or in full.
- 3.4 The Local Plan forms part of the Development Plan (along with 'made' Neighbourhood Plans and Garden Community DPDs where appropriate). Planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

Garden Community DPDs

- 3.5 The Garden Community DPDs that the Councils are currently producing will contain strategies, policies and proposals to guide their development. The DPDs, once adopted by the Council, will include the location and scale of land uses alongside the required infrastructure. As with the Council's Local Plan, the DPDs will be reviewed at 5 year intervals, this process will be subject to the appropriate public consultation.

Consultation Methods

- 3.7 The following table sets out a summary of the consultation stages and methods that Colchester Borough Council will use when consulting on development plans (the Local Plan and DPDs). Alongside the development plans, the relevant Sustainability Appraisal (SA)/ Strategic Environmental Assessment (SEA) will also be consulted upon. Please see section 6 on page 15 for further information on Sustainability Appraisals / SEAs.

DPD Plan Stage	Consultation Duration	Consultation Methods
Scoping Consultation or Issues and Options	Minimum of 6 weeks	<p>Written / Email consultations with statutory consultees, general consultees on our database, other relevant stakeholders, individuals and organisations who have expressed a wish to be consulted or have previously made comments;</p> <p>Consultation documents available on the Council's website and hard copies available at the Council offices, and libraries, as appropriate, and;</p> <p>Inviting representations on the document through press advertisements/articles and notice on the Council's website.</p>
Preferred Options Consultation	Minimum of 6 weeks	
Submission Consultation and Publicity of a plan proposal	Minimum of 6 weeks	

Table Three – DPD Consultations

4. Neighbourhood Plans and Neighbourhood Development Orders

- 4.1 Neighbourhood Plans, which were introduced by the Localism Act 2011, allow designated groups of local people to prepare statutory development plans for their community, against which planning applications will be assessed.
- 4.2 Neighbourhood Plan Groups can grant planning permission through neighbourhood development orders and community right to build orders for specific development. They can set out planning policies in neighbourhood plans to guide the future development of an area, including identifying sites for new housing or safeguarding parks and playing fields.
- 4.3 Once a neighbourhood plan or order is approved it will be used to guide development and to help decide the outcome of planning applications in the area. The neighbourhood plan or order sits alongside other planning policy and needs to generally conform to local and national planning policy.
- 4.4 The statutory stages in the preparation and review / modification of these documents are set out in The Neighbourhood Planning (General) Regulations 2012 (as amended). From 2018 there is an obligation for local authorities to reflect their policies for giving advice or assistance to neighbourhood planning groups and their policies involving communities and other interested parties in the preliminary stages of plan-making within their Statement of Community Involvement : This includes advising on the survey area and the matters which may be expected to affect the development of their area or the planning of its development (Section 13) and plan preparation, timing and process as required in Section 15 (Local Development Scheme).
- 4.5 If a community wishes to simplify the process for allowing development a Neighbourhood Development Order (areas where specified development is permitted without the need to apply for planning permission) or a Community Right to Build Order (permission for small scale community led-schemes) can be implemented. These can be instead of, or in conjunction with, a neighbourhood plan and would result in effectively granting planning permission for certain types of development in specified areas. These orders, however, can't remove the need for other permissions such as Listed Building or Conservation Area consent.
- 4.6 Since Neighbourhood Plans and Orders aren't prepared by the Council; this SCI can't prescribe what methods of community consultation they should follow. The Council will, however, expect these documents to follow wherever possible the general principles and techniques set out in this SCI.

4.7 Paragraph 48 of the Planning Practice Guidance states:

‘A qualifying body must consult any of the consultation bodies whose interest it considers may be affected by the draft neighbourhood plan or Order proposal. The consultation bodies are set out in Schedule 1 to the Neighbourhood Planning (General) Regulations 2012 (as amended). Other public bodies, landowners and the development industry should be involved in preparing a draft neighbourhood plan or Order. By doing this qualifying bodies will be better placed to produce plans that provide for sustainable development which benefits the local community whilst avoiding placing unrealistic pressures on the cost and deliverability of that development.’

4.8 Paragraph 49 of the Planning Practice Guidance states:

‘A qualifying body should be inclusive and open in the preparation of its neighbourhood plan or Order and ensure that the wider community:

- is kept fully informed of what is being proposed*
- is able to make their views known throughout the process*
- has opportunities to be actively involved in shaping the emerging neighbourhood plan or Order*
- is made aware of how their views have informed the draft neighbourhood plan or Order.’*

4.9 Notwithstanding the aforementioned consultation techniques applied by Neighbourhood Plan Groups the Council itself is required to consult with the public at various stages of the production of Neighbourhood Plans in line with the table shown below:

Neighbourhood Plan Stage	Consultation Duration	Consultation Methods
Neighbourhood Designation Consultation	Minimum of 6 weeks	Written / Email consultations with statutory consultees, general consultees on our database, other relevant stakeholders, individuals and organisations who have expressed a wish to be consulted or have previously made comments; Consultation document available on the Council's website and hard copies available at the Council offices, and libraries, as appropriate, and; Inviting representations on the document through press advertisements/articles and notice on the Council's website.
Neighbourhood Forum Designation Consultation	Minimum of 6 weeks	
Submission Consultation and Publicity of a plan proposal	Minimum of 6 weeks	

Table Four –Local Planning Authority held Neighbourhood Plan Consultations

What support do we offer to help prepare or review a neighbourhood plan?

