

Local Development Framework Committee

Town Hall, Colchester
15 August 2011 at 6.00pm

The Local Development Framework Committee deals with the Council's responsibilities relating to the Local Development Framework.

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Local Development Framework Committee

To deal with the Council's responsibilities relating to the Local Development Framework.

**COLCHESTER BOROUGH COUNCIL
LOCAL DEVELOPMENT FRAMEWORK COMMITTEE
15 August 2011 at 6:00pm**

Members

Chairman : Councillor Colin Sykes.
Deputy Chairman : Councillor Martin Goss.
Councillors John Jowers, Kim Naish, Elizabeth Blundell,
Mark Cory, Beverly Davies, Andrew Ellis and Henry Spyvee.

Substitute Members : All members of the Council who are not members of the
Planning Committee.

Agenda - Part A

(open to the public including the media)

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

4. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership

of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

5. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

6. Minutes

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To confirm as a correct record the minutes of the meetings held on 18 May and 13 June 2011.

7. Draft National Planning Policy Framework

10 - 29

See report by the Head of Strategic Policy and Regeneration.

8. Local Planning Regulations - consultation

30 - 53

See report by the Head of Strategic Policy and Regeneration.

9. Affordable Housing Supplementary Planning Document

54 - 79

See report by the Head of Strategic Policy and Regeneration.

10. Exclusion of the Public

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

LOCAL DEVELOPMENT FRAMEWORK COMMITTEE
18 MAY 2011

Present :- Councillors Elizabeth Blundell, Mark Cory,
Beverly Davies, Andrew Ellis, John Jowers,
Henry Spyvee and Colin Sykes

Substitute Members :- Councillor Scott Greenhill for Councillor Martin Goss
Councillor Michael Lilley for Councillor Kim Naish

1. Chairman

RESOLVED that Councillor C.Sykes be appointed Chairman for the ensuing Municipal Year.

2. Deputy Chairman

RESOLVED that Councillor Goss be appointed Deputy Chairman for the ensuing Municipal Year.

LOCAL DEVELOPMENT FRAMEWORK COMMITTEE

13 JUNE 2011

Present :- Councillor Colin Sykes (Chairman)
Councillors Elizabeth Blundell, Mark Cory,
Beverly Davies, Andrew Ellis, Kim Naish and
Henry Spyvee

Substitute Member :- Councillor Scott Greenhill for Councillor Martin Goss

Also in Attendance :- Councillor Peter Chillingworth
Councillor Will Quince

3. Minutes

The minutes of the meeting held on 15 March 2011 were confirmed as a correct record.

Councillor Mark Cory (in respect of being the Council's representative on the Cory Environmental Trust in Colchester) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Scott Greenhill (in respect of his membership of Myland Community Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Colin Sykes (in respect of his membership of Stanway Parish Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

4. Supplementary Planning Document // Sustainable Design and Construction

The Committee considered a report by the Head of Strategic Policy and Regeneration requesting the Committee to agree the adoption of the Sustainable Design and Construction Supplementary Planning Document (SPD).

Karen Syrett, Spatial Policy Manager, and Shelley Blackaby, Planning Policy Officer, attended to assist the Committee in its deliberations. In her presentation the Planning Policy Officer referred to additional wording requested by the Chairman, as set out on the supplementary agenda, to provide more clarity on how the categories and credits for sustainable homes works. The wording to be inserted immediately prior to the heading 'Category 1: Energy and CO2 Emissions, as follows:-

“Each of the Code's nine categories contains a number of environmental issues (see table 6). Credits are available for each of the environmental issues and the number of credits available per issue varies. The Code Technical Guide explains how many credits are available under each issue and how credits are achieved/demonstrated.

For example, 29 credits are available under the Energy and CO₂ Emissions category, with 15 of these credits coming from one issue (Dwelling Emission Rate) and the remaining 14 coming from the eight other issues within the category. The nine categories within the Code have a different weighting and so the Code is not as simple as merely adding up the number of credits achieved. To establish the Code rating a score is given for each category, based on the number of credits achieved and weighting of the category, which gives an overall percentage. This percentage determines the Code rating. The Code certificate lists the percentage achieved and Code rating and also shows how the dwelling has performed under each category.”

Pete Hewitt, Myland Community Council, addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He stated that whilst Myland Community Council commended the Borough Council in respect of this SPD, the Community Council wanted Sustainable Drainage Systems (SuDS) to be reinstated within the SPD. They believed that this would ensure the document was comprehensive and robust particularly if SuDS were included in Code Level 4. In connection with this request he was mindful of forthcoming greenfield development sites. He had noted that the report referred to SuDS benefiting from a separate SPD, but there was no timescale indicated for its production.

The Planning Policy Officer responded to Mr Hewitt by referring to the written response to Myland Community Council’s identical submission as set out in Appendix B of the report by the Head of Strategic Policy and Regeneration. She also referred to the earlier version of the SPD on Sustainable Design and Construction which had included information about SuDS and renewable energy and waste, but it had not resulted in any positive changes incorporating SuDS measures. It was therefore considered that the proposed SPD would result in more sustainable buildings coming forward. In response to Mr Hewitt’s comment about the forthcoming greenfield development in North Colchester, she referred to a study being undertaken on flood risk which would be available in 2013 and as it was anticipated that work would not start on the development site until after 2016, there would be a 3 year lead-in time. In summary, it was considered that rather than including SuDS in this SPD, it would be more appropriate to provide a separate guidance note on SuDS.

Members of the Committee raised the following points:-

- there was a request to remove a sentence from the SPD in response to comments made by Mersea Homes, page 38 of the report refers. The Planning Policy Officer confirmed that the sentence referred to would be removed as requested because it did not add anything;
- there was a view that the allocation of land for the purpose of generating renewable energy should be encouraged. However, the Planning Policy Officer explained that she had contacted the British Wind Energy Association and their response had been that they did not recommend that land should be allocated for the purpose. They were of the opinion that wind energy companies were aware of the requirements for suitable locations so that allocating land would not only be a waste of time, it could result in the authority coming under pressure to refuse a planning application for a wind farm. The Planning Policy Officer believed that the

- Renewable Energy DPD was worded positively;
- there was a concern that with nearly 6,000 people waiting for homes the introduction of this SPD could lead to an increase in the cost of new homes and this may impact on the number of new dwellings being built in Colchester. It was confirmed that the requirement for developers to adhere to Code Level 3 would add nothing to the cost of new homes because Code Level 3 was equivalent to the current Building Regulations. Other local councils in Essex had been requesting standards up to Code Level 4 for sometime but without any improvements in sustainability.

RESOLVED that the Sustainable Design and Construction Document be approved and adopted as a Supplementary Planning Document subject to the removal of the sentence referred to above.

Councillor Henry Spyvee (in respect of his membership of Colchester North East Essex Building Preservation Trust) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Scott Greenhill (in respect of his membership of Myland Community Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Colin Sykes (in respect of his membership of Stanway Parish Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

5. Supplementary Planning Document // Shopfront Design Guide

The Committee considered a report by the Head of Strategic Policy and Regeneration requesting the Committee to agree the adoption of the Shopfront Design Guide Supplementary Planning Document.

Karen Syrett, Spatial Policy Manager, Laura Chase, Planning Policy Manager, and Lee Smith-Evans, Urban Designer, attended to assist the Committee in its deliberations.

The Planning Policy Manager explained that the Building, Design and Character Supplementary Planning Document (SPD) and the Design and Amenity Development Policy Document (DPD) had both been used in the development of this new SPD which would apply to new applications. She explained that it was important that a shopfront should fit in with the host building but some companies paid no regard to the building when determining the style of shopfront. She referred to matters requiring consideration such as design rules and security issues. In terms of design rules, applicants should think in three dimensions. In terms of security issues, she referred to the Police Crime Reduction Officer who would be talking to shopkeepers on different ways to deal with the requirement for security. She also made reference to the requirement for fixed canopies to be removed. It was anticipated that the Council

would be in discussions with applicants to ensure that they had read the guidance prior to submitting a planning application to ensure that it reflected the guidance and resulted in higher quality shopfronts.

Ron Levy addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He believed that everyone present at a meeting he had attended was in agreement that there needed to be a change, and this guidance represented a new approach. He referred to the excellent shopfronts that existed in the town but that it was the poor quality shopfronts which spoilt the whole town; he was concerned about security however. There was a fairly high incidence of broken shop windows, and whilst putting security screens behind the glass window would protect stock, it would not protect the window. Some windows had been broken several times and he considered the only way to protect a window was for the security screen to be in front of the window. Shop keepers would be pleased to see that some grilles were considered acceptable. His outstanding issue was boarded up windows, some of which had been boarded up for years. He considered they were not only an eyesore but conveyed the appearance of dereliction and he asked if they too could be dealt with in the guide.

A member of the Committee asked Mr Levy if he had a solution to boarded up windows and whether insurance premiums increased if claims were made for broken windows. Mr Levy responded to the Committee pursuant to the provisions of Meetings General Procedure Rule 5(8). He stated that owners should be subjected to the same guidelines as if the shop was not empty so just as they would not be allowed to board up windows every night, why should they be allowed to do so over long periods? The more claims are made against a policy the more insurance premiums rise. A window costs £300 each time it is broken. An internet café had its glass window replaced several times and it was now left unrepaired.

The Planning Policy Manager stated that they were aware that security was an issue, and that it was probably a matter for new applicants to explore all the options. External shutters would be the choice of last resort and there were a range of different situations, period bay windows for example. Applicants could work with the police to find solutions to their particular concerns. The Council had powers under Section 215 to require people to repair buildings so there appeared to be some enforcement mechanism. The Council was moving ahead with wider regeneration schemes at which time some new shopfronts may come in to upgrade the overall quality of the street.

The Urban Designer referred to the many listed buildings within the town centre and Section Two of the Design Guide provided a justification for the imperative to seek ways to enhance the visual quality of such buildings.

Members of the Committee considered this to be an excellent document. They were aware that the document could not be used to change existing shopfronts as it was only applicable to future shopfronts. Members raised four issues:- 'A' Board clutter, boarded up shopfronts, security/external shutters and impact on insurance as set out below:-

- 'A' boards: These were considered to be a nuisance to disabled, blind, partially sighted and people with prams, although some may have planning permission. Members were aware that the enforcement team had worked hard to reduce this

unnecessary street clutter. The Urban Designer confirmed that 'A' boards were regarded as an obstruction in the highway. The highway was managed by Essex County Council and, in collaboration with the County Council, this Council undertakes to prosecute 'A' board users and to remove the boards.

- **Boarded up shopfronts:** There was a view that boarded up shopfronts could be dealt with by way of a Section 215 Notice, but some members doubted that they came within the remit of a Section 215 Notice. The Policy Planning Manager referred to other towns having used it but believed it might be on a technical issue. In any case boarded up shopfronts were an enforcement issue whereas this new policy was not a tool to correct poor existing shopfronts, but was about providing guidance for shopfronts being upgraded or new shopfronts. The Spatial Policy Manager referred to a development scheme which was required to improve the hoarding surrounding the site. This measure added to the street scene by illustrating to passers by what was planned for the site. She suggested that a similar initiative could be investigated when taking the area action plan forward.
- **Security:** The issue of security was raised in connection with premises such as jewellers who had high value stock. An example was given where external shutters were being used and the jeweller was required to remove them. Ultimately that retailer left Colchester. Members understood that there were other ways of providing security but also supported the need for retailers to protect their stock. There was a view that it should be possible to use shutters when a shop was closed and members sought advice on whether there were any exceptions to the prohibition of external shutters. The Planning Policy Manager explained that there was a presumption against external shutters and the Council had worked to devise an appropriate solution. The Urban Designer explained that there were two issues which retailers sought to protect their premises against – vandalism and the need to protect valuable stock. He referred to some jewellery premises with an internal shutter and the measure was as secure as an external shutter but the negative impact on the public realm was reduced. The officer view was that there was no need to allow external shutters everywhere because of the negative impact on the public realm.
- **Insurance:** questions were raised regarding any consultation that had been undertaken with insurance companies about the best glass to use in terms of it retaining some quality of appearance when it had been attacked by vandals. The Planning Policy Manager was aware that building regulations set a high standard for toughened glass and new applications would be required to comply with building regulations. The Spatial Policy Manager commented that no insurance companies had been consulted directly but they may have seen the public notice of consultation. It was suggested that the Council consult insurance companies to see what was acceptable to them. There was a view that insurance companies should not influence the Council's policies but other members considered it worthy of investigation to inform the policy, but not to hold up its implementation; if considered necessary, it would be possible to amend the policy at a later date. Contact with The Association of British Insurers was recommended as a starting point for relevant information.

RESOLVED that the Shopfront Design Guide be approved and adopted as a Supplementary Planning Document.

Councillor Henry Spyvee (in respect of his membership of Eld Lane Baptist Church) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

6. Planning Guidance Note // Public Realm Strategy

The Committee considered a report by the Head of Strategic Policy and Regeneration on a new Guidance Note to provide a clear set of guidelines to implement and maintain a high quality environment in the Town Centre.

Laura Chase, Planning Policy Manager, and Lee Smith-Evans, Urban Designer, attended to assist the Committee in its deliberations. The Planning Policy Manager referred to the Lighting Strategy which would be appended to the Public Realm Strategy document. The intention was that the Public Realm Strategy principles would be incorporated into schemes within Colchester Town Centre and integrated into the forthcoming Town Centre Area Action Plan.

The Urban Designer clarified that the Guidance Note was only applicable to the town centre and included everything within the public realm. It was anticipated that the Guidance Note would result in an improvement of the public perception of Colchester particularly in terms of safety, consistency, quality and the amount of investment it would attract. He referred to the various areas in the town centre and to the layout of the town centre shopping area as being based on the roman layout. The analysis identified the town centre's weaknesses such as the open spaces, the streetscape, the quality of materials on the floor, the decline of small shops and uncertainty, poorly designed floors and 'A' boards, and the Strategy sought a resolution to these issues.

Members of the Committee considered the Guidance Note to be an excellent document but extremely ambitious. This was a strategy document and an Area Action Plan was intended to follow after good consultation and involvement. Members were of the opinion that if only half of what was in the document was achieved it would make a tremendous difference to the town centre. The two issues that members identified were the cost and a timescale.

The Planning Policy Manager confirmed that delivery was an issue. There was a work in progress built into the Area Action Plan. The Council was working in a corporate way with a steering group which met regularly to develop a cross cutting approach. Most of the document was about setting out the goals in terms of what is desired and then about setting priorities. In terms of the funding, it was likely that to achieve the aims of the document it would be necessary to obtain funding through the Community Infrastructure Levy (CIL) or from Section 106 contributions.

The Urban Designer highlighted improvements to the use of a space which would result from a well thought out public realm space being created as a result of this document. Referring to cost, he acknowledged that the document set out a series of materials which were related to the fabric around them. However, the materials identified for

Colchester were standard materials and there was no requirement to use bespoke materials in the public realm. Improvements to a public space could be achieved without high cost and he gave the example of the space around the water tower, Jumbo. It had been identified as an area through which many people travelled during the day. They could be forced to sit on the grass because there were not enough benches provided and that perceived need should be explored. To make the same space work just as well in the evening it might be necessary to make the entrances through Balkerne Gate more significant. The space needs some exploratory work to make it work for users during the daytime and during the evening.

RESOLVED that the Public Realm Strategy be approved and adopted as a Planning Guidance Note.

7. Community Infrastructure Levy // Frontrunner Project

The Committee considered a report by the Head of Strategic Policy and Regeneration on a new levy, the Community Infrastructure Levy (CIL), that local authorities can choose to charge on new developments in their area.

Karen Syrett, Spatial Policy Manager, attended to assist the Committee in its deliberations. She explained that local authorities who had a Local Development Framework in place had been invited to put themselves forward as “frontrunners” for the CIL. The Council, in partnership with Essex County Council, had expressed an interest and in February it was confirmed that Colchester Borough Council was one of the eight local authorities to be selected. She explained the process in terms of consultations and deadline dates and that the Committee did not have a scheduled meeting at the time when the draft CIL report and charging schedule should be reported to Committee to agree the consultation process. If left for the next meeting date it would not be possible to complete the project as agreed with the Department of Communities and Local Government (DCLG). The Committee was therefore being requested to delegate to officers approval of the consultation on the charging schedule. This would be the first phase of participation and all the results would be reported back to the Committee who would be requested to agree the next stage of consultation.