- 4.10 As the local planning authority, Colchester Borough Council (CBC) has a duty to give advice and support to parish councils and neighbourhood plan groups to assist in the preparation of a neighbourhood plan / neighbourhood development order. This specific requirement was set out in a letter to local authorities from Steve Quartermain, Chief Planner at the now Ministry of Housing, Communities and Local Government (MHCLG). The letter sets out forthcoming changes to regulations in relation to neighbourhood planning and SCIs which will come into place this year.
- 4.11 The emerging regulations have received royal assent and will require local authorities to set out within the SCI policies for giving advice or assistance to neighbourhood planning groups and their policies involving communities and other interested parties in the preliminary stages of plan-making: including advising on the survey area and the matters which may be expected to affect the development of their area or the planning of its development (Section 13) and plan preparation, timing and process as required in Section 15 (Planning and Compulsory Purchase Act 2004).
- 4.12 In line with the MHCLG letter the Council strongly supports neighbourhood planning and offer the following help throughout the process.

Statutory requirements at the time of Submission of the Neighbourhood Plan including:

- Arranging and paying for the independent examination
- Publicity and hosting of a webpage on the CBC website with information on it in relation to the Neighbourhood Plan examination;
- Make key documents available for viewing in the areas that are affected by the Neighbourhood Plans for example at local libraries as appropriate; and
- Organise an examination venue if required.
- Organising and funding the referendum
- Final Adoption Procedures to “Make” the Plan.

Further advice and guidance:

- Advice and an introductory meeting to discuss your aims and outline the process;
- Contact with a lead officer for your plan, who attends group meetings when appropriate and brings their own and other colleagues' professional experience to assist;
- Advice on engaging with your community and the need to record engagement;
- Advice on site appraisals and how to conduct site assessments;
- Advice on the types of evidence needed to write your plan and whom to consult;
- Review of your draft neighbourhood plan to ensure it meets the basic conditions;
- Guidance and support in relation to seeking specialist expertise and appointing consultants, if appropriate.

Further guidance and advice

- 4.13 The Council is committed to facilitating the production of Neighbourhood Plans and is currently in the process of creating further documentation that will be available to all interested stakeholders. If you would like to find out more please contact planning.policy@colchester.gov.uk or visit the planning policy section of the Council's website.

5. Supplementary Planning Documents

What are Supplementary Planning Documents?

- 5.1 Supplementary Planning Documents (SPDs) are intended to explain or provide further detail to policies or site allocations in a Local Plan document. They could take the form of design guides, area development briefs, master plans or issue based documents. They will be used in deciding planning applications and will help the Council defend its decisions at appeals.

Consultation Methods

- 5.2 When preparing Supplementary Planning Documents the Council will use the following method to engage with the local community:

SPD Stage	Consultation Duration	Consultation Methods
Draft SPD Consultation	Minimum of 6 weeks	Written / Email consultations with statutory consultees, general consultees on our database, other relevant stakeholders, individuals and organisations who have expressed a wish to be consulted or have previously made comments;

- 5.3 In addition to the above, the Council will provide details of the progress of emerging Supplementary Planning Documents on its website and within the annual Monitoring Report. SPDs will be reviewed in light of consultation responses and where appropriate amended prior to being considered by Committee for formal adoption.

6. Sustainability Appraisals and Strategic Environmental Assessment (SEA)

What are Sustainability Appraisals / SEA?

- 6.1 Sustainability Appraisal (SA) is a requirement of the Planning and Compulsory Purchase Act 2004, with Strategic Environmental Assessment (SEA) deriving from the European Union Directive 2001/42/EC. It is common and good practice in the UK to combine the two processes into one, which is referred to as Sustainability Appraisal (SA). This process usually incorporates the requirements of the SEA Directive.
- 6.2 The Council is required by law to produce a Sustainability Appraisal (SA) (incorporating Strategic Environmental Assessment) all development plan documents excluding the Statement of Community Involvement, the Annual Monitoring Report, Supplementary Planning Documents (SPDs) and the Local Development Scheme. Neighbourhood Plans do not need to undertake Sustainability Appraisals. In some circumstances they may require an SEA and in all cases they are required to indicate how they contribute to Sustainable Development.
- 6.3 The Council will consult stakeholders in relation to Sustainability Appraisals/ SEAs alongside the Development Plans to which they pertain. Please see table 3 on page 10 for further information.
- 6.4 The Planning Act 2008 allows Local Planning Authorities to prepare SPDs without undertaking SA/SEA, as long as they screen for the need for a Sustainability Appraisal (SA) incorporating a Strategic Environmental Assessment (SEA) of the SPD as it is produced. In light of the 2008 Planning Act, the Councils are required to carry out a screening to ensure that the legal requirements for SA/SEA are met where there are impacts that have not been covered in the appraisal of the parent Development Plan Document (DPD).
- 6.5 The impact of the SPDs will be restricted to relatively specialist topic areas at a local level or site based considerations. Whilst they will help deliver district wide objectives the issues considered do not need to be as comprehensive as for the Local Plan. The SEA Directive suggests a possible exemption of SEA where the plan or programme would be likely not to have significant environmental effects. Appropriate Screening will be undertaken for all SPDs.

7. Planning Applications

Introduction

- 7.1 Involvement of the community and stakeholders at an early stage of the planning application process is of great benefit to the public, organisations, authorities and the applicant themselves. The following section explains how the Council will seek to encourage awareness and involvement in the planning application process, starting with pre-application discussions and continuing through to the planning application stage, and in some cases, the planning appeal stage.

Before Submitting a Planning Application

- 7.2 Before submitting a planning application applicants are recommended to consult with immediate neighbours and people who may be affected by proposals. For major applications (such as housing schemes of 10 or more dwellings) we strongly recommend additional measures to engage with the local community. Such measures should be proportionate to the scale of the proposed development and could include:
- Consultation events with the local community;
 - Consultation with elected members, town and parish councillors;
 - Making detailed plans available for public view (including online on a website);
 - Press notices/leaflets or letters to nearby residents.
- 7.3 This should be effective in bringing draft proposals to the attention of the public, the local Town or Parish Council and other affected parties and provide opportunity to make comments. The purpose of early discussions between the community and developers is to encourage agreement within the community early on in the process and provide a better chance for schemes to be positively received. This process can benefit both parties. For developers it will ensure that key issues are addressed prior to planning applications being submitted and for the local community it will enable them to have an influence before proposals reach an advanced stage.
- 7.4 It is essential that any community involvement conducted by the developers be tailored to the nature and scale of the proposal. A broad list of consultation and community involvement methods is provided in appendix 2, along with details of when they are most suitable, their advantages and disadvantages, and resource implications.
- 7.5 The Council will expect the applicant to submit details of pre-application consultation as well as an explanation on how responses have been taken into account, alongside their planning application. In some cases it can also be a validation consideration, whereby applications will not be processed unless the Council is satisfied that adequate consultation has been undertaken by the developers.

- 7.6 The Council will engage in pre-application discussions with the developer that are often undertaken in confidence because of the various sensitivities of some schemes at this stage, but discussions are always recorded and are without prejudice to the later application. At this stage, the Council will be in a position to advise developers and help clarify the format, type and level of consultation to be undertaken. The Council has a schedule of charges for preliminary enquiries and pre-application advice. As part of this process we will also seek to engage elected members through our “Early Member Engagement Protocol” wherever this is applicable. This Protocol forms part of the Council’s Constitution and can be read online.
- 7.7 In the case of larger applications the Council operates a Planning Performance Agreement (PPA) approach. Details of the applicable charges are available on the Council’s website. A PPA is an agreement between the Council and applicants to provide a project management framework for major applications that may exceed the 13-week period for the determination of major applications. The PPA sets out the targets agreed by both parties for the levels and types of consultation required, information gathering process, consideration of options and agreement on design issues.

Submission of a planning application

- 7.8 The process of deciding planning applications is often of great public and local interest, and comments on proposals are welcomed. When deciding which applications are classed as major applications and therefore subject to wider community consultation in line with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), the Government sets out the following criteria:
- Residential developments comprising 10 or more dwellings;
 - A site area of 0.5 hectares or more where the number of dwellings is unknown;
 - Commercial proposals creating more than 1,000 square metres of floor space or on sites of 1 hectare or more; or
 - A change of use application involving the above.
- 7.9 The Government sets targets for the time taken to determine planning applications. These are currently 13 weeks for major applications and 8 weeks for all others. If an Environmental Impact Assessment is required as a result of the scale of development then this period will extend to 16 weeks, but this is not common. Before a decision is made, the case officer will prepare a report with a recommendation.
- 7.10 The recommendation will take into account the adopted Development Plan, the National Planning Policy Framework and any comments made by consultees and the public. However, the Council can only take into account comments relating to material planning considerations, which exclude non-planning considerations such as property values, loss of a private view over land, moral objections to development and commercial considerations.

Major Applications

- 7.11 The level of consultation carried out for all major planning applications, will be determined by the council to ensure that it is appropriate. Statutory advertisements will be used as a means of consultation if required and as laid out in legislation, which means that it may be necessary to publish an advertisement in the newspaper and on a site notice to be displayed at the application site. We also recognise that any involvement will need to encourage participation and social inclusion to ensure that the local community is given every opportunity to influence the process.
- 6.12 A weekly list of all applications received appears on the council's website. Individual letters/emails will be sent in respect of every planning application where neighbouring properties/businesses can be identified. Parish and town councils will be consulted on every application within their parish boundaries. Where Neighbourhood Plans exist or are advanced in their preparation, relevant Groups / Forums will be consulted on all planning applications (and alterations to applications) within the Plan Area. Similarly, the elected ward members will be consulted on applications that fall within their wards.
- 7.13 It is important to note that whilst statutory requirements are met in all instances, the types of discretionary methods used and the length of consultation will need to suit the type of application and therefore the methods listed above are provided as a guideline of how we may consult, but is in no means intended to be prescriptive or exhaustive.