There was still a considerable amount of detail to be made clear and the DCLG did not have all the regulations available. Work was being done to identify all large items of infrastructure costing more than £1million and these items were adding up to an amount which would justify implementing a CIL to help fund the works. The second block of work was concerned with viability and looking across a range of uses from residential to retail, town centre to out of town locations, large stores, business, leisure etc. The Spatial Policy Team wanted to identify a figure for each of the different types of use to enable developers to make a contribution towards infrastructure across the borough without affecting the viability of developments. The biggest misconception was that CIL would fund all the infrastructure identified and the DCLG were encouraging local councils to look at other sources of funding as well as the levy. Decisions were still to be made about what the levy would fund and the publication of additional regulations

was awaited. At this stage it was not known if funding would only go towards items already identified in a list, known as 123 List, or whether a local body could spend the levy on items not on the list.

Pete Hewitt, Myland Community Council, addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He congratulated the Committee on the previous two items. In respect of this item, he was looking for early clarification in respect of whether the 123 List can be changed at any time without the need for a public examination or publicity. He considered it likely that money may be redirected without prior notice and he believed it would open up the possibility for confusion. Myland Community Council would object very strongly if changes were made without consultation. He asked if the Community Council could have some time with a Spatial Policy Officer to ensure they were fully aware how the levy would work.

The Spatial Policy Manager responded that the point about the prioritising and allocating the money for items on the 123 List was still to be resolved. The Spatial Policy Team did not think it would be best practice to change it on a weekly basis for example and this Council would want that process to be open to public scrutiny with appropriate procedures in place to establish who would receive Section 106 contributions in consultation with Essex County Council. The Spatial Policy team would provide Myland Community Council with three documents including a brief overview of the initiative.

In response to questions from members of the Committee, the Spatial Policy Manager explained that the 123 List would be evidence based to ensure there was a delivery plan for the infrastructure. There would not be sufficient money in the levy to spend it on things which would not be required. If the Council did not have a CIL in place by 2014 it would be severely restricted on Section 106 contributions for affordable homes and on site facilities. It would only be able to pool resources for up to five schemes so there might not be enough funding for a scheme. This would apply to any Section 106 contributions collected back to April 2010. The Council would not be able to collect Section 106 contributions for anything on the 123 List.

In respect of neighbourhoods, where there was a parish or town council that body would receive the money and determine how to spend it in accordance with the regulations. Where there was no parish or town council the money would be allocated to a neighbourhood forum comprising three people but that would increase to twenty-one people. Where a neighbourhood forum was established they could spend the money but where there was no neighbourhood forum in existence, the money remained with the Borough Council to spend as appropriate in that neighbourhood.

RESOLVED that –

(a) The background information on the Community Infrastructure Levy and the Council's progress on the Government's Frontrunner project be noted.

(b) After consultation with the Chairman and Group Spokespersons, the Head of Strategic Policy and Regeneration be authorised to publish the draft Community Infrastructure Levy Charging Schedule for public consultation.



Local Development Framework Committee

Item

7

15 August 2011

Report of	Head of Strategic Policy and Regeneration	Author	Karen Syrett
Title	Draft National Planning Policy Framework		☎ 506477
Wards affected	All		

The Local Development Framework Committee is asked to note and comment on the consultation paper on the Draft National Planning Policy Framework.

1. Decision(s) Required

- 1.1 To note and discuss the draft National Planning Policy Framework to inform the Councils response to the Department of Communities and Local Government.

2. Reasons for Decision(s)

- 2.1 The consultation provides the Council with the opportunity to influence national policy.

3. Alternative Options

- 3.1 The committee could decide not to comment on the paper and to advise the portfolio holder not to respond to the consultation.

4. Supporting Information

- 4.1 The National Planning Policy Framework sets out the Government's economic, environmental and social planning policies for England. Taken together, these policies articulate the Government's vision of sustainable development, which Local Authorities are expected to interpret and apply locally to produce local and neighbourhood plans, which reflect the needs and priorities of communities.
- 4.2 The Framework condenses the near 900,000 words of current national planning policies (over 1,000 pages) into a document approximately 50 pages in length. The aim being to make it easily understood and used by everybody who has an interest in shaping the development of their area. The document has been broken down into a number of sections under the themes of Delivering Sustainable Development, Plan Making, Development Management, Planning for Prosperity, Planning for People and Planning for Places. A summary of the document is included below but the key changes are as follows;
 - A presumption in favour of development
 - A return to a single Local Plan
 - Local authorities to be responsible for setting local standards and policies
 - A requirement to provide an additional allowance of at least 20 per cent on top of housing targets to ensure choice and competition in the market for land
 - Consideration to be given to allow some market housing in villages where it helps deliver affordable housing
 - Greater emphasis on viability and deliverability

- Reducing the burden – supporting information with applications should be kept proportional; as should the evidence base in plan making and conditions should only be imposed where strictly necessary.

4.3 Delivering Sustainable Development

The Framework introduces a strong presumption in favour of sustainable development. This is a key part of the reforms and is at the heart of the new, streamlined and consolidated policy framework. The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. A positive planning framework is also critical to the provision of the infrastructure. The Chancellor made clear in this year's Budget the Government's expectation that the answer to development and growth should wherever possible be 'yes', except where this would clearly conflict with other aspects of national policy. The presumption turns this expectation into policy – a policy that works with the existing plan-led approach, by emphasising the role of up-to-date development plans in identifying and accommodating development needs. Where those plans are not up-to-date, or do not provide a clear basis for decisions, the policy establishes the clear presumption that permission should be granted, provided there is no overriding conflict with the National Planning Policy Framework as a whole.

4.4 Plan Making

Each local planning authority will be required to produce a Local Plan for its area. This can be reviewed in whole or in part to respond flexibly to changing circumstances. Any additional development plan documents should only be used where clearly justified. Supplementary planning documents should only be necessary where their production can help to bring forward sustainable development at an accelerated rate, and must not be used to add to the financial burdens on development. Local Plans should set out the opportunities for development and clear guidance on what will or will not be permitted and where. Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan. Overall content, the focus on engagement and the 15 year lifespan remains the same although the ability to review parts of such a document must be questioned.

Up-to-date Local Plans, i.e. Local Plans which are consistent with the Framework, should be in place as soon as practical. In the absence of an up-to-date and consistent plan, planning applications will be determined in accordance with the National Framework, including the presumption in favour of sustainable development. It will be open to local planning authorities to seek a certificate of conformity with the Framework for those LDF documents already adopted.

An evidence base will continue to be required including a Strategic Housing Market Assessment, Strategic Housing Land Availability Study, Employment and Retail Studies, Environmental Assessment and Sustainability Assessment and Infrastructure Planning. Local planning authorities should also either maintain or have access to a historic environment record.

To enable a plan to be deliverable, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, local standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and on-site mitigation, provide acceptable returns to enable the development to be deliverable.

There is a greater emphasis placed on local planning authorities working collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly co-ordinated and clearly reflected in individual Local Plans. They should take account of different geographic areas, including travel-to-work areas. Joint working should enable local planning authorities to work together to meet development requirements which cannot wholly be met within their own areas.

The Local Plan will be examined by an independent inspector whose role is to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. A local planning authority should submit a plan for examination which it considers is “sound” – namely that it is:

- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is practical to do so consistently with the presumption in favour of sustainable development
- Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence
- Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

Neighbourhood plans are being introduced through the Localism Bill, and their implementation will be supported by policies in the new Framework. Neighbourhood plans provide an opportunity for communities to have a say in the detailed planning of their area, in the context of national priorities. Communities will be able to use neighbourhood development plans to set policies for the development and use of land in their neighbourhoods and, through the use of neighbourhood development orders, can permit development – in full or in outline.

The Government are introducing a duty to cooperate through the Localism Bill. It will require local councils, county councils and other public bodies to engage constructively, actively and on an ongoing basis in the planning process. The duty will be a key element of the proposals for strategic working once Regional Strategies are abolished. Local councils will be required to demonstrate compliance with the duty to cooperate as part of the examination of Local Plans. If a local council cannot demonstrate that it has complied with the duty, its local plan will not pass the independent examination.

4.5 Development Management

The primary objective of development management according to the Framework is to foster the delivery of sustainable development, not to hinder or prevent development. The planning system will remain plan-led and therefore Local Plans, incorporating neighbourhood plans where relevant, are the starting point for the determination of any planning application. Having said that, in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

The Government identifies pre-application engagement as being particularly important. This relates to engagement between the developer and Council and the developer and local community. In future the Council should publish a list of information requirements for applications, which should be proportionate to the nature and scale of development proposals. Only supporting information that is relevant, necessary and material to the application in question should be requested.

In a change of emphasis local planning authorities will be asked to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. The three statutory tests will remain in place. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects and the LPA should avoid unnecessary conditions or obligations.

4.6 Business and Economic Development

To help achieve sustainable economic growth, the Government's objectives are to:

- plan proactively to meet the development needs of business and support an economy fit for the 21st century
- promote the vitality and viability of town centres, and meet the needs of consumers for high quality and accessible retail services; and
- raise the quality of life and the environment in rural areas by promoting thriving, inclusive and locally distinctive rural economies.

Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment. Building on current advice in PPS3 the Framework states that planning policies should avoid the long term protection of employment land or floorspace, and applications for alternative uses of designated land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses.

Ensuring the vitality and viability of town centres remains in the Framework and local planning authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. The sequential approach will continue to apply to planning applications for retail and leisure uses that are not in an existing centre and are not in accordance with an up to date Local Plan. The Council will have the opportunity to set its own floorspace threshold, above which an impact assessment will be required, when assessing applications for retail and leisure development outside of town centres, which are not in accordance with an up to date Local Plan. If there is no locally set threshold, the default threshold is 2,500 sq m.

Planning policies and decisions should assess the impact of retail and leisure proposals, including:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to ten years from the time the application is made.

Planning policies should continue to support sustainable economic growth in rural areas by taking a positive approach to new development.

4.7 Transport

The section on transport has been slimmed down from 42 pages in PPG13 to just over 2 pages, within the section on "planning for prosperity".

The main reduction has been achieved through the reduction in appendices, including the removal of National Parking Standards; less detail on the specific transport solutions and links to different land uses; no reference to planning conditions or obligations; and removal of the Regional Transport Strategy. The transport section is less overt on managing the demand to travel and integration between modes and land use.

The Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Where practical, encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. The planning system should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport. To this end, the objectives of transport policy are to:

- facilitate economic growth by taking a positive approach to planning for development; and
- support reductions in greenhouse gas emissions and congestion, and promote accessibility through planning for the location and mix of development.

Subject to criteria, development should not be prevented or refused on transport grounds unless the residual impacts of development are severe, and the need to encourage increased delivery of homes and sustainable economic development should be taken into account. Planning policies and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

The NPPF suggests that local standards should be set based on:

- Accessibility
- Land type and mix
- Car ownership
- The need to reduce the use of high emission vehicles

It is unclear what local standards are being referred to here but questions in the consultation relate to car parking. The emphasis is on setting local criteria and standards which the Council and Essex County Council, has already done.

4.8 Communications Infrastructure

The Government's objective for the planning system is to facilitate the growth of new and existing telecommunication systems in order to ensure that people have a choice of providers and services, and equitable access to the latest technology.

In preparing Local Plans, local planning authorities should support the expansion of the electronic communications networks, including telecommunications and high speed broadband. The numbers of radio and telecommunications' masts and the sites for such installations should be kept to a minimum consistent with the efficient operation of the network. Existing masts, buildings and other structures should be used, unless the need for a new site has been justified. Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate. Local planning authorities should not impose a ban on new telecommunications' development in certain areas, or insist on minimum distances between new telecommunications development and existing development. Neither should councils question whether the service to be provided is needed nor seek to prevent competition between operators, but must determine applications on planning grounds.

4.9 Minerals

There is a section on minerals in the framework but this has not been summarised because it remains a county council function.

4.10 Housing

The Government's key housing objective is to increase significantly the delivery of new homes. To boost the supply of housing, local planning authorities should:

- use an evidence-base to ensure that the Local Plan meets the full requirements for market and affordable housing in the housing market area, including identifying key sites which are critical to the delivery of the housing strategy over the plan period
- identify and maintain a rolling supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. The supply should include an additional allowance of at least 20 per cent to ensure choice and competition in the market for land
- identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15
- not make allowance for windfall sites in the first 10 years of supply, or in the rolling five-year supply, unless there is compelling evidence of genuine local circumstances that prevent specific sites being identified. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends
- illustrate the expected rate of housing delivery through a housing trajectory for the plan period and, for market housing, set out a housing implementation strategy describing how delivery of a five-year supply of housing land will be maintained to meet targets
- set out a local approach to housing density to reflect local circumstances; and
- identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers.

Applications should be considered in accordance with the presumption in favour of sustainable development. Planning permission should be granted where relevant policies are out of date, for example where a local authority cannot demonstrate an up-to-date five-year supply of deliverable housing sites.

Where affordable housing is required, policies should be set for meeting the need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. In rural areas, local planning authorities should be responsive to local circumstances and plan housing development to reflect local requirements, particularly for affordable housing. Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs. To promote sustainable development, housing in rural areas should not be located in places distant from local services.

As is set out in existing national policy isolated homes in the countryside should be refused unless there are special circumstances.

4.11 Design

The Government attaches great importance to the design of the built environment. Good design is indivisible from good planning and should contribute positively to making places better for people. The Government's objective for the planning system is to promote good design that ensures attractive, usable and durable places.

Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout and access of new development in relation to neighbouring buildings and the local area more generally. Policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

Local planning authorities should have local design review arrangements in place to provide assessment and support to ensure high standards of design. In determining applications, significant weight should be given to truly outstanding or innovative designs which help raise the standard of design more generally in the area. Permission should be refused for development of obviously poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.12 Sustainable Communities

To achieve strong, vibrant communities the planning system should:

- create a built environment that facilitates social interaction and inclusive communities
- deliver the right community facilities, schools, hospitals and services to meet local needs; and
- ensure access to open spaces and recreational facilities that promote the health and well-being of the community.

The existing policy aims set out in PPG17 are retained, although there is far less detail. There is recognition that access to good quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. The information gained from this assessment of needs and opportunities should be used to set locally derived standards for the provision of open space, sports and recreational facilities. Planning policies should protect and enhance rights of way and access. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the need for and benefits of the development clearly outweigh the loss.

A new concept in the Framework is that local communities through local and neighbourhood plans will be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and planned so that they are capable of enduring beyond the end of the plan period.

The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- where the green space is in reasonably close proximity to a centre of population or urban area
- where the green area is demonstrably special to a local community and holds a particular local significance because of its beauty, historic importance, recreational value, tranquillity or richness of its wildlife
- where the green area concerned is local in character and is not an extensive tract of land; and
- if the designation does not overlap with Green Belt.

4.13 Green Belt

There is a section in the Framework about Green Belt land but this has not been summarised because there is no green belt in Colchester.

4.14 Climate change, flooding and coastal change

The Government's objective is that planning should fully support the transition to a low carbon economy in a changing climate, taking full account of flood risk and coastal change. To achieve this objective, the planning system should aim to:

- secure, consistent with the Government's published objectives, radical reductions in greenhouse gas emissions, through the appropriate location and layout of new development, and active support for energy efficiency improvements to existing buildings and the delivery of renewable and low-carbon energy infrastructure
- minimise vulnerability and provide resilience to impacts arising from climate change
- avoid inappropriate development in areas at risk of flooding by directing development away from areas at highest risk or where development is necessary, making it safe without increasing flood risk elsewhere; and
- reduce risk from coastal change by avoiding inappropriate development in vulnerable areas or adding to the impacts of physical changes to the coast.

To this end, local planning authorities should adopt proactive strategies to mitigate and adapt to climate change.

The Framework retains the sequential and exception tests related to flood risk which are currently to be found in PPG 25.

In coastal areas, local planning authorities should take account of marine plans and apply Integrated Coastal Zone Management across local authority and land/sea boundaries. Any area likely to be affected by physical changes to the coast should be identified as a Coastal Change Management Area. Planning authorities should:

- be clear as to what development will be appropriate in such areas and in what circumstances; and
- make provision for development and infrastructure that needs to be relocated away from Coastal Change Management Areas.

4.15 Natural Environment

The Government expects the planning system to aim to conserve and enhance the natural and local environment by:

- protecting valued landscapes
- minimising impacts on biodiversity and providing net gains in biodiversity, where possible; and
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of land, air, water or noise pollution or land instability.

In preparing plans to meet development requirements, the aim should be to minimise adverse effects on the local and natural environment. Plans should allocate land with the least environmental or amenity value where practical, having regard to other policies in the Framework including the presumption in favour of sustainable development. Plans should be prepared on the basis that objectively assessed development needs should be met, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. To this end, local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites.

The existing themes of protection of the landscape and minimising impacts on biodiversity and geodiversity remain. There is also a requirement for local policies and decisions to ensure that:

- new development is appropriate for its location, having regard to the effects of pollution on health, the natural environment or general amenity, taking account of the potential sensitivity of the area or proposed development to adverse effects from pollution; and
- the site is suitable for its new use taking account of ground conditions, pollution arising from previous uses and any proposals for land remediation.