Other Applications

- 7.14 With regard to all other types of applications, officers will determine the appropriate level of consultation. Individual letters/emails will be sent to neighbouring properties/businesses and/or site notices used. Parish and town councils will be consulted on every application in their parish and where Neighbourhood Plans exist or are advanced in their preparation, relevant Groups / Forums will be consulted on all planning applications (and alterations to applications) within the Plan Area. Similarly, the elected ward members will be consulted on applications that fall within their wards. All the planning applications appear on the website.

Sources of Information on applications

- 7.15 Information on planning applications can be found in the following places:

The Planning Register

- 7.16 Applications for planning permission must by law, be entered on a register within 14 days of receipt. Maintaining a planning register is a statutory obligation imposed on the Council by the Town and Country Planning Acts and the information is available for inspection by arrangement during office hours. In Colchester, all applications are held in an electronic format, and the register consists of two parts:
- A register containing details of all current applications for planning permission, including plans and drawings;
 - A register that contains a permanent record of all applications and decisions since 1 July 1948 (including any order made, appeals and their outcome).

7.17 Current planning applications, including plans and drawings and those dating back to the year 2000 can be viewed online using the Colchester Planning website. For those who do not have access to a computer the Council provides appropriate terminals at its Customer Service Centre for public use.

Weekly Lists

7.18 The statutory register does have limitations for general use and accordingly we also produce a weekly list. As the name suggests, this is a list of all new applications registered and decisions made the previous week.

Advertising

7.19 Regulations set out in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended), the Planning (Listed Building and Conservation Areas) Regulations and the Planning (Listed Building and Conservation Areas) Act 1990, state that all planning applications need to be publicised, either by site notice or individual neighbour notification. A press notice and site notice is also required for the following types of application:

- Erection of 10 or more dwellings or site area of 0.5 hectares or more;
- Erection of 1000 square metres of floor space, or site area of 1 hectare or more;
- An application subject of an environmental assessment;
- An application that would affect a right of way, under Part III of the Wildlife and Countryside Act;
- Development affecting listed buildings;
- Development affecting the character or appearance of a conservation area; and
- Departures from the Development Plan.

7.20 These requirements are subject to change and a press notice will only be used where required by legislation.

Individual Letters

7.21 We are aware of the need to provide an effective and efficient service, and to ensure that budgets are closely controlled. It is sometimes difficult to bring together these objectives with widespread public consultation on planning applications. The actual extent of consultation in each case will be determined having regard to the type of development involved.

7.22 Letters will only usually be sent to those properties directly affected by a proposal, which according to the Development Management Procedure Order 2015 is any adjoining owner or occupier. "Adjoining owner or occupier" means any land sharing a common boundary with the application site. Any further consultation will be at the discretion of

the case officer. For example, in the case of rear extensions those to the rear will be consulted whilst those on the opposite side of the road may not be.

Parish and Town Councils

- 7.23 The Council is committed to close working with local representative bodies, as provided within part 8 of the Constitution. We have set up a forum for parish and town council clerks, which is held every two months. Although this is a corporate initiative there is opportunity to report on planning matters on a regular basis.
- 7.24 Planning workshops for Town and Parish Councillors include workshops on subjects including, material considerations, influencing the planning process, enforcement, appeals, planning law, design, legal obligations etc. These are usually held annually, while individual Parishes/Towns can ask for liaison meetings in between if they wish to discuss specific issues.

Website

- 7.25 Our website is increasingly being used as a tool for consultation. The website includes weekly lists of applications received and decisions made. These can be viewed by application number, address or by ward and comments can be sent direct. Committee agendas, reports, S106 agreements, planning enforcement activity and associated notices and a list of current appeals and appeal decisions can also be viewed. The Colchester Planning Online website now allows copies of the application forms, plans and drawings, and consultation comments to be viewed online. All enquiries can be made online, while a number of questions can be answered through self-service information.

Procedure for Dealing with Written Representations to Applications

- 7.26 We currently notify neighbours within a week of registering a planning application and they are given 21 days to reply. All those wishing to comment on an application are encouraged to do so electronically using the Council's 'on-line planning' website. Whilst we will accept written letters and e-mails we will not acknowledge their receipt. Any representation received is redacted and placed on the Council's 'on-line planning' website and is available for viewing by the public. This also allows those people sending such representations to check safe receipt by the Council for themselves.

- 7.27 The Planning Service does not respond in writing to comments about a planning application unless specifically requested, but all comments received are considered by the case officer, which may result in the application being revised. If the scheme is significantly changed or changed in a manner deemed to have a greater impact upon neighbours than the original submission we will try to repeat the consultation allowing, where possible, an extra 7-14 days for further comments (at the discretion of the case officer). Sometimes time constraints mean a shorter period is given for comments on revised plans and sometimes it is not possible to re-consult at all.