4.16 Historic Environment

The Government's objectives for the historic environment are to:

- conserve heritage assets in a manner appropriate to their significance; and
- contribute to our knowledge and understanding of our past by capturing evidence from the historic environment and making this publicly available, particularly where a heritage asset is to be lost.

In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where the application will lead to substantial harm to or total loss of significance of a designated heritage asset local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

Local planning authorities should assess whether the benefits of an application for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

4.17 As was expected the level of detail previously contained in circulars and planning statements is absent. There have been many organisations expressing views about the NPPF, not least the Royal Town Planning Institute. They have expressed concern that

the presumption in favour of sustainable development enshrined in the NPPF could undermine the primacy of locally-led development plans. But, Greg Clarke, the Minister for Planning said up-to-date local plans would have undiminished force, as long as they conformed with the framework. "If a plan is sound, has been adopted and is consistent with national policy, then it should prevail," he said. But planning authorities should obtain one of the new certificates confirming their plan's conformity with national policy "so they can have confidence in those plans", he said. Arrangements for these checks would be announced at the same time as the framework is adopted, Clark said.

4.18 The Government intends to adopt the framework this year. At that time it would be prudent for the Council to submit their adopted documents for the conformity check.

5. Proposals

5.1 DCLG has published a consultation paper seeking views on the content and format of the new Framework. There are numerous questions both about the Framework itself and the impact assessment. Attached as Appendix 2 is a list of all the policy questions and the relevant questions from the Impact Assessment. Because of the recent publication of the document it has not been possible to formalise a response but some initial comments are included below;

1. Plan Making – some doubt has to be cast over the ability to review easily one large document. This suggests the flexibility to respond to change which the Government is seeking will not be in-built in the new system unless the production of other DPDs becomes commonplace.
2. Plan Making - At a time when national guidance is being greatly reduced and regional guidance is being revoked the Government are suggesting reducing also the use of Supplementary Planning Documents. These documents could be used to fill the policy gap and provide useful guidance.
3. Plan making - No details have been published of how Councils apply to check the conformity of their adopted plans. This should be in place and Councils allowed to apply for a certificate before the National Framework is adopted. If this is not the case the system cannot be truly plan led as there will be a period when only the NPPF can be used in decision making at a local level. This will result in a presumption in favour of development even for those Councils that have pushed ahead and adopted documents.
4. Plan Making - to be sound a Local Plan must be 'positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is practical to do so consistently with the presumption in favour of sustainable development.' Could it be argued that if a neighbouring authority is not meeting its requirements for housing and/or employment CBC should meet the requirements? It should be clarified.
5. Transport – the initial view is to “disagree” that the NPPF sets out the right approach on the basis that transport is presented within the “planning for prosperity” section. Transport is about people and places – it is not exclusive to “prosperity”; greater linkages need to be made to the other sections whilst retaining in prosperity the ability to move goods around efficiently. Strong communities are created where people can interact whether this is whilst walking, cycling or using public transport. It has been shown that the car can restrict interaction within communities, and that encouraging walking and cycling can help support the local economy.

6. Housing – the key change in the housing section is the requirement to identify 20% extra housing land. This is a significant uplift for an authority such as Colchester where evidence, policy and the existing housing trajectory already shows a requirement for approximately 830 dwellings a year over a 15 year period. The increase would mean an extra 166 per year – 996 in total each year. The way the paper is worded this is not just a contingency but something that should be incorporated in the plan. Whilst this is possible and has been delivered in Colchester some years it is not thought to be sustainable or desirable over a longer period.
7. Renewable Energy - the policy is very similar to existing national policy. Whilst the policy does not include anything that would discourage renewable energy it is not very pro-active and is unlikely to lead to a significant increase in renewable or low carbon energy. Further, it is unclear how LAs will be expected to identify opportunities where development can draw energy from decentralised, renewable or low carbon energy, i.e. should LAs map areas of high heat and electricity demand or should LAs go further and demonstrate viability?
8. It is agreed that the policy on flooding and coastal change provides the right level of protection - it is similar to existing national policy.
9. Natural and local Environment – it is not agreed that the policy relating to the natural and local environment provides the appropriate framework to protect and enhance the environment. Stronger protection should be given to nationally notified sites (e.g. Sites of Special Scientific Interest). Paragraph 169 states that if significant harm cannot be avoided, mitigated or as a last resort compensated planning permission should be refused. It should be made clear that development that would result in significant harm to a nationally designated site should only be allowed in exceptional circumstances and where it can be demonstrated that the benefits of the development would outweigh the harm caused and where appropriate mitigation and/or compensatory measures are put in place. Para 169 also states that biodiversity enhancement should be encouraged; however this should be expected or required. There is concern that if the default answer to development proposals is “yes” this would result in development proposals that would harm the natural environment. International sites are protected by EU Directives and the Habitat Regulations 2010; however there is concern about the impact this policy would have on national and local sites.
10. Climate Change – the policy is similar to existing national climate change policy but in line with the reducing the burden theme does not really offer support for local authorities that want to secure levels of sustainability in advance of national standards set out in building regulations.
11. Historic Environment - The Government’s Framework is likely to reduce the protection of historic assets. PPS5 has only been relatively recently published and was drafted with the intention of condensing national policy to a minimum; the NPPF seeks to further reduce national policy. The danger with the over simplification of policy advice is that it will be widely interpreted and there will need to be a great deal on reliance on parallel guidance / best practice documents if the protection of historic assets is to be properly achieved. The aim of (further) condensing the national policy guidance whilst maintaining a commitment to the historic environment was always going to be difficult to reconcile. It is also important to recognise that there is a fundamental difference in policy regimes between listed building & conservation areas and planning. (Planning applications are decided in accordance with the development plan and material consideration which ultimately will include the NPPF; listed building and conservation area applications are not decided in accordance with the development plan, although they may be material to listed building consent decisions.)

12. Historic Environment - There is concern that the value of the historic environment to regeneration and the quality of places is not stated and that conservation is not sufficiently connected to other strands of the proposed policy. There is a strong bias towards giving planning permission for sustainable development and this appears to trump the protection of the historic environment (and the aspirations of local communities expressed in local and neighbourhood plans etc). Including historic environment protection within the definition of sustainable development is vital for the proper positioning of the historic environment planning policies within the overall framework.

Questions from the impact Assessment;

13. What impact do you think the presumption in favour of sustainable development will have on the balance between economic, environmental and social outcomes?

In very simple terms sustainable development is generally considered to be concerned with balancing economic, environmental and social considerations. Clearly this is difficult to do in practice but it does help those involved in the development industry consider the impacts of development holistically and ensure that where possible harm is avoided or mitigated. Paragraph 13 of the NPPF states that there is not a conflict between the three strands of the economy, the environment and society but also states that significant weight should be placed on the need to support economic growth through the planning system. This 'significant weight' will affect environmental and social outcomes by giving them lesser priority.

14. What impact will the Local Green Space designation policy have, and is the policy's intention sufficiently clearly defined?

The policy for open spaces (para 129) weakens the protection that existing open spaces and recreational facilities currently enjoy. The Local Green Space designation policy will enable certain open spaces to have a greater level of protection, which is a positive means of protecting open spaces. However, the policy does state that it is not appropriate for most green/open spaces (para 131) and the criteria for identifying Local Green Spaces could be subjective (i.e. who decides whether the open space is special?).

5.2 The committee will no doubt wish to discuss these points and the content of the document as a whole and provide comments which will be incorporated into the Council's response. This will be subject to approval by the Portfolio Holder for Commerce and Sustainability.

6. Strategic Plan References

6.1 The Council's vision is for Colchester to be a place where people want to live, work and visit. The National Planning Policy Framework provides the basis on which local planning policies are formulated and planning decisions made which will influence how the borough develops and the Council's ability to achieve the vision.

7. Consultation

7.1 The consultation is being undertaken by the Department for Communities and Local Government. The consultation runs until 17th October 2011.

8. Publicity Considerations

- 8.1 The Council's response to the consultation could generate publicity because of the significant changes proposed to the national policy framework.

9. Financial Implications

- 9.1 N/A.

10. Equality, Diversity and Human Rights implications

- 10.1 An Equality Impact Assessment has been prepared for the Local Development Framework and is available to view on the Colchester Borough Council website by following this pathway from the homepage: Council and Democracy > Policies, Strategies and Performance > Diversity and Equality > Equality Impact Assessments > Strategic Policy and Regeneration > Local Development Framework.

11. Community Safety Implications

- 11.1 None

12. Health and Safety Implications

- 12.1 None

13. Risk Management Implications

- 13.1 N/A.

Background Papers

Appendix 1

Policy documents which will be cancelled when the Framework is introduced

It is proposed that the following policy documents should be cancelled by the Framework when the document is published in its final form;

Documents to be cancelled	Date of publication
Planning Policy Statement: Delivering Sustainable Development	31 January 2005
Planning Policy Statement: Planning and Climate Change – Supplement to Planning Policy Statement 1	17 December 2007
Planning Policy Guidance 2: Green Belts	24 January 1995
Planning Policy Statement 3: Housing	9 June 2011
Planning Policy Statement 4: Planning for Sustainable Economic Growth	29 December 2009
Planning Policy Statement 5: Planning for the Historic Environment	23 March 2010
Planning Policy Statement 7: Sustainable Development in Rural Areas	3 August 2004
Planning Policy Guidance 8: Telecommunications	23 August 2001
Planning Policy Statement 9: Biodiversity and Geological Conservation	16 August 2005
Planning Policy Statement 12: Local Spatial Planning	4 June 2008
Planning Policy Guidance 13: Transport	3 January 2011
Planning Policy Guidance 14: Development on Unstable Land	30 April 1990
Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation	24 July 2002
Planning Policy Guidance 18: Enforcing Planning Control	20 December 1991
Planning Policy Guidance 20: Coastal Planning	1 October 1992
Planning Policy Statement 22: Renewable Energy	10 August 2004
Planning Policy Statement 23: Planning and Pollution Control	3 November 2004
Planning Policy Guidance 24: Planning and Noise	3 October 1994
Planning Policy Statement 25: Development and Flood Risk	29 March 2010
Planning Policy Statement 25 Supplement: Development and Coastal Change	9 March 2010
Minerals Policy Statement 1: Planning and Minerals	13 November 2006
Planning Policy Guidance 19: Outdoor Advertisement Control	23 March 1992
Various Minerals Policy Statements	Various
Circular 05/2005: Planning Obligations	18 July 2005
Letter to Chief Planning Officers: Addition of the Forestry Commission to the List of Non-Statutory Consultees	15 March 1999
Letter to Chief Planning Officers: Town and Country Planning (Electronic Communications) (England) Order	2 April 2003
Letter to Chief Planning Officers: Planning Obligations and Planning Registers	3 April 2002
Letter to Chief Planning Officers: Model Planning Conditions for development on land affected by contamination	30 May 2008

Letter to Chief Planning Officers: National Policy Statements	9 November 2009
Letter to Chief Planning Officers: Local authorities' role in new consenting process for nationally significant infrastructure projects	16 July 2009
Letter to Chief Planning Officers: Planning for Housing and Economic Recovery	12 May 2009
Letter to Chief Planning Officers: Development and Flood Risk – Update to the Practice Guide to Planning Policy Statement 25	14 December 2009
Letter to Chief Planning Officers: Implementation of Planning Policy Statement 25 (PPS25) – Development and Flood Risk	7 May 2009
Letter to Chief Planning Officers: The Planning Bill – delivering well designed homes and high quality places	23 February 2009
Letter to Chief Planning Officers: Planning and Climate Change – Update	20 January 2009
Letter to Chief Planning Officers: New powers for local authorities to stop 'garden- grabbing'	15 June 2010
Letter to Chief Planning Officer: Area Based Grant: Climate Change New Burdens	14 January 2010
Letter to Chief Planning Officers: The Localism Bill	15 December 2010
Letter to Chief Planning Officers: Planning policy on residential parking standards, parking charges, and electric vehicle charging infrastructure	14 January 2011

Appendix 2 – Consultation Questions

Q. no.	Section	Consultation Question
1a	Delivering sustainable development	<p>The Framework has the right approach to establishing and defining the presumption in favour of sustainable development.</p> <p>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</p>
1b		Do you have comments? (Please begin with relevant paragraph number)
2a	Plan-making	<p>The Framework has clarified the tests of soundness, and introduces a useful additional test to ensure local plans are positively prepared to meet objectively assessed need and infrastructure requirements.</p> <p>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</p> <p>Do you have comments? (Please begin with relevant paragraph number)</p>
2c	Joint working	<p>The policies for planning strategically across local boundaries provide a clear framework and enough flexibility for councils and other bodies to work together effectively.</p> <p>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</p>
2d		Do you have comments? (Please begin with relevant paragraph number)
3a	Decision taking	<p>In the policies on development management, the level of detail is appropriate.</p> <p>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</p>
3b		Do you have comments? (Please begin with relevant paragraph number)
4a		<p>Any guidance needed to support the new Framework should be light-touch and could be provided by organisations outside Government.</p> <p>Do you: Strongly Agree/Agree/Neither Agree or Disagree/ Disagree/Strongly Disagree</p>
4b		What should any separate guidance cover and who is best placed to provide it?

5a	Business and economic development	The 'planning for business' policies will encourage economic activity and give business the certainty and confidence to invest. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
5b		Do you have comments? (Please begin with relevant paragraph number)
5c		What market signals could be most useful in plan making and decisions, and how could such information be best used to inform decisions?
6a		The town centre policies will enable communities to encourage retail, business and leisure development in the right locations and protect the vitality and viability of town centres. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
6b		Do you have comments? (Please begin with relevant paragraph number)
7a		Transport
7a		The policy on planning for transport takes the right approach. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
7b		Do you have comments? (Please begin with relevant paragraph number)
8a	Communications infrastructure	Policy on communications infrastructure is adequate to allow effective communications development and technological advances. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
8b		Do you have comments? (Please begin with relevant paragraph number)
9a 9b		<i>Minerals</i> <i>The policies on minerals planning adopt the right approach.</i> <i>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</i> <i>Do you have comments?</i>
10a	Housing	The policies on housing will enable communities to deliver a wide choice of high quality homes, in the right location, to meet local demand. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
10b		Do you have comments?

11a	Planning for schools	The policy on planning for schools takes the right approach. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
11b		Do you have comments?
12a	Design	The policy on planning and design is appropriate and useful. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
12b		Do you have comments or suggestions?
13a 13b	<i>Green Belt</i>	<i>The policy on planning and the Green Belt gives a strong clear message on Green Belt protection.</i> <i>Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree</i> <i>Have you comments to add?</i>
14a	Climate change, flooding and coastal change	The policy relating to climate change takes the right approach. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
14b		Do you have comments?
14c 14d		The policy on renewable energy will support the delivery of renewable and low carbon energy. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree Do you have comments?
14e		The draft Framework sets out clear and workable proposals for plan-making and development management for renewable and low carbon energy, including the test for developments proposed outside of opportunity areas identified by local authorities Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
14f		Do you have comments?
14g		The policy on flooding and coastal change provides the right level of protection. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
14h		Do you have comments?

15a	Natural and local environment	Policy relating to the natural and local environment provides the appropriate framework to protect and enhance the environment. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
15b		Do you have comments?
16a	Historic environment	This policy provides the right level of protection for heritage assets. Do you: Strongly Agree/Agree/Neither Agree or Disagree/Disagree/Strongly Disagree
16b		Do you have comments?
17a	Impact Assessment	The Framework is also accompanied by an impact assessment. There are more detailed questions on the assessment that you may wish to answer to help us collect further evidence to inform our final assessment. The most relevant questions are listed below. If you do not wish to answers the detailed questions, you may provide general comments on the assessment in response to the following question: Is the impact assessment a fair and reasonable representation of the costs, benefits and impacts of introducing the Framework?
QB1.1		What impact do you think the presumption will have on: i. the number of planning applications; ii. the approval rate; and iii. the speed of decision-making?
QB1.2		What impact, if any, do you think the presumption will have on: i. the overall costs of plan production incurred by local planning authorities? ii. engagement by business? iii. the number and type of neighbourhood plans produced?
QB1.3		What impact do you think the presumption in favour of sustainable development will have on the balance between economic, environmental and social outcomes?
QB1.4		What impact, if any, do you think the presumption will have on the number of planning appeals?