8. Determination of a planning application

- 8.1 The receipt of one or more letters of objection will normally result in a major application being determined by committee if it is being recommended for approval or if it is subject to a S106 Agreement.
- 8.2 In the case of all other applications a decision will be made under delegated powers by the Planning Service unless that application has been subject to a 'call-in' by a Councillor. A 'call-in' is subject to a formal process and for it to be triggered automatically a councillor must make a valid request within 25 days of being notified of the application. Anyone can approach their councillor to have an application 'called-in' and thereby determined by the Planning Committee after public debate. It is important to note however that a councillor is not duty bound to request a 'call-in' if asked and should only do so if a material planning consideration is involved and public scrutiny is appropriate. Where an application is being reported to Committee a list of the different material planning considerations raised within the various comments received are summarised in the Committee report. Letters will not be accepted after 5pm on the day before Committee. Once the agenda has been prepared, anything received before 5pm on the day falling 2 days before the day of the committee meeting will be reported on an amendment sheet. Anything received after 5pm on the day falling 2 days before the day of the committee meeting will be reported verbally.
- 8.3 If an application is to be reported to committee this will be stated on the Council's online planning website. The full committee report is available 5 working days before the meeting on the website and in all council offices. Where an application has been subject to a valid 'call-in', the applicant and any person making an electronic submission via the Council's on-line planning web-site will be notified via e-mail of the relevant Committee date, 5 days prior to the meeting.
- 8.4 Public speaking is allowed at the committee comprising one representative speaking against an application and one speaking in support of a proposal. Each speaker is permitted to address the committee for up to 3 minutes. At the Chairman's discretion, and where prior notification has been given, further objectors will be allowed to speak on particularly complex or controversial applications. Usually this will be with a maximum number of 3 speakers for and 3 speakers against any application. Objectors are invited to view the application on-line to obtain a full list of objectors' comments to enable them to co-ordinate a reply in the event that more than one person wishes to speak. Ward Members may also speak on behalf of their electorate and will be allowed up to 5

minutes. Other Councillors will also be permitted to speak at the discretion of the Chair having regard to the strategic significance of the proposal and whether it raises matters of Borough wide interest. When a decision is reached, the website will state whether the application has been approved or refused and hold a full copy of the decision and approved drawings.

- 8.5 Further details on how to comment on planning applications at the Planning Committee can be found in our document 'Have your Say on Planning Applications' which is available on the website. Other relevant information includes "Planning Procedures Code of Practice" which is in Part 5 of The Constitution and is on the Council's website. It sets out general guidelines for borough councillors and council officers who are involved in planning applications and the Planning Committee. The information it contains may help provide background information to applicants and those commenting on the planning process. The Localism Act clarifies the ways in which councillors can be involved in the planning process and play an active part in local discussions.

9. Appeals

- 9.1 When an appeal is made against the decision of the Council to refuse an application all previous correspondence is forwarded on to the Planning Inspectorate. Letters/emails are also sent to all those people who had previously been consulted/commented on the application, advising them of the appeal. Further representation can be made direct to the Planning Inspectorate. These procedures comply with the statutory procedures set out in S78 of the Town and Country Planning Act 1990 and the "Procedural Guide: Planning appeals – England" (available online via www.gov.uk).

10. Monitoring and review of the Statement of Community Involvement (SCI)

- 10.1 The SCI provides flexibility to allow for appropriate changes in our approach to community involvement. Comments received on the quality or effectiveness of our consultation will be considered and used to inform future practice. If significant changes are required to meet new circumstances or legislation, a review of the Statement of Community Involvement will be undertaken.
- 10.2 Consultation exercises include opportunities for consultees to complete equality monitoring data forms. If completed, this helps us monitor the effectiveness of our policies surrounding equality and diversity and to make changes where required.

Appendix 1: Further Information

Legislation

The Town and Country Planning (Local Planning) (England) Regulations 2012

<http://www.legislation.gov.uk/ukxi/2012/767/contents/made>

Neighbourhood Planning (General) Regulations 2012

http://www.legislation.gov.uk/ukxi/2012/637/pdfs/ukxi_20120637_en.pdf

The Town and Country Planning (Development Management Procedure) (England) Order 2015

<http://www.legislation.gov.uk/ukxi/2015/595/contents/made>

National Policy/Guidance

National Planning Policy Framework and Planning Practice Guidance.

<http://planningguidance.planningportal.gov.uk/>

Plain English Guide to the Planning System

<https://www.gov.uk/government/publications/plain-english-guide-to-the-planning-system>

Planning Aid

<http://www.rtpi.org.uk/planning-aid/>

Planning Portal

<http://www.planningportal.gov.uk>



For more information please contact the planning policy team
planningpolicy@colchester.gov.uk

Report of	Assistant Director Policy and Corporate	Author	Jess Tipper
			01206 508920
Title	Colchester Local List Review 2018		
Wards affected	All Wards		

The Local Plan Committee is asked to agree the proposed amendments to, and extension of, the adopted Colchester Local List

1. Executive Summary

- 1.1 This report explains the role of the Local List in safeguarding selected heritage assets that, although not suitable for designation nationally as a Listed Building or Scheduled Monument, are considered historically or architecturally important at a local level, are valued by the local community and make a significant contribution to the character and setting of Colchester and the surrounding villages. A Local List provides for the due consideration or protection for heritage assets that local people value. Residents can nominate assets for the Local List that they care about.
- 1.2 In line with agreed procedures, the List has been reviewed and a number of proposed amendments to and extension of the adopted Local List are proposed. The revised list would then be integrated into the Colchester Historic Environment Record (HER) and published via the Colchester Heritage Explorer website.
- 1.3 It is further proposed that the list be extended beyond Colchester and Wivenhoe to cover the Borough as a whole following a review of the Local List criteria and selection process.
- 1.4 Finally, the report recommends a review of, and public consultation for, the use of an Article 4 Direction to support Local Listing which would provide greater scrutiny for assets on the list.