QB2.3		How much resource would it cost to develop an evidence base and adopt a local parking standards policy?
QB2.4		As a local council, at what level will you set your local parking standards, compared with the current national standards?
QB2.5		Do you think the impact assessment presents a fair representation of the costs and benefits of this policy change?
QB3.1		What impact do you think removing the national target for brownfield development will have on the housing land supply in your area? Are you minded to change your approach?
QB3.2		Will the requirement to identify 20% additional land for housing be achievable? And what additional resources will be incurred to identify it? Will this requirement help the delivery of homes?
QB3.3		Will you change your local affordable housing threshold in the light of the changes proposed? How?
QB3.4		Will you change your approach to the delivery of affordable housing in rural areas in light of the proposed changes?
QB3.5		How much resource would it cost local councils to develop an evidence base and adopt a community facilities policy?
QB3.6		How much resource would it cost developers to develop an evidence base to justify loss of the building or development previously used by community facilities?
QB4.1		What are the resource implications of the new approach to green infrastructure?
QB4.2		What impact will the Local Green Space designation policy have, and is the policy's intention sufficiently clearly defined?
QB4.3		Are there resource implications from the clarification that wildlife sites should be given the same protection as European sites?
QB4.4		How will your approach to decentralised energy change as a result of this policy change?
QB4.5		Will your approach to renewable energy change as a result of this policy?
QB4.6		Will your approach to monitoring the impact of planning and development on the historic environment change as a result of the removal of this policy?



Local Development Framework Committee

Item

8

15 August 2011

Report of	Head of Strategic Policy and Regeneration	Author	Karen Syrett ☎ 506477
Title	Local Planning Regulations - consultation		
Wards affected	All		

The Local Development Framework Committee is asked to note and comment on the consultation paper on Local Planning Regulations.

1. Decision(s) Required

- 1.1 To note and discuss the draft Local Planning Regulations to inform the Councils response to the Department of Communities and Local Government.

2. Reasons for Decision(s)

- 2.1 The consultation provides the Council with the opportunity to influence national policy.

3. Alternative Options

- 3.1 The committee could decide not to comment on the paper and to advise the portfolio holder not to respond to the consultation.

4. Supporting Information

- 4.1 The Government has launched a consultation on a revised set of regulations on the preparation of local plans. They are intended to replace the Town and Country Planning (Local Development) (England) Regulations 2004, as amended, in response to reforms set out in the Localism Bill.
- 4.2 The consultation draft has also consolidated changes made to the 2004 regulations into a single document, while seeking to make them effective and simple. In particular, the draft regulations list the public bodies to whom the new 'duty to co-operate' in the Localism Bill applies, and set out a simple definition of development plan documents without referring to complex 'local development framework' terminology. They also require council's monitoring information to be made available online and in council offices as soon as it is available to the council, rather than waiting to publish in a report annually.
- 4.3 The Localism Bill is intended to amend the 2004 Act, and the consultation seeks views on revised regulations to replace the amended 2004 Regulations. The main issues that the 2004 regulations cover are:
- the form and content of plans and supporting information
 - the process of preparing, consulting and examining development plan documents
 - the process of preparing non-statutory supplementary planning documents
 - joint documents prepared by more than one council; and
 - publicising information on plan preparation

- 4.4 There are a number of changes proposed in the regulations which are summarised below.
- 4.5 The Bill introduces a new duty to co-operate, which will require councils and other public bodies to work together on planning issues. The revised local plan regulations will set out the proposed list of bodies that the duty will apply to. These are;
- (a) the Environment Agency;
 - (b) the Historic Buildings and Monuments Commission for England;
 - (c) Natural England;
 - (d) the Mayor of London;
 - (e) the Civil Aviation Authority;
 - (f) the Homes and Communities Agency;
 - (g) Primary Care Trusts;
 - (h) Office of Rail Regulation
 - (i) the Highways Agency;
 - (j) Transport for London;
 - (k) Integrated Transport Authorities;
 - (l) Highway authorities; and
 - (m) the Marine Management Organisation.

The regulations also require these bodies to take account of the views of local enterprise partnerships.

- 4.6 In the Localism Bill, the Government has proposed to remove the Inspectors' powers to impose changes on documents after examination. In future Inspectors will report to the local authority and identify conflicts between the plan and national policy and regulatory process. However, they will only be able to recommend modifications to overcome these issues if the council ask them to. In addition, councils can suggest their own modifications for assessment by the Inspector during the examination, as well as making minor non-material changes themselves. The council is then free to choose to accept the inspector's modifications and adopt the plan, or resubmit a new plan. This approach will encourage a more collaborative process as the examination becomes more recognised as a forum for mediation.
- 4.7 In future a council will be able to withdraw a development plan document at anytime before its adoption. If the development plan document has been submitted for independent examination, the council no longer requires a recommendation from the person carrying out the examination or a direction from the Secretary of State that the document should be withdrawn.
- 4.8 There will be a continuing requirement for Councils to prepare and maintain a local development scheme specifying the documents that will be development plan documents, their subject matter and area and the timetable for their preparation and revision. It will not however be necessary to submit the local development scheme to the Secretary of State. Councils must publish up to date information on their progress in preparing development plan documents against the local development scheme. Councils have flexibility to decide how best to present this information to the public, for example using on-line timetables or the Annual Monitoring Report (AMR)
- 4.9 There is also no longer a requirement to submit the AMR to the Secretary of State, but the duty to monitor remains by requiring an 'authorities' monitoring report' to be prepared for local people, in the interests of local transparency and accountability. This will allow regulations to require monitoring information to be made available online and in council offices as soon as it is available to the council, rather than waiting to publish in a report

annually. New regulation 39 prescribes minimum information to be included in monitoring reports beyond current regulation 48, including net additional affordable housing, Community Infrastructure Levy receipts, the number of neighbourhood plans that have been adopted, and action taken under the duty to co-operate.

- 4.10 In addition to the reforms set out in the Localism Bill, the Government intends to replace national policy on local plans set out in Planning Policy Statement 12: *Local Spatial Planning*, published in 2008. Planning Policy Statement 12, along with the other existing planning policy statements will be replaced by a new consolidated National Planning Policy Framework. This policy document is the subject of a separate report.
- 4.11 Part 3 of the Regulations sets out a simple definition of development plan documents, without referring to complex 'local development framework' terminology such as 'core strategy' or 'area action plan', which made the process confusing for the public and business, and inflexible for councils. This allows councils to decide what they want to include in their development plan documents and review policy more quickly.
- 4.12 Part 5 of the document streamlines the regulations on the preparation of supplementary planning documents, in particular in relation to the role of the Secretary of State.

5. Proposals

- 5.1 DCLG has published a consultation paper seeking views on the proposed Local Plan Regulations. There are just four questions set out in the consultation;
- Do you agree that the revised regulations effectively reflect the changes proposed in the Localism Bill?
 - Do you agree with the list of bodies included in the duty to cooperate?
 - Do you agree the revised regulations effectively consolidate the 2004 regulations with the revisions in 2008 and 2009?
 - Are there any ways in which the regulations should be changed in order to improve the process of preparing local plans, within the powers set out in the Planning and Compulsory Purchase Act 2004 and the Localism Bill?
- 5.2 The committee will no doubt wish to discuss these questions and the content of the document as a whole and provide comments which will be incorporated into the Council's response. This will be subject to approval by the Portfolio Holder for Commerce and Sustainability.

6. Strategic Plan References

- 6.1 The Council's vision is for Colchester to be a place where people want to live, work and visit. Local planning policies are formulated and planning decisions made based on the policies which will influence how the borough develops and the Council's ability to achieve the vision.

7. Consultation

- 7.1 The consultation is being undertaken by the Department for Communities and Local Government. The consultation runs until 7th October 2011.

8. Publicity Considerations

- 8.1 The Council's response to the consultation is unlikely to generate publicity.

9. Financial Implications

9.1 N/A.

10. Equality, Diversity and Human Rights implications

10.1 An Equality Impact Assessment has been prepared for the Local Development Framework and is available to view on the Colchester Borough Council website by following this pathway from the homepage: Council and Democracy > Policies, Strategies and Performance > Diversity and Equality > Equality Impact Assessments > Strategic Policy and Regeneration > Local Development Framework.

11. Community Safety Implications

11.1 None

12. Health and Safety Implications

12.1 None

13. Risk Management Implications

13.1 N/A.

Background Papers

Local Planning Regulations Consultation

Appendix 1

Draft Regulations

Annex 1: Draft regulations

Draft Regulations prepared for the purposes of the Localism Bill and placed in the Library for illustrative purposes.

STATUTORY INSTRUMENTS

[2012] No.

TOWN AND COUNTRY PLANNING, ENGLAND

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

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

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42. Revocation of regulations

The Secretary of State, in exercise of the powers conferred by section ? of the Localism Act 2011(a), sections 13(2)(f), 14(3) and (5), 15(2)(g), (3) and (7), 17(7), 19(2)(j), 20(3), 28(9) and (11), 31(6) and (7), 35(2) and (3) and 36 of the Planning and Compulsory Purchase Act 2004(b) and paragraph 4(2) of Schedule 4A to the Town and Country Planning Act 1990(c), makes the following Regulations:

PART 1
General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Local Planning) (England) Regulations [2012] and shall come into force on [2012].

(2) These Regulations apply in relation to England only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Planning and Compulsory Purchase Act 2004;

“the adopted proposals map” means a document which when first adopted shows the matters specified in regulation 10;

“DPD” means development plan document as defined in regulation 7;

“address” in relation to electronic communications means any number or address used for the purposes of such communications;

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(d);

“electronic communications apparatus” has the same meaning as in paragraph 1(1) of the electronic communications code;

(a) 2011 (c. ?)
(b) 2004 (c. 5)
(c) 1990 (c.8)
(d) 2000 (c.7.)

“electronic communications code” has the same meaning as in section 106(1) of the Communications Act 2003**(a)**;

“general consultation bodies” means the following—

- (a) voluntary bodies some or all of whose activities benefit any part of the authority’s area,
- (b) bodies which represent the interests of different racial, ethnic or national groups in the authority’s area,
- (c) bodies which represent the interests of different religious groups in the authority’s area,
- (d) bodies which represent the interests of disabled persons in the authority’s area,
- (e) bodies which represent the interests of persons carrying on business in the authority’s area;

“inspection” means inspection by the public;

“LDD” means a local development document means a DPD, a SPD or a statement of community involvement;

“local enterprise partnership” means a local enterprise partnership recognised by the Secretary of State;

“Ordnance Survey map” means a map produced by Ordnance Survey or a map on a similar base at a registered scale;

“person appointed” means a person appointed by the Secretary of State under section 20(4) to carry out an independent examination;

“police authority” means—

- (a) any police authority established under section 3 of the Police Act 1996**(b)**;
- (b) the Metropolitan Police Authority; and
- (c) the Common Council of the City of London in its capacity as police authority;

“relevant authority” means—

- (a) a local planning authority,
- (b) a county council referred to in section 16(1),
- (c) a parish council,
- (d) a police authority;

“site allocation policy” means a policy which allocates a site for a particular use or development;

“specific consultation bodies” means the following—

- (i) the Coal Authority,
- (ii) the Environment Agency,
- (iii) the Historic Buildings and Monuments Commission for England,
- (iv) Natural England,
- (v) Network Rail,
- (vi) the Highways Agency,
- (vii) a relevant authority any part of whose area is in or adjoins the area of the local planning authority,
- (viii) any person—
 - (aa) to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003, and

(a) 2003(c. 21)

(b) 1990 (c.16)

- (bb) who owns or controls electronic communications apparatus situated in any part of the area of the local planning authority,
 - (ix) if it exercises functions in any part of the local planning authority's area—
 - (aa) a Primary Care Trust,
 - (bb) a person to whom a licence has been granted under section 6(1)(b) or (c) of the Electricity Act 1989^(a),
 - (cc) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986^(b),
 - (dd) a sewerage undertaker,
 - (ee) a water undertaker;
 - (x) the Homes and Communities Agency;
 - (e) if the authority are a London borough council, means the Mayor of London and the bodies specified or described in (a)(i) to (x);
- “submission proposals map” means a map which accompanies a DPD submitted to the Secretary of State under section 20(1) and which shows how the adopted proposals map would be amended by the accompanying DPD, if it were adopted;
- “sustainability appraisal report” means the report prepared pursuant to section 19(5)(b); and
- “supplementary planning document” (“SPD”) means an LDD which is not a DPD or a statement of community involvement.

(2) In these Regulations any reference to a section is a reference to a section of the Act unless otherwise stated.

Scope of Regulations

3. These Regulations have effect in relation to—
- (a) the revision of a LDD as they apply to the preparation of a LDD;
 - (b) a minerals and waste development scheme as they have effect in relation to a local development scheme and for that purpose—
 - (i) references to a local development scheme include references to a minerals and waste development scheme, and
 - (ii) references to a local planning authority include references to a county council within the meaning of section 16(1).

Electronic communications

4.—(1) Where within these Regulations—

- (a) a person is required to—
 - (i) send a document, a copy of a document or any notice to another person,
 - (ii) notify another person of any matter; and
- (b) that other person has an address for the purposes of electronic communications;

the document, copy, notice or notification may be sent or made by way of electronic communications.

(2) Where within these Regulations a person may make representations on any matter or document, those representations may be made—

- (a) in writing, or
- (b) by way of electronic communications.

(a) 1989 (c.29). There are amendments to these provisions which are not relevant to these Regulations.

(b) 1986 (c.44). There are amendments to these provisions which are not relevant to these Regulations.

(3) Where—

- (a) an electronic communication is used as mentioned in paragraphs (1) and (2), and
- (b) the communication is received by the recipient outside the recipient's office hours, it shall be taken to have been received on the next working day, and in this regulation "working day" means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

PART 2

Survey of Area and duty to co-operate

Survey of area: county councils

5. The persons prescribed for the purposes of section 14(5) are any local planning authority any part of whose area lies within the area of the county council.

Duty to co-operate

6.—(1) The bodies prescribed for the purposes of section ? of the Localism Act 2011 (duty to co-operate) are—

- (a) the Environment Agency;
- (b) the Historic Buildings and Monuments Commission for England;
- (c) Natural England;
- (d) the Mayor of London;
- (e) the Civil Aviation Authority;
- (f) the Homes and Communities Agency;
- (g) Primary Care Trusts;
- (h) Office of Rail Regulation
- (i) the Highways Agency;
- (j) Transport for London;
- (k) Integrated Transport Authorities;
- (l) Highway authorities; and
- (m) the Marine Management Organisation^(a).

(2) The bodies prescribed for the purposes of section ? of the Localism Act 2011 (xx) are local enterprise partnerships.

PART 3

Local development schemes and documents which must be development plan documents

Development plan documents

7. A DPD is a document prepared by a local planning authority individually or in cooperation with other local planning authorities, which contains statements regarding the following—

- (a) the development and use of land which the local planning authority wish to encourage during any specified period;

(a) See section 1 of the Marine and Coastal Access Act 2009 (c.23).

- (b) the allocation of sites for a particular development or use;
- (c) any environmental, social and economic objectives which are relevant to the attainment of the development and use of land mentioned in paragraph (a);
- (d) strategic policies in respect of matters mentioned in paragraphs (a) to (c) above; and
- (e) development management and site allocation policies, which are intended to guide the determination of applications for planning permission.

Direction in respect of a local development scheme

8.—(1) A copy of a direction given by the Mayor of London under section 15(4) or (8) shall be sent to the Secretary of State by—

- (a) sending it to him electronically; and
- (b) sending to him two copies of it in paper form.

(2) The time prescribed for the purposes of section 15(6B), (8B)(b) and (8C) is three weeks starting on the day the Mayor of London gives the direction in question.

PART 4

Form and content of local development documents and regard to be had to certain matters

Form and content of local development documents: general

9.—(1) A LDD must contain the date on which the document is adopted.

(2) A DPD or SPD must contain a reasoned justification of the policies contained in it.

(3) The policies contained in a SPD must not conflict with the adopted development plan.

(4) Subject to paragraph (5), the policies contained in a DPD must be consistent with the adopted development plan.

(5) Where a DPD contains a policy that is intended to supersede another policy, it must state that fact and identify the superseded policy

Form and content of the adopted proposals map

10.—(1) The adopted proposals map must be comprised of or contain a map of the local planning authority's area which must—

- (a) be reproduced from, or be based on, an Ordnance Survey map;
- (b) include an explanation of any symbol or notation which it uses; and
- (c) illustrate geographically the application of the policies in the adopted development plan.

(2) Where the adopted proposals map consists of text and maps, the text prevails if the map and text conflict.

Local development documents: additional matters to which regard to be had

11.—(1) The matters (additional to those specified in section 19(2)(a) to (i)) prescribed for the purposes of section 19(2) are—

- (a) policies developed by a local transport authority in accordance with section 108 of the Transport Act 2000(a);

(a) 2000 (c.38)

- (b) the objectives of preventing major accidents and limiting the consequences of such accidents;
 - (c) the need—
 - (i) in the long term, to maintain appropriate distances between establishments and residential areas, buildings and areas of public use, major transport routes as far as possible, recreational areas and areas of particular natural sensitivity or interest, and
 - (ii) in the case of existing establishments, for additional technical measures in accordance with Article 5 of Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances so as not to increase the risks to people;
 - (d) the national waste management plan;
 - (e) where a local planning authority's area or part of the area adjoins Scotland, the National Planning Framework for Scotland, published by the Scottish Executive in April 2009.
- (2) In this regulation “national waste management plan” has the same meaning as in the Waste (England) Regulations 2011 ^(a).
- (3) Expressions appearing both in paragraph (1) and in Council Directive 96/82/EC (as amended by Council Directive 2003/105/EC) have the same meaning as in that Directive.

PART 5

Supplementary planning documents

Application and interpretation of Part 5

12.—(1) This Part applies to SPDs only.

(2) In this Part—

“adoption statement” means a statement specifying—

- (a) the date on which an SPD was adopted,
- (b) that any person with sufficient interest in the decision to adopt the SPD may apply to the High Court for permission to apply for judicial review of that decision, and
- (c) that any such application must be made promptly and in any event not later than 3 months after the date on which the SPD was adopted;

“consultation statement” means the statement prepared under regulation 13(1);

“SPD documents” means—

- (a) the SPD,
- (b) the consultation statement, and
- (c) such supporting documents as in the opinion of the authority are relevant to the preparation of the SPD.

Public participation

13.—(1) Before a local planning authority adopt an SPD—

- (a) it must make available in accordance with regulation 40—
 - (i) copies of the SPD documents; and
 - (ii) details of when and how representations must be made; and
- (b) prepare a statement setting out—

(a) S.I. 2011/

- (i) a summary of the main issues raised by the consultation,
 - (ii) how those issues have been addressed in the SPD.
- (2) At the time the authority comply with paragraph (1)(a) it must—
 - (a) send to the bodies specified in paragraph (3)—
 - (i) the SPD,
 - (ii) the consultation statement, and
 - (iii) such of the supporting documents as are relevant to the body to which the documents are being sent.
 - (b) make a request under section 24(4)(b) (conformity with regional strategy), if the local planning authority is a London borough.
- (3) The bodies referred to in paragraph (2)(a) are—
 - (a) each of the specific consultation bodies to the extent that the local planning authority thinks that the SPD affects the body; and
 - (b) such of the general consultation bodies as the local planning authority consider appropriate.

Representations on supplementary planning documents

- 14.**—(1) Any person may make representations about an SPD.
- (2) Any such representations must be—
- (a) made within the period specified below, and
 - (b) sent to the address and, where appropriate, the person, specified pursuant to regulation 13(2).
- (3) The period referred to in paragraph (2)(a) must be a period of not less than 4 weeks or more than 6 weeks starting on the day on which the local planning authority complies with regulation 13(1).

Adoption of supplementary planning documents

- 15.** As soon as reasonably practicable after the local planning authority adopt an SPD it must—
- (a) make an adoption statement and the SPD available in accordance with regulation 40; and
 - (b) send the adoption statement to any person who has asked to be notified of the adoption of the SPD.

Revocation or withdrawal of a supplementary planning document

- 16.**—(1) A local planning authority may revoke or withdrawn a SPD.
- (2) If an SPD is withdrawn the local planning authority must—
- (a) make a statement of that fact available in accordance with regulation 40.
 - (b) notify—
 - (i) any body to which notification was given and to whom documents were sent under regulation 13(2)(a),
 - (ii) any person who has made a representation in accordance with regulation 14(2), of that fact, and
 - (c) remove any copies, documents, matters and statements made available in accordance with regulation 40.
- (3) If an SPD is revoked the local planning authority must within 2 weeks of the date on which the SPD is revoked—

- (a) remove any copies, documents, matters and statements made available in accordance with regulation 40; and
- (b) take such other steps as it considers necessary to draw the revocation of the SPD to the attention of persons living or working in their area.

Direction in respect of a supplementary planning document

- 17.**—(1) The Secretary of State may at any time direct a local planning authority—
- (a) not to adopt an SPD until the Secretary has decided whether to give a direction under section 21(1); and
 - (b) to send to the Secretary of State a copy of the SPD made available under regulation 13(1)(a)(i).
- (2) A direction under paragraph (1) will be treated as withdrawn on the date on which the authority receive—
- (a) notice that the Secretary of State does not intend to give a direction under section 21(1); or
 - (b) the Secretary of State’s direction under section 21(1).
- (3) If the Secretary of State gives a direction under section 21(1) in respect of an SPD, the local planning authority must—
- (a) make the direction and the SPD available in accordance with regulation 40; and
 - (b) at the time it complies with regulation 15—
 - (i) make the SPD; and
 - (ii) a statement that the Secretary of State has withdrawn the direction, or the Secretary of State’s notice under section 21(2)(b),
- available in accordance with regulation 40.

PART 6

Development plan documents

Application and interpretation of Part 6

- 18.**—(1) In this Part—
- “adoption statement” means in relation to a DPD a statement specifying—
- (i) the date on which the DPD was adopted,
 - (ii) any modifications made pursuant to section 23(3),
 - (iii) that any person aggrieved by the DPD may make an application to the High Court under section 113, and
 - (iv) the grounds on which, and the time within which, such an application may be made;
- “decision statement” means—
- (a) a statement that the Secretary of State has decided to approve, approve subject to modifications, or reject the DPD or part of it (as the case may be),
 - (b) where the Secretary of State decides to approve or approve subject to modifications the DPD or part of it, a statement—
 - (i) of the date on which it was approved,
 - (ii) that an application to the High Court may be made under section 113 by any person aggrieved by the DPD, and
 - (iii) of the grounds on which, and the time within which, such an application may be made;

“proposed submission documents” means in relation to a DPD the following documents—

- (a) the DPD which the local planning authority propose to submit to the Secretary of State,
- (b) if the adoption of the DPD would result in changes to the adopted proposals map, a submission proposals map,
- (c) the sustainability appraisal report of the DPD,
- (d) a statement setting out—
 - (i) which bodies and persons were invited to make representations under regulation 19,
 - (ii) how those bodies and persons were invited to make such representations,
 - (iii) a summary of the main issues raised by those representations, and
 - (iv) how those main issues have been addressed in the DPD, and
- (e) such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the DPD;

“statement of the representations procedure” means a statement specifying—

- (a) the title of the DPD which the local planning authority propose to submit to the Secretary of State;
- (b) the subject-matter of, and the area covered by, that document;
- (c) the date by which representations about that document must be received, by the local planning authority, which must be not less than six weeks following the day on which the statement is last published;
- (d) the address to which, and the name of the person (if any) to whom, representations about that document must be made;
- (e) that representations may be made in writing or by way of electronic communications; and
- (f) that representations may be accompanied by a request to be notified at a specified address of any of the following—
 - (i) that the DPD has been submitted for independent examination under section 20,
 - (ii) the publication of the recommendations of any person appointed to carry out an independent examination of the DPD, and
 - (iii) the adoption of the DPD.

Preparation of a development plan document

19.—(1) A local planning authority must—

- (a) notify each of the bodies specified in paragraph (2) of the subject of a DPD which it proposes to prepare; and
- (b) invite each of those bodies to make representations to it about what a DPD with that subject ought to contain.

(2) The bodies referred to in paragraph (1) are—

- (a) such of the specific consultation bodies as the local planning authority consider may have an interest in the subject of the proposed DPD; and
- (b) such of the general consultation bodies as the local planning authority consider appropriate.

(3) If a local planning authority proposes to prepare a DPD, it must also consider whether it is appropriate to invite representations from persons who are resident or carrying on business in their area.

(4) If a local planning authority decide that it is appropriate to invite representations under paragraph (3) it must make arrangements for the purposes of inviting representation from such persons of the descriptions in paragraph (3) as it think appropriate.

(5) In preparing the DPD, the local planning authority must take into account any representations made to them in response to invitations under paragraph (1) or (4).

Publication of a development plan document

20. Before submitting a DPD to the Secretary of State under section 20, the local planning authority must—

- (a) make a copy of each of the proposed submission documents and a statement of the representations procedure available in accordance with regulation 40,
- (b) ensure that a statement of the representations procedure and a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected is sent to each of the general consultation bodies and each of the specific consultation bodies invited to make representations under regulation 19(1) for the purposes of the DPD.

Representations relating to a development plan document

21.—(1) Any person may make representations about a DPD which a local planning authority proposes to submit to the Secretary of State.

(2) Any such representations must be received by the local planning authority by the date specified in the statement of representations procedure.

(3) Nothing in this regulation applies to representations taken to have been made as mentioned in section 24(7) (non-conformity opinions of the Mayor of London).

Conformity with the London Plan

22.—(1) A local planning authority in London must make a request under section 24(4)(a) on the same day that it complies with regulation 20(a).

(2) If a request is made under section 24(4)(a), the Mayor must send their opinion as to the general conformity of the DPD with the spatial development strategy to the Secretary of State and the local planning authority within the period of 6 weeks starting on the day the request is made.

Submission of documents and information to the Secretary of State

23.—(1) The documents prescribed for the purposes of section 20(3) are—

- (a) the sustainability appraisal;
- (b) a submission proposals map if the adoption of the DPD would result in changes to the adopted proposals map;
- (c) a statement setting out—
 - (i) which bodies and persons the local planning authority invited to make representations under regulation 19,
 - (ii) how those bodies and persons were invited to make representations under regulation 19,
 - (iii) a summary of the main issues raised by the representations made pursuant to regulation 19,
 - (iv) any representations made pursuant to regulation 21 which have been taken into account;
 - (v) if representations were made in accordance with regulation 21, the number of representations made and a summary of the main issues raised in those representations; and
 - (vi) if no representations were made in regulation 21, that no such representations were made;

- (d) copies of any representations made in accordance with regulation 21; and
 - (e) such supporting documents as in the opinion of the authority are relevant to the preparation of the DPD.
- (2) A copy of each of the documents and statements referred to in paragraph (1) must be sent both in paper form and electronically.
- (3) As soon as reasonably practicable after a local planning authority submit a DPD to the Secretary of State it must—
- (a) make available in accordance with regulation 40—
 - (i) a copy of the DPD;
 - (ii) a copy of each of the documents referred to in paragraph (1)(a), (b), and (c);
 - (iii) any of the documents referred to in paragraph (1)(d) or (e) which it is practicable to so make available, and
 - (iv) a statement of the fact that a copy of the DPD and of each of the documents referred to in paragraph (1)(a) to (e) are available for inspection and of the places and times at which they can be inspected;
 - (b) send to each of the general consultation bodies and to each of the specific consultation bodies invited to make representations under regulation 19(1), notification that copies of the documents referred to in paragraph (1)(a) to (e) are available for inspection and of the places and times at which they can be inspected; and
 - (c) give notice to those persons who requested to be notified of the submission of the DPD to the Secretary of State that it has been so submitted.

Consideration of representations by appointed person

24. Before the person appointed to carry out the examination complies with section 20(7) the person appointed must consider any representations made in accordance with regulation 21

Independent examination

25.—(1) This regulation applies where a person requests the opportunity to appear before and be heard by the person carrying out the examination under section 20.

(2) At least 6 weeks before the opening of an independent examination the local planning authority must—

- (a) make the matters mentioned in paragraph (3) available in accordance with regulation 40; and
 - (b) notify any person who has made a representation in accordance with regulation 21 and not withdrawn that representation, of those matters.
- (3) The matters referred to in paragraph (2) are—
- (a) the date, time and place at which the examination is to be held, and
 - (b) the name of the person appointed to carry out the examination.

Publication of the recommendations of the appointed person

26.—(1) The local planning authority must comply with section 20(8)—

- (a) as soon as reasonably practicable after the day on which the report of the person appointed to carry out the examination has been received, or
- (b) if the Secretary of State gives a direction under section 21(1) or (4) after the person appointed has complied with section 20(7), as soon as reasonably practicable after receipt of the direction.

(2) When the local planning authority comply with section 20(8) it must—

- (a) make the recommendations of the person appointed and their reasons for those recommendations available in accordance with regulation 40; and
- (b) give notice to those persons who requested to be notified of the publication of the recommendations of the person appointed that they have been so made available.

Adoption of a development plan document

27. As soon as reasonably practicable after the local planning authority adopt a DPD it must—

- (a) make available in accordance with regulation 40—
 - (i) the DPD,
 - (ii) an adoption statement,
 - (iii) the sustainability appraisal report; and
 - (iv) details of where the DPD is available for inspection and the places and times at which the document can be inspected.
- (b) send the adoption statement to any person who has asked to be notified of the adoption of the DPD; and
- (c) send the adoption statement to the Secretary of State.

Withdrawal of a development plan document

28. Where a local planning authority withdraw a DPD under section 22(1) the local planning authority must as soon as reasonably practicable after it is withdrawn—

- (a) make available a statement of that fact in accordance with regulation 40;
- (b) notify any body to which a copy of the proposed submission documents were provided under regulation 23; and
- (c) remove from their website and from the places at which they were made available, any copies, documents, matters and statements made available or published in accordance with regulation 40.

Revocation of a development plan document

29.—(1) Where a DPD is revoked, within 2 weeks of the date on which the DPD was revoked the local planning must—

- (a) make available in accordance with regulation 40 a statement of that fact ;
- (b) remove the copy of the DPD made available for inspection in accordance with regulation 40; and
- (c) take such other steps as it considers necessary to draw the revocation of the DPD to the attention of persons living or working in their area.

Direction in respect of a development plan document

30.—(1) If the Secretary of State gives a direction under section 21 the local planning authority must—

- (a) make the direction available in accordance with regulation 40;
- (b) if so directed by the Secretary of State, make a copy of any of the documents prescribed by these Regulations available in accordance with regulation 40;
 - (i) if so directed by the Secretary of State, invite each of the general consultation bodies and each of the specific consultation bodies to make representations for the purposes of the DPD;
- (c) if so directed by the Secretary of State as soon as reasonably practicable send to the Secretary of State any documents referred to in these Regulations.

(2) Any person may make representations about a DPD made available under regulation 20 but any such representations must—

- (a) be made within the period which the local planning authority specify for the purposes of regulation 21(2) or this paragraph (as the case may be); and
- (b) be sent to the address and, if the local planning authority think it appropriate to specify a person, the person, which the local planning authority specify for the purposes of regulation 21(2) or this paragraph (as the case may be).

(3) Nothing in paragraph (1) requires a local planning authority to take any step if an equivalent step has been taken under regulation 20, 21 or 23 before receipt of the direction.

Changes proposed by the Secretary of State to development plan documents (call-in)

31.—(1) If the Secretary of State proposes to depart from the recommendations of the person appointed to carry out an examination under section 20 or 21(5)(b), the local planning authority must as soon as reasonably practicable—

- (a) make copies of the changes, reasons and a statement of the matters in paragraph (2) available in accordance with regulation 40;
- (b) send copies of the changes and reasons to the bodies in paragraph (3) and notify these bodies of the matters in paragraph (2); and
- (c) make available in accordance with regulation 40 details of where the changes and reasons are available for inspection and the places and times at which they can be inspected.

(2) The matters referred to in paragraph (1) are—

- (a) the period within which representations on the changes must be made;
- (b) the address to which and, where appropriate, the person to whom representations (whether made by way of electronic communications or otherwise) must be sent; and
- (c) a statement that any representations made may be accompanied by a request to be notified at a specified address of the Secretary of State's decision under section 21(9)(a).

(3) The bodies referred to in paragraph (1)(b) are—

- (a) each of the specific consultation bodies to the extent that the Secretary of State thinks the changes affect the body; and
- (b) such of the general consultation bodies as the Secretary of State considers appropriate.

Representations on proposed changes (call-in)

32.—(1) Any person may make representations on the changes the Secretary of State proposes to make by sending them to the address and, where appropriate, the person specified pursuant to regulation 31 within the period of 6 weeks starting on the day on which the local planning authority made copies of the changes available in accordance with regulation 40.

(2) Before the Secretary of State complies with section 21(9)(a) the Secretary of State must consider any representations made in accordance with paragraph (1).

Publication of the recommendations of the person appointed to carry out the independent examination (call-in)

33. As soon as reasonably practicable after the Secretary of State complies with section 21(6), the local planning authority must—

- (a) make the recommendations and reasons of the person appointed to carry out the examination available in accordance with regulation 40; and
- (b) give notice to those persons who requested to be notified of the publication of the recommendations of the person appointed that they have been so published.