2. Decision(s) Required

- 2.1 The Local Plan Committee is asked to agree changes to the Colchester Local List as follows:
 - Approve the proposed amendments to the adopted Colchester Local List entries;
 - Approve the integration of the Colchester and Wivenhoe Local Lists into the Colchester Historic Environment Record (HER);
 - Approve the publication of the Local List via the Colchester Heritage Explorer website;

- Approve the extension of the Local List to the rest of the Borough following a review of the Local List criteria and selection process for non-designated Heritage Assets;
- Approve a review of, and public consultation for, the use of an Article 4 Direction to support Local Listing.

3. Reasons for Decision(s)

- 3.1 Updating the Local List will ensure that it remains a robust element of the evidence base supporting planning policies safeguarding the

4. Alternative Options

- 4.1 The Committee could decide not to update the Local List or to make amendments to it. Without a regular review, the information on the Local List will become out of date and inaccurate. The lack of a Borough-wide Local List reduces the Council's ability to make informed decisions when assessing development proposals affecting heritage assets in the Borough. In accordance with the NPPF, Historic England Advice Note 7, and the Colchester Local Plan, the Council is required to maintain a Local List for the Borough.

5. Background Information

- 5.1 A Local List is a list of heritage assets that although not suitable for designation nationally as a Listed Building or Scheduled Monument are considered historically or architecturally important at a local level, are valued by the local community and make a significant contribution to the character and setting of Colchester and the surrounding villages. A Local List provides for the due consideration or protection for heritage assets that local people value. Residents can nominate assets for the Local List that they care about.
- 5.2 The National Planning Policy Framework (NPPF, paragraph 129) states that Local Authorities should identify and assess the significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of available evidence and any necessary expertise. This includes buildings or assets that are locally listed.
- 5.3 Heritage Assets on a Local List are considered non-designated heritage assets as defined in the NPPF glossary (2012, p.521):
- “A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).”*
- 5.4 Historic England published an advice note relating to Local Lists in 2012: [Historic England Advice Note 7, Local Heritage Listing](#) (first published 2012, republished 2016).
- 5.5 Policy DM14 of the Adopted Local Plan 2001-2021 refers to Locally Listed Heritage Assets:
- Conservation of the historic environment will also be ensured by:*
- (ii) Protection and enhancement of existing buildings and built areas which do not have Listed Building or Conservation Area status but have a particular local importance or character which it is desirable to keep. Such buildings or groups of buildings will be identified through a Local List which will be adopted by the Council;*
- 5.6 Policy DM16 of the Colchester Borough Local Plan 2017-2033 (June 2017) states:

Conservation of the historic environment will also be ensured by:

(ii) Protection and enhancement of existing buildings and built areas which do not have Listed Building or Conservation Area status but have a particular local importance or character which it is desirable to keep;

- 5.7 The Local List for Colchester town was adopted by the Council in 2011, following an identification and selection process by a panel of heritage specialists (Colchester Historic Buildings Forum). The Local List for Colchester is published by the Colchester Historic Buildings Forum: <http://www.colchesterhistoricbuildingsforum.org.uk/drupal/>
- 5.8 The Local List for Colchester includes buildings, architectural features and historic assets that are considered to be locally significant for their architectural or historic value but which do not meet the criteria for national designation.
- 5.9 In 2012, the Local List for Wivenhoe, prepared by the Wivenhoe Townscape Forum, was adopted by the Council. The Local List for Wivenhoe is maintained on the website of the Wivenhoe History Group: <http://www.wivenhoehistory.org.uk/content/topics/heritage-assets/the-wivenhoe-local-list>
- 5.10 The Local List currently covers urban Colchester (769 heritage assets) and also Wivenhoe. The Local List comprises primarily buildings as well as monuments (e.g. memorials) and street furniture (e.g. lamp posts). The Wivenhoe List also contains a small number of landscape features (e.g. Wivenhoe Woods and King George V Playing Fields) and below-ground archaeological sites (Field 2 Lodge Farm).
- 5.11 The Colchester and Wivenhoe Local Lists, together, are available as a GIS Layer on the Council's interactive planning map:
<http://datashare.colchester.gov.uk:8010/connect/analyst/mobile/#!/main?mapcfg=Planning>
- There are links from the interactive planning map to the Colchester and Wivenhoe Local Lists.
- 5.12 Following adoption of the Local List for Colchester in 2011, the Local Development Framework Committee agreed that the List would be reviewed annually (12 December 2011, p.83).
- 5.13 Procedures for amending Colchester's Local List were agreed at the Local Plan Committee on 28 January 2013. This includes the addition of new buildings, amendment of existing buildings or removal of buildings those that no longer fulfil the criteria.
- 5.14 There have been regular reviews of the Local List by the Local Plan (previously LDF) Committee, resulting in additions, amendments and deletions:
- 27 March 2017, including addition of one heritage asset in Boxted (the Methodist chapel) and two heritage assets (two pairs of cottages) in Wakes Colne.
 - April 2016, including addition of one heritage asset (War Memorial) in Langham
 - 13 April 2015
 - 28 April 2014
 - 11 March 2013
 - 26 March 2012 adoption of the Wivenhoe Local List
 - 12 December 2011 adoption of the Colchester Local List
- 5.15 In January 2018, a press release was issued inviting members of the public and local groups to nominate buildings or historic/architectural features for consideration for either

inclusion or removal from Colchester's Local List. The Spatial Policy team also consulted colleagues in Development Management to gather information about any planning applications that had resulted in the loss of or alteration of buildings or historic/architectural features on the Local List.

5.16 In response to the press release and internal consultation, a total of three additions have been proposed to the Local List, which the Local Plan Committee is being asked to review and agree the suggested changes. One of the proposed additions (Middlewick Ranges) is not considered suitable for inclusion on the Local List at the current time and it is recommended the decision is deferred until a review of the Selection Criteria has been completed (see paras 5.30-5.32 below).

5.17 The proposed nominations for the Local List are detailed in Table 1 below along with reasons to support their inclusion or deferral.

Heritage asset	Information	Recommendation
121 Maldon Road, Colchester CO3 3AX (TL 9872 2445)	Large red brick house, gable-end facing the road with distinctive, decorative fish-tail clay tiles gable above eaves level, attractive first floor front balcony with decorative timber-fretted pelmet and rear conservatory. Plaque above the right hand front bedroom window with the construction date, 1902. Allegedly to have been built as the vicarage for St Nicholas' Church, High Street, although never used for that purpose.	Add to the Local List. Intact good example of an unusual and idiosyncratic late Victorian dwelling, with surviving character as reasonably unaltered.
Gate House, Cherry Chase, Tiptree CO5 0AE (TL 89811547)	Former farmhouse for Gatehouse Farm. Original three storey core dating from the 18th century, and originally a two bay farm house, extended and altered in the 19th and 20th centuries (historic core is obscured by later extensions). Internal joinery survives to indicate front rooms to be 18th century and the attic survives from the original 18th century property. Some 18 th century features survive (doors and surrounds). Features (including a grille over a circular window) bear testament to the property being the residence of a number of members of the Wilkin Family.	Add to Local List as a property dating from the 18th century (and with surviving 18th century fabric obscured by later extensions) with historical associations to the Wilkin Family (Wilkin & Sons Jam Company).

Runkins Corner, Langham Road, Boxted (TM 00352976)	Late 17th or early 18th century timber-framed, although altered externally.	Add to the Local List as a surviving timber-framed building late 17th or 18th dwelling.
Middlewick Ranges, Colchester (TM 00912282)	Large area of open ground (c.84ha. in size south of Abbot's Road and east of Mersea Road) currently owned by the MOD and used for military training. Multiple period archaeological remains recorded (although there has been no systematic survey), including Mesolithic, Neolithic, Bronze Age, Anglo-Saxon find spots recorded in the HER. Undated linear cropmarks, indicative of (non-longer extant) field boundaries, as well as undated earthwork remains (rampart forming an hexagonal-shaped enclosure) known locally as 'The Fort' and allegedly constructed during the Siege of Colchester in 1648. Also WWII monuments, including two pillboxes, spigot mortar emplacement and section of anti-tank ditch and defence line.	Defer decision until the Key Selection have been reviewed/revised to include archaeological sites.

Table 1 Heritage assets recommended for inclusion on the Colchester Local List.

- 5.18 The approved changes will be added to the existing Local List information on the Council's interactive planning map.
- 5.19 The Council confirmed the intention to extend the Local List to rural areas in response to queries from Members of the Local Plan Committee in January 2013.
- 5.20 In 2016 Langham War Memorial was added to the List. In 2017, a heritage asset in Boxted (Methodist chapel) was added to the Local List and also two heritage assets (two pairs of cottages) in Wakes Colne were added to the List. The rest of the Borough is, currently without a Local List.
- 5.21 The Committee is asked to approve the extension of the Local List to the rest of the Borough. It is recommended that the Council should work with parish councils, local community groups and heritage experts, to promote the creation of the Local List for the entire Borough.
- 5.22 The NPPF (paragraphs 141 and 169) emphasises the importance of Historic Environment Records (HERs) in providing the core of information needed for plan-making and individual planning decisions.

- 5.23 Historic England's Advice Note 7 (Local Heritage Listing) states (para 45; see also para 47), *The HER will ideally provide the key point of access to the list and its supporting information.*
- 5.24 The Colchester HER is the definitive database of recorded heritage assets in the Borough and the evidence base for the historic environment maintained by the Council. The Local List has not been integrated in the Historic Environment Record (HER).
- 5.25 The information about individual heritage assets on the Colchester Local List is currently held on the websites of the Colchester Historic Buildings Forum and the Wivenhoe History Group.
- 5.26 The information on the Colchester Historic Buildings Forum website has not been regularly updated; the latest information/news update on the front page of the website is dated 12 June 2015: <http://www.colchesterhistoricbuildingsforum.org.uk/drupal/> The Local List on the Colchester Historic Buildings Forum website was unavailable (offline) for a long period in 2017.
- 5.27 The Committee is asked to approve the integration of the information held in the two Local Lists (on the websites of the Colchester Historic Buildings Forum and the Wivenhoe History Group) into the Borough-wide Colchester HER.
- 5.28 The Historic Environment Record is publically accessible via the Colchester Heritage Explorer website, maintained by the Council: <https://colchesterheritage.co.uk/> The Committee is asked to agree the publication of the Local List via the Colchester Heritage Explorer website.
- 5.29 The current Criteria for Colchester's Local List, from 2010, are recorded on the Colchester Historic Buildings Forum website (<http://www.colchesterhistoricbuildingsforum.org.uk/drupal/>):