Secretary of State's decision after section 21(4) direction (call-in)

34. As soon as reasonably practicable after the Secretary of State approves, approves subject to modifications or rejects a DPD or part of it (as the case may be) in accordance with section 21(9)(a), the local planning authority must—

- (a) make available in accordance with regulation 40—
 - (i) the DPD and the reasons given by the Secretary of State pursuant to section 21(9)(b),
 - (ii) a decision statement,
 - (iii) the fact that the DPD and the Secretary of State's reasons are available for inspection and the places where and times when the document and reasons can be inspected, and
- (b) send the decision statement to any person who has asked to be notified of the Secretary of State's decision under section 21(9)(a).

Removal of documents after rejection of a development plan document

35.—(1) This regulation applies where—

- (a) the Secretary of State rejects a DPD under section 21(9)(a); or
- (b) the Secretary of State rejects part of a DPD under section 21(9)(a) and the local planning authority decide not to proceed with the remainder.

(2) The local planning authority must, as soon as reasonably practicable after the end of the period specified in paragraph (3), remove from their website and from the places at which they were made available any copies, documents, matters and statements made available under regulation 20(a), 23(3)(a), or 26(2)(a).

(3) The period mentioned in paragraph (2) is—

- (a) in the circumstances mentioned in paragraph (1)(a), three months after the date of the Secretary of State's rejection of the DPD; or
- (b) in the circumstances mentioned in paragraph (1)(b), three months after the date of the local planning authority's decision.

Secretary of State's default power

36.—(1) Any person may make representations about a DPD made available by the Secretary of State prior to the holding of an independent examination under section 27(2) but any such representation must—

- (a) be made within the period which the Secretary of State specifies; and
- (b) be sent to the address and, if the Secretary of State thinks it appropriate to specify a person, the person, which the Secretary of State specifies for the purposes of this paragraph.

(2) Where the Secretary of State holds an independent examination under section 27(2), at least 6 weeks before the opening of the independent examination the local planning authority must—

- (a) make the matters mentioned in paragraph (3) available in accordance with regulation 40; and
- (b) notify any person who has made a representation in accordance within the period specified and not withdrawn that representation, of those matters.

(3) The matters referred to in paragraph (2) are—

- (a) the date, time and place at which the examination is to be held, and
- (b) the name of the person appointed to carry out the examination.

PART 7

Joint local development documents

Joint local development documents: corresponding documents

37.—(1) In relation to an agreement mentioned in section 28(1), the period prescribed for the purposes of section 28(9) is 3 months starting on the day on which any local planning authority which is a party to the agreement withdraws from it.

(2) A corresponding document for the purposes of section 28(7) is a document which—

- (a) does not relate to any part of the area of the authority that has withdrawn from the agreement; and
- (b) with respect to the areas of the local planning authorities which prepared it, has substantially the same effect as the original joint document.

(3) In paragraph (2)(b) “original joint document” means a joint LDD prepared pursuant to the agreement mentioned in paragraph (1).

Joint committees: corresponding documents and corresponding schemes

38.—(1) The period prescribed for the purposes of section 31(6) is 3 months starting on the day on which the Secretary of State revokes under section 31(2) an order under section 29 (joint committees).

(2) Subject to paragraph (5), for the purposes of section 31(3) and (6) a corresponding document is a document which—

- (a) does not relate to any part of the area of the constituent authority which requested the revocation of the order; and
- (b) with respect to the area of the successor authority, has substantially the same effect as the original LDD.

(3) For the purposes of section 31(3), a corresponding scheme is a scheme of a successor authority which—

- (a) specifies a document that is a corresponding document for the purposes of section 31(3), but
- (b) does not specify the original LDD,

as a document which is to be an LDD.

(4) In paragraph (3)(b) “original LDD” means an LDD prepared by the joint committee constituted by the order under section 29.

(5) Paragraph (2)(a) does not apply where the constituent authority is a county council for which there is also a district council.

PART 8

Authorities’ monitoring reports

Authorities’ monitoring reports

39.—(1) An authority’s monitoring report must contain the following information—

- (a) the title of the documents specified in the authority’s local development scheme;
- (b) in relation to each of those documents—
 - (i) the timetable specified in the authority’s scheme for the document’s preparation,
 - (ii) the stage the document has reached in its preparation, and

- (iii) if the document’s preparation is behind the timetable mentioned in paragraph (i) the reasons for this.
 - (c) where any document specified in the authority’s local development scheme has been adopted or approved within the period in respect of which the report is made, a statement of that fact and of the date of adoption or approval;
- (2) Where an authority are not implementing a policy specified in a DPD or an old policy, the authority’s report must—
- (a) identify that policy; and
 - (b) include a statement of—
 - (i) the reasons why the authority are not implementing the policy; and
 - (ii) the steps (if any) that the authority intend to take to secure that the policy is implemented.
- (3) Where a policy specified in a DPD or an old policy specifies an annual number, or a number relating to any other period of net additional dwellings or net additional affordable dwellings in any part of the area of the authority, the authority’s report must specify the number of dwellings built in the part of the authority’s area concerned—
- (a) in the period in respect of which the report is made, and
 - (b) since the policy was first published, adopted or approved.
- (4) Where an authority has made a neighbourhood development order or a neighbourhood development plan, the authority’s monitoring report must contain details of these.
- (5) Where an authority has prepared a report pursuant to regulation 62 of the Community Infrastructure Regulations 2010(a), the authority’s monitoring report must contain the information specified in subsection (4) of regulation 62.
- (6) Where an authority has co-operated with another authority in accordance with the duty to co-operate contained in section X of the Planning and Compulsory Purchase Act 2004, details of what action it has taken.
- (7) An authority must make any up-to-date information, which it has collected for monitoring purposes, available, in accordance with regulation 40, as soon as possible after the information is available to it.
- (8) In this regulation “neighbourhood development order” shall have the same meaning as in the Town and Country Planning Act 1990(b).

PART 9

Availability of documents

Availability of documents etc.: general

- 40.**—(1) A document shall be taken to be made available by a local planning authority when —
- (a) made available for inspection, at their principal office and at such other places within their area as the local planning authority consider appropriate, during normal office hours, and
 - (b) published on the local planning authority’s website,
- (2) Any document made available may be removed at the time specified in paragraph (3).
- (3) The time mentioned in paragraph (3)—

(a)
(b)

- (a) where the document relates to an SPD or to the local planning authority's statement of community involvement, is 3 months after the day on which the SPD or statement of community involvement is adopted;
- (b) where the document relates to a DPD, is the end of the period of six weeks referred to in section 113(4) (period for challenging the validity of relevant documents) that applies as regards the DPD concerned.

(4) Any revision to a LDD, which has been made available in accordance with this regulation, must also be made available in accordance with this regulation.

(5) In this regulation "document" means copies, representations, directions, matters, notices or statements, including adopted, approved, revised or other documents referred to in these Regulations.

Copies of documents

41.—(1) A person may request from the local planning authority a copy of a document made available in accordance with regulation 40.

(2) The local planning authority must provide a copy of the document to that other person as soon as reasonably practicable after receipt of that other person's request.

(3) The local planning authority may make a reasonable charge for a copy of a document—

- (a) provided in accordance with under paragraph (2), or
- (b) published as required by or under Part 2 of the Act.

PART 10

Revocation of Regulations

Revocation of Regulations

42. The following Regulations are revoked:

- (a) the Town and Country Planning (Local Development Regulations) 2004(**a**);
- (b) the Town and Country Planning (Local Development Regulations)(England) 2008(**b**);
- (c) the Town and Country Planning (Local Development Regulations)(England) 2009(**c**);
and
- (d) regulation 4 of the Local Democracy, Economic Development and Constructions Act 2009 (Consequential Amendments)(England) Order 2010(**d**).

Signed by authority of the Secretary of State for Communities and Local Government

date

[]
[Minister] [Parliamentary Under Secretary] of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

(a) S.I. 2204.
(b) S.I. 2008 No. 1371.
(c) S.I. No. 401.
(d) S.I. 2010 No.602.

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ISBN: 978 1 4098 3042 9



Local Development Framework Committee

Item

9

15 August 2011

Report of Title	Head of Strategic Policy and Regeneration	Author	Karen Syrett 01206 506477
Wards affected	All		

The Local Development Framework Committee is asked to adopt the Affordable Housing Supplementary Planning Document.

1. Decision(s) Required

- 1.1 The Local Development Framework Committee is asked to adopt the Affordable Housing Supplementary Planning Document (SPD) which will add clarity to Core Strategy Policy H4.

2. Reasons for Decision(s)

- 2.1 The Affordable Housing SPD supplements Core Strategy Policy H4 by providing detailed guidance. The adoption of this guidance will help officers deliver on Council's priorities. It is important that developers are provided with good quality relevant information prior to submitting a planning application. It is also important that Council Officers and Members have detailed advice to assist in the decision making process.

3. Alternative Options

- 3.1 The Council could decide not to adopt the Supplementary Planning Document and rely solely on the existing Core Strategy Policy. The policy, however, contains insufficient detail on a number of points of detail such as viability, peppercorn, and exceptions to ensure both clarity for developers and the greatest possible delivery levels of affordable housing. The existing Affordable Housing Supplementary Planning Guidance relates back to the now superseded 2004 Local Plan.

4. Supporting Information

- 4.1 Supplementary Planning Documents add detail to policies already contained within adopted Development Plan Documents and bridge the gap between the strategic planning documents and planning applications. The guidance contained within Supplementary Planning Documents can be site specific, it can relate to a wide geographical area or it can relate to particular subjects. This supplementary guidance document has been prepared as a joint exercise between officers in Planning Policy, Development Management, Estates and Strategic Housing.

- 4.2 The current national planning framework is evolving rapidly, so the policy context for the topic of affordable housing and the process for Supplementary Planning Documents could be subject to change at any time, with the consequent need for the Borough to change its approach. This does not, however, provide a rationale for inaction given the local need for affordable housing and continuing national support for its provision. The current planning framework provides robust support for the Council's approach, as outlined below.
- 4.3 Since the 1990's, government policy has regarded the need for affordable housing as a material consideration for planning authorities when considering applications for residential development. Current Government Guidance is contained within Circular 05/05 and Planning Policy Statement 3 (Housing). The guidance states that local authorities should plan to meet the housing requirements of the whole community, including those in need of affordable and special needs housing. This requirement was incorporated within the adopted Local Plan March 2004 and superseded by the adoption of the Core Strategy in December 2008.
- 4.4 Over the years, the scope of planning gain has increased dramatically and has now been consolidated in a new approach that includes the Community Infrastructure Levy. In this new approach, affordable housing will continue to be covered by Section 106 agreements. There will continue to be many competing demands made of the available funding, of which affordable housing is just one. The SPD is intended to assist developers and house builders by expanding on the policy and supporting text included in the Core Strategy. This will reduce uncertainty and make clear what is likely to be acceptable and what is unacceptable.
- 4.5 The emerging national policy in the form of the draft National Planning Policy Framework continues to require local authorities to set policies to meet affordable housing needs. The presumption will be to provide affordable housing on site unless a financial contribution of broadly equivalent value can be robustly justified.
- 4.6 In accordance with the national framework outlined above, the Council included an affordable housing policy within the Core Strategy. This increased the percentage of affordable housing that would be sought and lowered the thresholds from those adopted in the 2004 Local Plan. The Core Strategy, which was adopted in 2008, also set out that below the thresholds a financial contribution would be sought from all developments. This has been adopted Council policy since December 2008.
- 4.7 A draft Supplementary Planning Document was prepared in 2009 to add detail to Core Strategy policy. This was subject to a four week public consultation in April 2009 and attracted a number of responses. A table summarising these comments was reported to LDF Committee in December 2010. Prior to that meeting the Council received a number of standard letters from developers/agents about the SPD.
- 4.8 One issue raised initially which was also the subject of the letters in December concerned the method for calculating financial contributions for below threshold developments and the fact that it was deemed to be complicated, would render developments unviable and would have a negative impact on the determination of planning applications. Officers therefore listened to the objections and sought to address this issue in the revised draft. The time taken has reflected the changing national picture, the complexity of the issue and the downturn in the housing market. The national policy framework, however, continues to be unclear. In particular, the Council is awaiting information from the Homes and Community Agency (HCA) on rent levels which will

inform viability calculations for developing below threshold contribution requirements. It is therefore not considered robust to finalise the financial element of the SPD without this information and it is therefore proposed to adopt the SPD without that section included.

4.9 To deal with the delay the following approach is proposed, given the pressing need for detailed local guidance on affordable housing:

- Adoption of the attached SPD containing guidance on all aspects of affordable housing with the exception of below threshold contributions.
- Submission of a revised SPD including requirements for below threshold contributions to LDF Committee at a future date following receipt of HCA information.

4.10 There is sufficient detail and clarity provided in the SPD to justify this approach. The document provides the policy and evidence base context for the delivery of affordable policy contributions and then goes on to provide detail on the following points:

- Levels of provision, including viability considerations
- Off-site provision
- Guidance on the planning application process
- Design and integration of affordable housing
- Meeting special needs
- Exceptions to affordable housing policy
- Rural exception sites.

5. Proposals

5.1 The Committee is asked to adopt the draft Affordable Housing SPD and bring it into immediate effect.

5.2 The document outlines the Council's position with regards to the scenarios and types of development where affordable housing will be required and how the Council expects this to be delivered across the Borough, with the exception of below threshold sites which will be covered by a subsequent revision.

5.3 While some time has elapsed since consultation on the draft SPD in 2009, it is not considered necessary to carry out further consultation because the main content of the document has not changed even though the format has. The adoption version does not contain levels for below threshold contributions which were the main point of contention for respondents.

6. Strategic Plan References

6.1 Homes for All is one of the nine priority areas for action identified in the Strategic Plan. The proposals set out in the Affordable Housing Supplementary Planning Document will help achieve this strategic priority.

7.0 Consultation

7.1 Public consultation was undertaken in April 2009 in line with the Planning and Compulsory Purchase Act 2004 regulations and the Council's own Statement of Community Involvement which outlines the methods and means of consultation it will go through as part of the SPD adoption process.

7.2 The affordable housing policy has already been subject to comprehensive consultation as part of the preparation, examination and adoption of the Core Strategy.

8. Publicity Considerations

8.1 Adoption of the Affordable Housing SPD should raise the profile of the Council's commitment to the delivery of affordable housing.

9. Financial implications

9.1 Costs for printing are provided for within existing budgets.

10. Equality, Diversity and Human Rights Implications

10.1 An Equalities Impact Assessment of the Local Development Framework has been prepared to ensure that the actions set out are not discriminatory and meet the Council's public duty to promote equality and inclusion.

11. Community Safety Implications

11.1 One of the key objectives for the planning of new housing is to create quality, sustainable places where people feel secure. To achieve this, emphasis must be placed on design and the need to achieve higher standards. Designing for community safety is a central part of this.

12. Health and Safety Implications

12.1 None.

13. Risk Management Implications

13.1 The adoption of guidance notes and supplementary planning documents is intended to support adopted planning policies and increase the provision of affordable housing across the Borough. The publication of the documents reduces the risk of affordable housing not being provided as the SPD will provide the opportunity to clarify advice to landowners, developers, officers, Councillors and members of the public.



**COLCHESTER
BOROUGH COUNCIL**

**SUPPLEMENTARY
PLANNING DOCUMENT**

AFFORDABLE HOUSING

Adopted August 2011

AFFORDABLE HOUSING SPD

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Section 1 Introduction

The purpose of this document

- 1.1 The planning policies adopted by Colchester Borough Council enable the Council to ask developers to provide affordable housing on site or make a financial contribution towards it. The purpose of this Supplementary Planning Document (SPD) is to give clear guidance on the Council's expectations for the provision of affordable housing and the process for delivering this.

The status of this document

- 1.2 This SPD has the status of a material consideration in the determination of planning applications, alongside other documents in the Local Development Framework (LDF). The requirements of the SPD come into effect for any planning application received by the Council after 15 August 2011.
- 1.3 The SPD does not contain any new policies, but provides detailed guidance to supplement the existing policies in the LDF, primarily policy H4 (Affordable Housing) in the Core Strategy. This SPD includes detail on all aspects of the delivery of affordable housing with the exception of below threshold contributions, which is awaiting the completion and dissemination of national survey results on rents carried out by the Homes and Community Agency. This information is needed to inform viability calculations. The document will be revised and reconsidered by the Local Development Committee following receipt of this information. The SPD updates and replaces previous Supplementary Planning Guidance adopted by the Council in 2004.
- 1.4 The Council consulted on the draft document for a period of 4 weeks during May and June 2009, in accordance with Government guidance in the Town and Country Planning (Local Development) (England) Regulations 2004, Regulation 18, and the Council's Statement of Community Involvement. This final adopted version reflects the consultation responses received.

Sustainability

- 1.5 The Council published a Sustainability Appraisal (SA) Report alongside the consultation for the draft SPD in April 2009. The SA found that the delivery of affordable housing will increase as a result of the SPD, which will help to reduce levels of deprivation across the Borough. The SPD reduces uncertainty by clearly setting out what is required by Core Strategy policy H4 and the explanation for this. The SPD will contribute to social cohesion as it states that affordable housing will be required to be pepper potted around the site and that a range of affordable housing dwellings will be required on the site, which should match the proportions of different types of dwellings for the market housing. The SPD will also ensure that the quality of affordable housing dwellings will be the same as for market housing.

Section 2 Policy Context

National Guidance

- 2.1 The national policy context for the provision of affordable housing is set out in Planning Policy Statement 3 Housing (2011) (PPS3) and its supporting document, Delivering Affordable Housing (2006). The purpose of PPS3 is to provide a national policy framework for planning for housing. It states the Government's key objective for housing is to ensure that everyone has the opportunity of living in a decent home, which they can afford, in a community where they want to live. This will require a wide choice of high quality homes, both affordable and market housing. The aim should be to create sustainable, inclusive, mixed communities in all areas, both urban and rural.
- 2.2 PPS3 states the Government is committed to providing high quality housing for people who are unable to access or afford market housing, as well as helping people to make the step from social rented housing to home ownership. With regard to affordable housing provision, Local Development Documents should set out the following:
- Set an overall target for the amount of affordable housing to be provided
 - Set out the range of circumstances in which affordable housing will be required
 - Set separate targets for social-rented and intermediate affordable housing
 - Specify the size and type of affordable housing
 - Set out the approach to seeking developer contributions, to facilitate the provision of affordable housing.
- 2.3 PPS3 also advises that a Rural Exceptions Site Policy may be appropriate to provide for the local housing needs of rural communities.
- 2.4 PPS3 sets the national minimum site threshold at 15 dwellings, but allows lower thresholds if viable and practical. The Colchester Strategic Housing Market Assessment (SHMA) demonstrated a very high need for affordable housing provision in the borough. This was supported by strong public concern on this issue during the consultation process in preparation of the Core Strategy. A lower threshold level of 10 dwellings will make a big difference to the amount of affordable housing produced.
- 2.5 In February 2011, following the comprehensive spending review the government announced a new Affordable Rent product which required a change to the Affordable Housing definitions found in PPS3. They also announced the intention to provide 150,000 new affordable homes over the four year spending review period. Following a period of public consultation a revised Annex B for PPS3 was published which allowed Registered Providers to offer rents at up to 80% of local market rent to new tenants. The new tenancies also provide greater flexibility for the providers as well as potentially allowing the tenants the opportunity for

lifetime tenancies. The revision to PPS3 Annex B was officially published and became part of national policy in June 2011.

- 2.6 The revision to Annex B demonstrates that affordable housing and the provision of this type of accommodation across the country is an important part of the government's plans. The new definitions outline that the government is committed to assisting Registered Partners and allows for flexibility in approach at the local level which will assist the delivery of much needed accommodation in Colchester.
- 2.7 Through introducing a greater level of flexibility and alternative ways of providing affordable housing products instead of relying on grant funding from the Homes and Communities Agency, local authorities have the opportunity to promote a more diverse range of housing options for those in need. In order to do this it is important for the local authority to identify local priorities. As outlined in the government's consultation document published in February 2011 local priorities are expected to include both particular sites which are a priority for development, and identification of the range of needs groups which new supply is intended to assist.
- 2.8 The future provision of affordable housing remains uncertain along with the wider housing market and economy. Individual local authorities will need to be proactive and adopt a flexible approach to delivery, varying their approach as needed to take into account evolving national guidance.

Local Guidance

- 2.9 The planning policy mechanism to secure affordable housing is framed by Policy H4 (Affordable Housing) within the Core Strategy, which was adopted by the Council in December 2008. The policy states;

The Borough Council is committed to improving housing affordability in Colchester. The Council will be seeking to secure 35% of new dwellings (including conversions) to be provided as affordable housing (normally on site), as follows:

- *In Colchester Town and Stanway, Tiptree, Wivenhoe and West Mersea, affordable housing will be required on housing developments for 10 or more dwellings*
- *In the other villages, affordable housing will be required on housing developments for 3 or more dwellings*
- *An equivalent financial contribution will also be sought for developments below these thresholds*

In exceptional circumstances, where high development costs undermine the viability of housing delivery on brownfield sites, developers will be expected to demonstrate an alternative affordable housing provision.

Affordable housing development in the villages of rural Colchester Borough will be supported on rural exception sites contiguous with village settlement boundaries, provided a local need is demonstrated by the Parish Council on behalf of their residents.

The Council will require developments to integrate affordable housing and market housing, with a consistent standard of quality design and public spaces, to create mixed and sustainable communities.

Evidence Base

- 2.10 In April 2008 the Braintree, Chelmsford and Colchester Housing Market Partnership agreed the report of the Strategic Housing Market Partnership as a robust statement of housing market conditions and an assessment of the need for affordable housing by district. The report, known as a Strategic Market Housing Assessment (SHMA) met the requirements of PPS3 and the SHMA practice guidance. It is updated on a regular basis (the latest update was published in 2010)
- 2.11 The SHMA forms the main Evidence Base for the Council's assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites.
- 2.12 The Council considers that an overall target to seek 35% maintained the balance between housing need and viability.
- 2.13 The Affordable Housing Site Viability Study also found there was scope for lowering the threshold further for sites outside of the main urban area of Colchester. Evidence produced to support the Core Strategy demonstrated that very few large sites came forward in the villages from 2003-2007; 198 planning permissions in the villages yielding 324 dwellings, with only 2 schemes of over 15 units. This means that without a very low threshold it is unlikely that any affordable housing will come forward through the section 106 planning obligation regime in the villages.
- 2.14 The Inspector's Report on the Examination into the Core Strategy DPD considered these thresholds struck a balance between the need for affordable housing and the desirability of encouraging sites to be developed.
- 2.15 The SHMA indicated that in theory, up to 21.8% of the affordable housing provision could be provided as intermediate affordable housing with the remaining 78.2% being provided as affordable rented housing. This is broadly in line with the 80:20 ratio (affordable rented: intermediate) within the Affordable Housing SPG adopted by the Council in 2004.
- 2.16 In the past, many "intermediate" housing products (such as shared equity) have been provided above market rent levels and have not therefore been truly 'affordable'. In order that it is available to a

reasonable proportion of households in housing need (following HCA practise), the Council would not consider that intermediate housing is affordable unless it costs no more than 80% of the equivalent market housing entry costs (this calculation to be inclusive of any service charges). Market housing entry costs are defined as the lower of the equivalent housing costs for private (market) rented housing or home purchase housing costs shown in Table 1 in Appendix A (these figures to be monitored annually at least). Where types of tenure change in the future, the Council will expect the most appropriate housing products to be created in line with current government policy and market needs.

- 2.18 The SHMA indicated a shortfall for all accommodation sizes with the greatest net need for 1-bedroom accommodation. However, despite a lower level of total need, the assessment estimates that the shortage relative to supply is greatest for 4-bedroom properties where only 11% of the need can be met. The Council consider this overall need is best met if the affordable housing provision proportionately reflects the mix of market units and has regard to the latest assessment of local market conditions and housing need and shortages relative to supply in determining the optimum affordable housing mix
- 2.19 Policy H3 in the Core Strategy emphasises that housing sites will need to secure a range of housing sizes and tenures in order to create inclusive and sustainable communities.
- 2.20 The SHMA and annual updates are available in full on the Councils website.
- 2.21 In March 2011, Colchester Borough Council commissioned Level to examine the viability of below threshold schemes providing commuted sum contributions in lieu of on-site provision of affordable housing. This was to provide guidance to support Policy H4's provision for below threshold contributions. Level has developed the Level Development Viability Model which is a dynamic model to determine residual land value. Once information from the HCA on rent levels has been received, this work will be used to calculate the requirements for below threshold contributions to be included in a revised version of this SPD.

Section 3 Definition of Affordable Housing

Planning Policy Statement 3

- 3.1 New definitions of Affordable Housing were set out in PPS3 in June 2011. Affordable housing includes social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Affordable housing should:
- Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.
 - Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.
- 3.2 **Social rented housing** is:
Rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime. The proposals set out in the Three Year Review of Rent Restructuring (July 2004) were implemented as policy in April 2006. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency as a condition of grant.
- 3.3 **Affordable rented housing** is:
Rented housing let by registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80 per cent of the local market rent.
- 3.4 **Intermediate affordable housing** is:
Housing at prices and rents above those of social rent, but below market price or rents, and which meet the criteria set out above. These can include shared equity products (e.g. HomeBuy), other low cost homes for sale and intermediate rent but does not include affordable rented housing.
- 3.5 The terms 'affordability' and 'affordable housing' have different meanings. 'Affordability' is a measure of whether housing may be afforded by certain groups of household, with reference to local incomes and house prices. 'Affordable housing' refers to particular products outside the main housing market.

Section 4 Delivery of Affordable Housing

Sites above the Thresholds

- 4.1 The Council will normally expect the provision of affordable housing above the policy thresholds to be provided on the proposed development site. The Council also expects that affordable housing should be provided without any form of public subsidy.
- 4.2 However, it is recognised that delivering 35% can be a challenge particularly where other development costs are abnormally high. Developers should therefore factor prospective planning obligations and contributions as well as other predictable development costs into land price negotiations. The provision of affordable housing will have an impact on the value of land for residential development but this in isolation will not generally result in the development being uneconomic when compared to existing use value. Nonetheless, on a minority of sites it may not be possible to achieve the level of affordable housing provision sought by the Core Strategy.
- 4.3 Where there are concerns about viability applicants are encouraged to consult with the Council at an early stage, to consider how any such constraints and barriers to delivery can be reduced. To depart from the expectation of a 35% affordable housing contribution, the applicant should demonstrate to the Council's satisfaction that the proposal will not be viable when put through the Three Dragons Model.
- 4.4 Colchester Borough Council in partnership with the Haven Gateway Partnership has invested in the Three Dragons Model to assist with the delivery of affordable housing across the sub-region. The model is the Council's preferred tool for calculating affordable housing contributions as well as the viability of developments across the Borough.
- 4.5 The Three Dragons model allows the user to test the economic implications of different types and amounts of planning obligation and, in particular, the amount and mix of affordable housing. It uses a residual development appraisal approach which is the industry accepted approach in valuation practice.
- 4.6 The model will require the developer to provide a detailed breakdown of the economics of residential development, including selling prices, build costs, other fees and costs, and profit margins, market value at date of purchase, alternative and existing land use values and any unforeseen costs. The Council will use the Three Dragons Model to assess the developer's contentions regarding the viability of the site to support the expected level of affordable housing provision.
- 4.7 In instances where the Council has accepted that a 35% affordable housing contribution results in a site not being viable at the new 80% rent rate, the Council will consider giving support for appropriate public subsidy bids in order to bring the affordable housing contribution up to a 35% level that is in line with the Council's requirements. The Council will also in appropriate circumstances support bids for public subsidy

where a developer wishes to provide in excess of 35% affordable housing or provide 100% affordable rented tenure homes which would address the Council's priority tenure needs. In these circumstances, the mechanism that will allow the number of affordable units to be increased according to the levels of public subsidy available will be specified in the S106 Agreement.

- 4.8 The Greater Haven Gateway Enabler's Group has agreed a procedure as a guide for developers, which is attached as Appendix C. If it is necessary for a developer to purchase a copy of the 3-Dragons software from the Haven Gateway Partnership a fee may be required (£200.00 for a scheme up to 20 units and £400.00 for 21 units or more.)

Off Site Provision of Affordable Housing

- 4.9 In exceptional circumstances the Council may accept that on-site provision is not appropriate, for example where there is a proposal that includes a significant proportion of studio-flats or bed-sits, which do not meet affordable housing needs.

- 4.10 In these circumstances, the provision of affordable units elsewhere will only be acceptable where:

- an alternative site or sites have been identified which would enable affordable housing provision that matches what would have been provided on the original site and is appropriate to the identified local housing needs to be met;
- the alternative site(s) can deliver the off-site provision in an appropriate timescale and in an appropriate locality elsewhere within the Borough
- the off-site affordable housing provision is deliverable prior to the on-site market development being completed;
- the number of affordable units will reflect the benefit the applicant gains through using 100% of the site for market housing compared with 65% when on-site affordable housing is provided;
- the off-site provision will be in addition to the affordable housing that would normally have been required for the alternative site.

- 4.11 In circumstances where the Council accepts that the provision of affordable housing cannot be provided on site and an alternative site is not available or acceptable to the Council the applicant will be required to pay a commuted sum.

- 4.12 The level of payment in the form of a commuted sum will be based on the full market value for a similar size and type of property in the same area minus any grant that the developer could reasonably expect as assessed by an agreed housing association. When calculating the appropriate commuted sum the mix, ratio and type of dwellings will also be taken into account as if the units were to be provided on site to ensure that this as far as possible accurately replicates the cost of provision on site.

Contributions on Below Threshold-Level Sites

- 4.13 Policy H4 in the Core Strategy states that an equivalent financial contribution (toward affordable housing) will be sought for developments below the thresholds of ten units in urban areas and three in rural areas. In view of the overwhelming need across the borough for affordable housing the Council consider it fair and equitable that all new housing proposals should contribute towards the provision of affordable units using an assessment of the residual land value.
- 4.14 The Council will not at this time, however, be requiring the delivery of below threshold contributions. This requirement, as noted above, awaits clarity on the national position on rent levels to be established through Homes and Community Agency (HCA) survey work to ensure that the levels set reflect appropriate viability considerations.
- 4.15 Work undertaken thus far suggests that the likely levels of contributions are expected to be in the range of £5000 - £8000, although work is continuing on this aspect.
- 4.16 These contributions will be set at a rate that is considered to be a modest financial contribution towards the provision of affordable housing within the Borough and should not result in “typical” small scale development becoming unviable. The introduction of standard figures will also assist landowners and developers during negotiation and planning stages as well as enabling the Council to make positive predictions regarding the levels of contribution to be expected and how this should then be used across the Borough. The suggested figures reflect the fact that economies of scale make provision on site less practical on smaller sites, as the unit costs of provision will be proportionally greater than on the larger sites. A financial contribution based on residual land value (towards the provision of affordable housing by others) will therefore be sought on all below threshold-level sites. The contributions will be used toward funding the provision of affordable housing on another site in the borough.

Section 5 The Planning Process

- 5.1 Prospective applicants are encouraged to discuss their proposals at the earliest possible stage, with the relevant planning case officer and the Project Officer for Affordable Housing at the Council (relevant details are provided in Appendix B.) This allows the design and potential 'heads of terms' of the S106 Agreement to be factored into the formulation of the development proposals at an early stage. The Council expect that the ownership of the affordable housing units will be transferred to a Housing Association/Registered Social Landlord.
- 5.2 As part of the submission of a planning application on above threshold-level sites, the Council will expect an affordable housing statement. This should provide details of the number, mix and tenure of affordable homes and how this reflects overall mix, etc, along with the location of these units within the site. Outline applications should refer to the proportion of affordable units, specify how the mix and tenure will reflect that of the scheme as a whole and, express willingness to pepper pot across the site. The proposed heads of terms for the S106 Agreement will assist speed of decision-making especially if they have been established through the submission of a preliminary enquiry.
- 5.3 The Council will require a planning obligation (by way of a Section 106 Agreement/Undertaking) to cover the precise scale and scope of the form, delivery and management of the affordable housing in relation to the specific circumstances of the development. The Council will draw up the S106 Agreement and any related nomination agreement and the Council's legal costs related to these, will be payable by the developer on an indemnity basis on completion of the S106 Agreement.
- 5.4 Planning obligations, in relation to affordable housing, are likely to include (but not limited to):
- The number, size, tenure and siting of the affordable housing;
 - The phasing of the development;
 - Appropriate trigger points for the provision of affordable housing to an affordable housing provider, to ensure that it is provided in a timely manner in relation to the market housing and delivered in full before an agreed percentage of the market housing has been completed;
 - Eligibility and allocation restrictions on occupancy or disposal to meet local housing need;
 - Mechanisms for ensuring that the affordable housing dwellings are used solely and exclusively for affordable housing in perpetuity;
 - Compliance with public subsidy funding conditions when public subsidy is allocated;
 - Provision of a financial contribution where applicable.
- 5.5 Proposed variations to the terms of a completed S106 can only be agreed by a deed of variation. Requests to vary agreements should be

made to the planning officer in the first instance. The full costs of the variation are payable by the applicant.