Choosing buildings for the local list

Buildings on the draft local list are those which are suggested to be of local importance rather than national. Buildings have been included on the list if they are not already 'listed' and at least one of the following criteria apply:

- 1. The building is earlier than 1840 and is in good or restorable condition.*
- 2. The building dates to between 1840-1945 and is largely complete plus is of an architectural and/or historic value which rises from 'good' for the oldest buildings to 'very high' for the younger ones in the date range.*
- 3. The building was built after 1945 and is complete with no inappropriate alterations or extensions plus is of highest architectural or historic value.*
- 4. The building has group or skyline value.*

Various additional factors have been taken into account during the selection process. They are not sufficient in their own right or in combination to justify inclusion in the list but they have been used to tip the balance in marginal cases. They are as follows: historic value, iconic value, contribution to the historic character of the area in which it stands, prominence in the townscape or landscape, quirkiness, rarity in Colchester terms, and sustainability (i.e. the building is realistically capable of reuse).

- 5.30 The Selection Criteria for Colchester's Local List currently makes no provision for heritage assets other than buildings. The adopted Local List for Wivenhoe, however,

includes several archaeological sites - which clearly do not meet the current (buildings only) selection criteria.

- 5.31 In accordance with the broad definition of heritage assets in the NPPF (buildings, monuments, sites, places, areas or landscapes) and Historic England's Advice Note 7 (paragraphs 25-27 and Table 1), the Committee is asked to approve a review of the Selection Criteria for Colchester's Local List. It is recommended that the Key Selection Criteria are expanded to include other types of heritage asset.
- 5.32 Any proposed revisions to the Selection Criteria will need to be tested through public consultation, following scrutiny and approval by the Local Plan Committee (in accordance with HE Guidance note para 24).
- 5.33 Assets on the Local List will be considered in the planning process and they are afforded consideration where there is a planning application that affects them or where a Locally Listed heritage asset is located in a Conservation Area. All permitted development rights, including demolition, are still available to building owners. Consequently, unless it is located within a Conservation Area (in which case a planning application would be required for demolition), an owner could demolish a Locally Listed Building with only a prior notification and there would be no way the Council could stop the demolition.
- 5.34 The Committee is asked to approve a public consultation concerning the application of an Article 4 Direction to any Locally Listed asset located outside of a Conservation Area to require planning permission for demolition. This would provide consideration of the value of the local heritage assets by bringing demolition applications through the planning system.
- 5.35 The Committee should be aware that the use of Article 4 direction without 12 months' notice can open the right to compensation in certain circumstances. It is recommended, therefore, that (if adopted) the Council gives 12 months' notice before the Article 4 Direction comes into force. This will avoid the right to compensation.

6. Proposals

- 6.1 The Local Plan Committee is asked to agree changes to the Local List (see 1.1 above).

7. Strategic Plan References

- 7.1 The Local List provides evidence that will help the Council deliver its Strategic Plan 2018-21 Opportunity priority to promote and enhance Colchester Borough's heritage and visitor attractions to increase visitor numbers while ensuring the delivery of the Local Plan. It will also help deliver the Council's Wellbeing priority in encouraging belonging, involvement and responsibility in the borough's communities.

8. Consultation and Publicity

- 8.1 All those who proposed additions or deletions to and from the Colchester Local List, as well as owners/occupiers will be notified of the decision of the Committee.
- 8.2 In terms of revisions to the Selection Criteria and the use of an Article 4 direction, it is recommended that the revisions are subjected to public consultation.

9. Publicity Considerations

- 9.1 None.

10. Financial Implications

- 10.1 The recommended extension of the Local List to the entire Borough and also the introduction of an Article 4 direction will incur officer time. The integration of the Local Lists for Colchester and Wivenhoe into the HER and the publication of the dataset on the Heritage Explorer website will incur a small fee from the HER software provider.

11. Equality, Diversity and Human Rights implications

- 11.1 An Equality Impact Assessment has been prepared for the Local Plan and is available to view by clicking on this link:- <http://www.colchester.gov.uk/article/4962/Strategic-Policy-and-Regeneration> or go to the Colchester Borough Council website www.colchester.gov.uk and follow the pathway from the homepage: Council and Democracy > Policies, Strategies and Performance > Equality and Diversity > Equality Impact Assessments > Strategic Policy and Regeneration and select Local Development Framework from the Strategic Planning and Research section.
- 11.2 There are no particular Human Rights implications.

12. Community Safety Implications

- 12.1 None.

13. Health and Safety Implications

- 13.1 None.

14. Risk Management Implications

- 14.1 The proposed review of the Colchester Local List will help ensure that planning decisions are based on the most current historic environment data available for the Borough. The preparation of the Local List for the entire Borough will directly assist in the effective delivery of the emerging Local Plan.

15. Disclaimer

- 15.1 The information in this report was, as far as is known, correct at the date of publication. Colchester Borough Council cannot accept responsibility for any error or omissions.