- 5.6 Where an application is received in outline form the appropriate contribution will be reserved through a planning obligation, so that it can be resolved when a detailed or reserved matters application is made, when the size of the development and the appropriate level of contribution will be known.
- 5.7 The Council uses standard templates for developer contributions on small development sites. The relevant templates will be available to download from the Council website, through the planning link. These templates are not suitable for the larger schemes (above the threshold levels referred to in Policy H4 of the Core Strategy), where affordable housing units are provided on site.
- 5.8 In addition to the provisions of this SPD, proposals for new housing will also be considered having regard to other relevant LDF policies, which include requirements for other appropriate planning contributions. Applicants are advised to seek preliminary advice from the Council where there is any doubt as to the policy considerations that will apply prior to formally submitting their planning applications, to ensure all relevant policies are addressed.

Section 6 Further Development of Policy Principles

Calculating the number of affordable houses in practice:

- 6.1 The number of dwellings to be provided as affordable housing in any one instance will be calculated by rounding down to the nearest whole number and in line with the 80:20 standard ratio outlined in the SHMA and paragraph 2.15 above as shown in the following examples:
 1. Total number of 4 dwellings to be provided (in one of the borough's villages) will require 1 affordable dwelling ($4 \times 35/100 = 1.4$: round down to 1);
 2. Total number of 5 dwellings to be provided (in one of the borough's villages) will require 1 affordable dwelling ($5 \times 35/100 = 1.75$: round down to 1);
 3. Total number of 10 dwellings to be provided will require 3 affordable dwellings ($10 \times 35/100 = 3.5$: round down to 3).
 4. Total number of 30 dwellings to be provided will require 10 affordable dwellings ($30 \times 35/100 = 10.5$: round down to 10).
 5. Total number of 35 dwellings to be provided will require 12 affordable dwellings ($35 \times 35/100 = 12.25$: round down to 12).

Site densities:

- 6.2 Proposals that in the opinion of the Council seek to under-develop or split sites in order to avoid providing affordable housing on site will be refused planning permission.

Renewal applications:

- 6.3 On 1 October 2009 central Government introduced new provisions to enable an extension to the time limits for commencement of an extant planning permission granted before 1 October 2009. When applications are submitted in accordance with these provisions, the Council will expect an increased provision to the affordable housing requirements if the original permission predates the Core Strategy adopted in December 2008 (which has higher requirements than the 2004 Local Plan it superseded.) This situation will be reviewed on a regular basis and maybe changed at any time to reflect changes at either the local or national level.

Design and Integration of Affordable Housing:

- 6.6 As part of a planning application, applicants will be expected to demonstrate how the affordable element will be realised within the overall development. In schemes over 15 units the affordable housing should be provided in more than one single parcel. Elsewhere the affordable housing mix on any site should normally be “peppercotted” throughout the scheme in groups, the size and location of which should be discussed and agreed with the Council. The affordable housing should be well designed.
- 6.7 The HCA has design standards additional to those required by policy and in order to receive HCA grant funding the affordable housing will need to be provided to these standards.)

Meeting Special Needs:

- 6.8 The Council has an ongoing need to provide wheelchair adapted homes and/ or other forms of supported affordable housing. In some instances the Council will wish to negotiate provision of this form of housing on sites it considers suitable, as part of Section 106 planning gain. In situations where this has a higher unit cost than that of other affordable units, the Council will consider supporting appropriate public subsidy bids. The developer is advised to seek the advice of the Council’s Housing Development Officer in these instances.

Exceptions to Affordable Housing Policy:

- 6.9 Certain forms of residential accommodation will not be subject to the provision of affordable housing or a financial contribution towards it. These will include approved care homes, hostels, student housing, residential schools and colleges (where the accommodation is directly linked to educational facilities on site) and, military housing, provided that the proposed accommodation does not fall within Use Class C3 and, that a planning condition is to be imposed limiting the accommodation to these specific users. The provision of any of these

forms of residential accommodation will not count towards the overall provision of affordable housing in the Borough. Any self-contained Use Class C3 units (dwellinghouses) provided as part of these proposals will be expected to comply with the affordable housing requirements in this SPD.

- 6.11 Replacement single dwellings will not need to make provision, unless additional dwelling units are being created. Where additional units are being created then the affordable housing calculation will be applied across the whole site to the net increase in dwelling numbers.
- 6.12 Extensions to existing dwellings will not need to make a contribution, unless a separate unit of accommodation with its own facilities is being created and, this is not for use by a dependant relative of the occupants of the main dwelling.
- 6.13 New dwellings may be created by the conversion of a building currently or last used as a non-residential unit; for example, an agricultural barn. In addition they may also be created where a change of use is made from any residential use with shared facilities (such as bed-sit accommodation, or a care home) to independent residential units with separate facilities. They may also be created when a private dwelling is converted into two or more flats. The policy will apply in these circumstances to any net increase in the number of units.

Section 7 Rural Exception Sites

- 7.1 Policy H4 in the Core Strategy supports the development of affordable housing development on “rural exception sites”, where these sites are contiguous with or adjacent to existing village settlement boundaries, and address a local need that has been robustly demonstrated by way of a local housing needs survey and development is supported by the Parish Council on behalf of their residents.
- 7.2 The Rural Community Council for Essex, an independent charity, employs a Rural Housing Enabler who works with rural communities, providing independent advice and support, acting as a facilitator and helping them through the complicated process of providing affordable housing. The Rural Housing Enabler has the appropriate level of expertise to carry out a Housing Needs Survey, that will establish how many people in the parish need housing and the most appropriate tenure, and which is needed to support a planning application for rural exception housing. Relevant contact details are provided in Appendix B
- 7.3 Within rural exception sites, all of the development will be required to be for affordable housing purposes. It is also expected that the proposed dwellings will all remain permanently available to local people on low incomes who cannot afford market housing. There is no right to buy the property outright and householders within shared-ownership dwellings will only be able to staircase ownership up to a maximum of 80% of the overall equity of the property. The proponents of the

scheme (developers/ landowners/ housing associations etc) will need to enter into a Section 106 Agreement with the Council to ensure they remain permanently available to local people on low incomes.

- 7.4 The dwellings will be allocated to persons with a local connection who are in need of an affordable dwelling and who are unable to obtain a property on the open market. The mechanism for allocating the dwellings will be specified in the S106 Agreement. Priority will be given to applicants on the Housing Need register who have expressed a preference (bid) through the Homechoice scheme for that property, who have lived in the Parish for 3 out of the last 5 years, or have a close relative within the Parish, or have permanent and full-time employment in the Parish (including those with an offer of employment). If no bids are forthcoming from those meeting these criteria within the Parish, the units would be offered next to persons in housing need within adjoining Parishes, and finally to whoever is most in housing need within the Borough of Colchester.
- 7.5 In order to ensure that the units remain permanently available as affordable housing, on each occasion that it is necessary to reallocate any of these units, the procedure for allocation will follow the same principles set out above.

Glossary of Terms

Affordable Housing - Affordable housing includes affordable rented and intermediate housing products, provided to specified eligible households whose needs are not met by the market. (defined fully in Section 4)

Affordable Rented Housing – Housing provided at No more than 80% of local open market rent levels for equivalent housing including service charges. Formerly known as social rented housing.

Core Strategy - A document issued under the Local Development Framework (see below), which seeks to provide an overall strategy for all the other documents in the LDF.

Commuted Sum – A ‘one-off’ payment of a capital sum by an individual, authority or company to the Highway Authority, Local Authority, or other Body, as a contribution towards the future maintenance of the asset to be adopted, or transferred.”

Financial Contribution – The sum of money that a landowner or developer is required to pay to the Council to ensure the delivery of services and infrastructure needed as a result of planning permission being granted.

FirstBuy - Low cost home ownership scheme funded by the Homes and Communities Agency to assist people in housing need.

Housing Association - See Registered Provider

Homes & Communities Agency - The new organisation resulting from the merger of English Partnerships and the Housing Corporation in April 2009. Provides housing grant through the National Affordable Housing Programme.

Intermediate Housing - Shared ownership or shared equity products.

Local Development Framework (LDF) - The LDF is a new system of preparing development plans introduced by the Planning and Compulsory Purchase Act 2004. Structure Plans and Local Plans are replaced by Regional Spatial Strategies (RSSs) and LDFs. LDFs are a combination of Development Plan Documents (DPDs) which will collectively deliver the spatial planning strategy for each Council area.

Nomination Agreement - An agreement negotiated between the Council and an RSL which guarantees the Council’s ability to access RSL owned new build accommodation for applicant’s on the Council’s Housing Register.

PPS3 – Planning Policy Statement 3 underpins the delivery of the Government’s strategic housing policy objectives.

Preliminary Enquiry – An enquiry submitted to the Council in writing in advance of a planning application being submitted, to obtain an informal officer view on the likelihood of obtaining planning permission and any particular requirements and/or planning obligations that the Council is likely to seek for the proposal.

Project Officer for Affordable Housing– An officer employed by Colchester Borough Council who can provide specialist advice on the affordable housing needs within the Borough.

Regional Spatial Strategy - The regional development plan, in this case the East of England Plan 2008.

Registered Provider – A provider of social housing, registered with Tenant Services Authority under powers in the 2008 Housing and Regeneration Act. This term has now replaced Registered Social Landlords (RSL) and encompasses housing associations, trusts, cooperatives and companies.

Rural Housing Enabler – A Rural Community Council of Essex (RCCE) employee who works with rural communities providing independent advice and support, acting as a facilitator and helping them through the complicated process of providing affordable housing.

Section 106 Agreement - Legal agreement under Section 106 of the Town and Country Planning Act 1990. Used as a means of securing the provision of affordable housing and other contributions from private housing developments.

Shared Ownership - A form of intermediate affordable housing where the householder buys a share of the property and rents the remaining share, traditionally from a Registered Social Landlord. Staircasing ownership levels up to 100% ownership can be allowed on urban schemes and 80% in rural areas.

Shared Equity – A form of intermediate tenure housing where an agreed proportion of the equity is purchased at the outset and the balance of the equity remains in the ownership of the Registered Provider or the Council. No further staircasing (increasing the percentage owned by the resident) is allowed.

SHMA – A Strategic Housing Market Assessment is a comprehensive study of the local housing market, using surveys and involving wide ranging stakeholder participation, to produce an assessment of housing needs and market housing within the local area.

Social Rented Housing – Old term for affordable housing.

Staircasing – The facility that enables a householder to purchase an increased proportion of a shared ownership (intermediate affordable) dwelling.

Supplementary Planning Document (SPD) - A document issued under the LDF and giving specific planning policy guidance on a topic, such as affordable housing.

Statement of Community Involvement - sets out the standards that the council intend to achieve in relation to involving the community and all stakeholders in the preparation, alteration and continuing review of all Local Development Plan Documents.

Appendix A Retaining Intermediate Affordable Dwellings

Appropriate legal covenants will be required to ensure that new build intermediate affordable units for shared ownership (sale) remain affordable.

In the case of rural exception sites and in small settlements of less than 3000 inhabitants, the ability to staircase on any new build intermediate shared ownership units should be restricted to an appropriate level of not more than 80%. This approach is required to ensure that these units remain affordable to those in housing need within rural areas in perpetuity. (Elsewhere, within urban areas, there is the ability to staircase up to 100%, so that the property may eventually be owned outright by the householder.)

For all new build intermediate affordable units, an appropriate re-sale legal covenant (S106 obligation) will be required to ensure that the managing RP is given the first option to purchase the dwelling. If the managing RP does not choose to purchase the unit should then be referred to the Colchester Borough Council, in order that other RP's can be offered the sale. In instances where the householder has purchased 100% of the equity, the re-sale of the unit shall also be referred to Colchester Borough Council so that the details can first be circulated to RP's to give them first opportunity to purchase. In rural areas, the re-sale covenant will restrict the value of the property to 80% of the current open market value when a purchaser acquires 80% of the equity. This approach is justified as the 35% affordable housing policy will not meet the identified housing need in the Borough.

The Council will expect the rent on the unowned equity to comply with HCA standards operating at the time.

Appendix B Useful Contacts

The Council's Project Officer for Affordable Housing can be contacted on 01206 282973

The Council's Planning Services can be contacted in writing to Planning & Protection, PO Box 889, Town Hall, Colchester, CO1 1FL (email: planning.services@colchester.gov.uk). Initial enquiries by telephone should be made through the Duty Planning Officer on 01206 507810.

The Rural Housing Enabler for Essex can be contacted through Rural Community Council of Essex, Threshelfords Business Park, Inworth Road, Feering, Essex CO5 9SE (Tel: 0844 4773938; Email: housing@essexrcc.org.uk; Web: www.essexrcc.org.uk).

Appendix C

Procedure for Use of 3-Dragons Toolkit with Developers

26 October 2010

The 3-Dragons Viability Toolkit has been purchased by the Haven Gateway Partnership for use by the member Councils of the Greater Haven Gateway Sub-region.

The toolkit is designed to enable users to calculate the viability of schemes where affordable housing delivery and other forms of planning gain are being sought on developments.

So that Enablers within the Greater Haven Gateway Sub-region are able to make best use of the toolkit the Greater Haven Gateway Enabler's Group has agreed this procedure as a guide for its use with developers:

1. The Enabling/Planning Officer should discuss the development proposal with the developer in the usual way. At this point in the process it is not necessary to discuss the issue of viability unless the developer raises this matter.
2. The Enabling/Planning Officer will advise the developer of the Council's policy relating to affordable housing, including the percentage, type, size, standards and tenure of affordable housing required on the proposed development and will confirm the Council's policy regarding grant funding.
3. If the developer states that the scheme is unlikely to be viable with the obligations that are sought, the Enabling/Planning Officer should advise that any viability issues will be considered as part of the discussion process, and will be tested according to the Council's viability testing procedure. This procedure guide should then be explained.
4. Following the initial meeting the Enabling/Planning Officer should advise the developer to review the proposed development, having regard to the Council's affordable housing and any other requirements. The Enabling/Planning Officer should also advise the developer that it is essential to appoint a registered provider as soon as possible. The Enabling/Planning Officer should explain that doing this allows the developer to understand the requirements of the Registered Provider for the affordable housing to be delivered on the site.
5. Once the developer has reviewed and costed the scheme and if the developer is of the opinion that the scheme is not viable with the obligations required, the Enabling/Planning Officer should discuss the extent of the viability issues and what might need to be done to resolve these.

6. If it is clear that a viability assessment is necessary the Enabling/Planning Officer should advise the developer of the agreed viability assessment process:

- In the first instance a full set of open book accounts must be provided to the Council detailing the costs of the whole scheme including the affordable housing and any other obligations
- It is acceptable for the developer to provide information in the form of a viability toolkit assessment of the scheme, using the toolkit of their choice and the Developer's costs, provided it is accompanied by a full set of open book accounts and is a clear and comprehensive assessment.
- Once received the open book accounts and any other information, such as a viability toolkit assessment, will then be considered by the Council
- The Council may then decide to feed the information received into the 3-Dragons viability toolkit and test the results against the information provided by the developer
- If further information or clarification is required by the Council and it is felt that the best way of achieving this is for the developer to complete the 3-Dragons Toolkit, the developer may be asked to purchase a copy of the 3-Dragons software from the Haven Gateway Partnership at a cost of £200.00 for a scheme of up to 20 units and £400.00 for a scheme of 21 units or more
- The completed 3-Dragons toolkit must then be submitted to the Council for their consideration
- The Council will reserve the right to seek the opinion of an expert consultant to ensure that the Council is satisfied with the assessment undertaken by the Council and the developer. The developer will be charged for this consultation. The outcome of any independent assessment should resolve the viability issue
- The Council will then confirm the outcome of the viability assessment process and agree an appropriate percentage, type, size, standard and tenure of affordable housing required to be delivered on the site
- If the scheme is viable the original affordable housing and other obligations must be confirmed
- If the scheme is not viable further discussion with the developer is necessary to agree how best the scheme can be delivered, for example by seeking SHG to enable the full affordable housing proposal to come forward, reducing the amount of affordable housing to a level where the scheme is viable or changing the tenure mix of the affordable housing

7. For the benefit of establishing best practice Enablers/Planning Officers are requested to provide the Haven Gateway Partnership with feedback on the negotiation process and information detailing the level of affordable housing agreed for the scheme in question. This will be collated by the Haven Gateway Partnership and shared with the sub-region.
8. The charge made to developers must be reviewed annually and the procedure guide updated once a new set of charges has been agreed on or about 1 April each year.
9. The toolkit defaults must be updated on an annual basis at a time to be agreed with 3-Dragons. The cost of this will be paid from receipts accrued by the Haven Gateway Partnership from the sale of the toolkit to developers. Any shortfall in the cost of this must be shared equally between the Greater Haven Gateway Local Authority partners.

